EVENING NEWS Published Daily, Sundays Eccepted, AT FOUR O'CLOCK. PRINTED AND PUBLISHED BY THE with contempt. DESERET NEWS COMPANY CHARLES W. PENROSE, EDITOR. May 25, 1886 Tuesday

"THE MORMON QUESTION."

UNDER the above heading the National Republican of May 15th publishes in full the argument of Hon. Jeff Chandler before the Judiciary Committee of controversies in any shape to a mere the House of Representatives, on the belief. You determine and adjudicate new Edmunds bill referred to that the controversies that come before courts on evidence, and any statute committee. It occupies nearly nine that dispenses with evidence in order columns of small type, and is an exhau live criticism on the chief sections for that reason. The Constitution forof that iniquitous measure. The whole address, with the discussion that oc-curred with members of the committee during its delivery, are worth repro-of the astronut of a person except on bids the arrest of a person except on bod is a question you may discuss. The committee does not mean to evidence. There must be an affidavit of the next business of the committee does not mean to evidence. There must be an affidavit of the next business of the committee does not mean to correct with members of the committee during its delivery, are worth reproof the party having some knowledge of the subject, and then there can only be ducing in full, but it is so voluminous that we believe our readers will prefer an arrest preliminary to a hearing. The party arrested on probable cause is entitled to a hearing before commita synopsis with some literal quotations ment. This statute does tolerate im-prisonment without a hearing."

The celebrated lawyer commences by drawing attention to the Edmunds law as it now stands and refuting the statement, believed by many, that a man in Utab with five wives can'cast six votes. He quotes the law to prove that such a man has no vote at all, that he and his wives are prohibited from to questions as to what would be justivoting and holding office, and that they are simply permitted by the law to exrecognized horse stealing as an instio 1st. He passes on to consider the ab-

surd excitement over the polygamy question, referring to the statement of Mr. Baskin that only two convictions for polygamy had been secured, one acts can be punished. If parties live before and one since the passage of the in a community and synspathize with Edmunds law, and intimates that if others who violate the law, such sym-Edinunds law, and intimates that if pathy doos not render them criminally such convictions had been had in Ver- liable. Persons can only be punished mont instead of Utah, the country in this country for overt acts. You would not have been so shocked, and cannot reach and punish sympathy, that it is difficult to distinguish between the moral perfidy of such gccurrences in Vermont and in Utah. The statement of fact is not exactly correct, but that is the fault of Mr. Should Baskin, not Mr. Chandler. There have been a few more convictions, but the gentleman's remarks are just as ap-plicable to the point. He then asks what grievances the

He then asks what grievances the Gentiles urging this new legislation have to complain of and says : .

"The Gentiles come here with a representative who tells you that he has lived in that Territory for twenty years, and that during that time this socalled Mormon element held absolute political power within the Territory of they make all the laws that affect the domestic welfare of all the people living in that Territory, and yet, during the three hours which he occupied in his argument before this comcould not or did not recollect a single instance where the Gentile population, though in a small minority, have been unequal-ly or unjustly treated by this legislation. though Now, so far as they present themselves here as a class, they state no grievance against themselves. They do not come here and say that the political power of Utah ought to be taken out of the hands of this majority because the majority use that power oppressively against them. Not at all. They do not say that taxation is unequal or unjust, or that any privileges are dealed them which are enjoyed by the majority, or that there is anything in the exercise of domestic government, which gives them the slightest cause to complain. Do they say that they receive unfair treatment in the courts of Utah? Not at all. Do they show you a single instance in the adjudication of that Territory, from its creation down to this hour, wherein the Gentiles have not been fairly and justly treated by the courts? Not at Then what do they complain of? It is that the majority does not deport itself in a manner to excite the approval of the minority. A population of 150,000 does not in all things conduct itself so as to meet the absolute and unqualified approval of 30,000, and therefore they. ask that the political power of the majority shall be taken away from those 150,000 and be left the minority That states the case of the conspirators exactly. It is their whole question, concisely put. Mr. Chandier then attacks the provision in the new bill compelling the legal wife to testify against the husband, and remarks : "Our civilization protests against the introduction of husband and wife as witnesses against each other. The sanctity of the marriage relation is so great in the esteem of our civilization, that it is believed no discord should be permitted or fpromoted between hus-band and wife by bringing them into conflicting relations with each other in the court, and, therefore, it was not within the thought of the framers of the Constitution that the wife or husband would ever be compelled to testify against each other.' He then assails the inequality of He then assails the inequality of anti-"Mormon" legislation, because it acts specially on the "Mormons" ples of personal safety, why not reguit act: specially on the "Mormons" and not on the "Gentiles." A colloquy between the gentleman and members of the committee results in the demonstration of the accuracy of his earth. There have been established strictures, and the freedom permitted great guides of procedure which will to "Gentile" illicit relations while to "Gentile" illicit relations while der, larceny or arson, or any other "Mormon" plural marriage is pun- crime. We have adopted these methished with heartless severitp. The common idea being advanced by a committeeman that the gravity of the "Mormou" offense is in the acknowtion. ledgment of the plural relation and the claim that it is right, Mr. Chandler responds: "Now, does it not resolve itself into this: Here is a man who holds out by his conduct that he is guilty of illicit cohabitation. He does not introduc his partuer in the offense as his wife, but he assumes this offensive relation publicly and notoriously, and that is called notorious 'adultery, end is deemed as such. Now, here is another party who says I claim a certain relation, legal relation, with my partner in business; but the offense in its moral character, so the anti-Mormons ea se. say, 15 precisely similar in moral tur-pltude to the offense under the other name. The two transactions differ from each other only in this, in one no pretense of marriage is made, there is own way pretty well now, without the no pretense of honesty, no pretense of decency. In the other there is a claim of decency, and that is condemned the more severely of the two. Certainly there is not the moral state of poliution in the one as in the other. In the one case there is total depravity and abandonment is that depublic; in the other there is a claim that it is honest, and how the transaction that is precisely the same in its outward features should be condemned more harshly because it is pretended to be honest than the one ad- following colloguy ensues. Mr. Chand-

nothing of the wants and needs of that community, but whose sole business it is to gain notoriety by infaming the country against them. If this commu-nity is going to recommend a bill that bill ought to stand upon a solid legal and impartial basis. It ought not to treat our whole notities a philosophy erritory to a commission Mr. Chandler. Yes, sir. The Chairman. That is not in the MI. Chandler: No, sir; but it is in the argument of the gentleman who aptreat our whole political philosophy peared here the other day. The next point discussed is the pro-The Chairman. I think as it is not in vision of the new bill authorizing the the bill that I may safely say to the arrest of witnesses "if there is reasonsubcommittee that we do not propose able ground to believe that they will to put it in. not obey a subpœna." The wrong and Mr. Baskin's Legislative Commission scheme being thus satisfactorily sat

llegality of such a measure are strongy presented, and we make this extract from that part of the agreement:

trustees to assume the mana gement of "Any man who has administered law knows that an instruction to a jury the property of the "Mormon" Church, which authorized the jury to flud i whereupon the Chairman of the com verdict according to their belief would mittee remarks: be held erroneous. They must believe from the evidence. You do not submit

"I am authorized to say on behalf of the sub-committee that we do not propose to become partners in ruuning the Mormon Church. The question is what may be done, or what should be done, in reference to the luto come to any conclusion is vicious corporation of the Mormon Church, and the amount of property it shall hold is a question you may discuss. accede to your proposition with reference to this church government

That disposes effectually of the main scheme in the bill, runs the sawdust out of the Edmunds doll, so to speak. The question of dissolving the The excess of power this would give corporation known as the Church of over "Mormon" families is enlarged Jesus Christ of Latter-day Saints upon, and the plea that this extraordieing recognized as a proper subject nary stretch of authority is justified by for discussion, Mr. Chandler vigorousthe extraordinary nature of the case, ly assails the proposition and says: is effectually disposed of. Iu answer "I take it for granted that the State cannot disestablish this church. In flable in the case of a community that the first place, while the Constitution of the United States does not say that the federal government shall not pass

tution, Mr. Chandler says: a law impairing the contract, that is a law of the federal government withont saying it, and if there is any doubt "If the organization include persons who take no part in committing crime, then only those who commit criminal about these decisions I will hunt them up and furnish them, to the effect that a contract, so far as the treatment of it by the federal government is conerned, is as sacred and as inviolable by the federal government as it is in the hands of the State governments. "Now, there is a further provision that no law shall be passed for the esopinion or feeling merely. • It may be conceded for the sake of argutablishment of religion, or to affect the free exercise thereof. ment that their belief that they are right does not protect them from pros-"The Chairman-'Respecting an es-tablishment of religion,' are the words ecution, but does their subcerity make of the Constitution. them worse than a person doing the Mr. Chandler. Does that law that same act, knowing it to be wrong. provides against the establishment of religion permit the disestablishment of the rules of proceall religions but one? May you, because the language of the constitut on is that you shall not establish a relig-

bigamy in Utah and Vermont is this: In Utah the parties believe they are right; in Vermont they know they are wrong. The ordinary methods of jusgovernment. tice are sufficient to punish the man who knows he is wrong, but extraor-

dinary measures are necessary against the honest wrong doer. Is an error in bellef more to be punished than intentional wrong-doing? Error in belief is not criminal per se. If one who does forbidden act under a conviction that it is morally right to do the act is punished in excess of the punishment inflicted upon a person doing a similar act knowing the act to be wrong, such excesss of punishment falls upon the houest transgressor because of his be-lief."

The Chairman. You are arguing, Mr. bill and proves that it is put there struck in 25 shops against the task sys-Chandler, the proposition of commit-ting the whole legislative power of the life explaine. He explains:

"Property escheats to the govern-ment only in case of an extinction of tenure where there are no heirs to retenureceive it. (4 Kent's Com. 424.) section does not make a new definition of the word 'escheat,' but uses it with its old definition, and makes that pro-

down upon, Mr. Chandler next takes those governing escheat. Chancellor up the proposition to appoint fourteen tinction between escheat and forfeiture to the crown. The law of forfeiture went beyond the law of escheat. It extinguishes forever all inheritable quality of the vassal's blood. Their blood was attainted. The law of Jor-

> 426He enters ino a learned discussion in this matter, shows that the provision limiting the property of the Church to \$50,000 was passed ten years after that charter iwas granted, and contends that as the charter was a equal to an act of Congress-then Conhold property. He says :-

"If any thing is settled in this country it is that the government cannot change the constitution of a private charity, unless in the act of incorpora-

tion, or in the general law existing at the time of the incorporation, the power to change it was expressly re-served to the government, which is not the case here. The limitation, therefore to anteres which is therefore, to enforce which provision is here made, is void and can not be enforced

The question of the wife testifying against her husband being again brought up by the committee, a lively discussion brings out the argument testify against himself, his wife under the common law principle being made a part of himself, cannot be produced as a witness against him. Mr. Chandler savs:

"The law has always classed murder as more debased and depraved than bigainy, polygamy, or unlawful mar-riage. Now, why step down to a grade of crime and pick out a subordinate crime, and make the wife a witness in that subordinate crime, when you will on, do the reverse-disestablish a renot go to the full length of extending igion? Another provision of the conher testimony to the higher one. Why stitution is that no religious test shall does the human mind shrink away from be made in the administration of the one and not shrink away from the other? The more hideous and ghastly Mr. Stewart. Right there let me ask the crime, the greater the excuse and necessity for making her an eligible you a question, it you will permit the interruption. You ask has Congress power to disestablish religion. Is it witness. Now, this proposed law does not do any such thing as that. This lisestablishment of religion for Conbill contents itself with one particular gress to repeal, or undertake to repeal, violation of law, and in that particular a charter granted by a territorial legiscase inakes her a witness, and refuses to make her a witness in the other lature to any church? Is that a disestublishment? Are not the people still at liberty to exercise their religious cases, and I say when you do that, you express a distrust of the very doctrine right without any corporate right? Mr. Chandler, it is in the power of which you propose to establish in the particular case. You have got to make the government to incorporate a It universal in regard to crimes comchurch, but after it has incorporated a mitted by her husband, or else you exchurch the contract between the govpress, when you make it exceptional, your distrust of the principle in those

lowing paragraph:

in all

mitted by the husband against the wife

is dissipated, and Mr. Chandler con-

cludes his able address with the fol-

"The injury to her rights here is

urely constructive and just as this co-

habitation we speak of is constructive There is no physicial injury done her

nor is her marriage title affected, and,

so far as she can assent to this matter.

she does assent, so that the reason

this case for making the wife a witness against the husband because of some

special injury falling upon the wife on-iy exists constructively. I. does not

exist in reality. It exists because we

fancy it an injury to her, while she

does not fancy it an injury to her, and

we imagine the injury and make it the

foundation of introducing her. She is introduced because, in our oplifian, an injury is inflicted upon her, and not because any violence has fallen on her

person, not because any legal invasion

of her rights has taken place, it is only

ideal. Now, I say that, if it be not

sound principle to introduce the wife

the husband, it is not wise to make it an exception in this case."

Much of the argument was elicited

by the questions of various members

of the committee, the speaker being

thus drawn aside from the main thread

of his address. But this proved of ad-

vantage to our cause and was the

means of giving much light to the com-

The publication of the argument in

full in a popular paper at the seat of

government, will gain for it an exten-

sive hearing, and it will add one more

leaf to the laurel of fam? which no one

can deny to the able lawyer, who has

thus so vigorously championed the

AN UNEQUIVOCAL POSITION

cause of an oppressed people.

mittee on the "Mormon" question

criminal prosecutions, against



Kent says (4 vol. 426) there is a dis- San Francisco were admitted in evidence and shown to the jury. The prosecution then stated to the court that they desired to ress their side of the case. The defense ask that the corouer who witnessed the post mortem cx-amination of Freller's body be placed feiture rests upon a corruption of blood, which, in this country, is uni-versally abolished. (4 Kent's Com., and the defense appealed to the court, who decided that he could no inter-

fere in the matter. The defense exof the powers of the Government cepted to the ruling and asked that an adjournment be taken till 10 o'clock o-morrow. Court then adjourned. Not Going to Marry.

BUFFALO, 25 .- The Commercial Adertiser, in an editorial to-day, says: Letters received in this city from contract between the Church and the Buffalo women now in Paris, and who Government-the Territorial act being bave personally seen the young lady whose name has been mentioned as that of the intended wife of President gress not having reserved any power to repeal or modify the charter, cannot change the capacity of the Church to A Railroad Accident.

TORONTO, Out., 25 -- While the train which had the Oddfellow's excursion on board was going into Brampton, on a steep down grade last night, the rear car became detached. The engineer, not knowing what had happened, stopped the train, and the detached car ran into the train with great force. The car contained forty persons, and every one was injured more or less seriously

FOREIGN. LATEST TRANS-ATLANTIC DIS-PATCHES. that as a man cannot be required to | Both Greeks and Turks Surrender ATHENS, 25 .- Both the Greek and Turkish armies are mutually surren-dering the prisouers and positions they respectively captured during the fron-tier fighting of the last few days, and both armies will to-day commence re-

tiring from the frontier. EXTRAORDINARY ATTRACTION The fine display of Elegantly Em-

broidered Chambray Robes, offered at \$3.75 each. Get them quick THE WALKER BROS. CO. diw

DEATHS. ELLIS-At his residence in the Third Ward, Logan, on Saturday, May 15th, 1886, Main Street James Ellis, aged 75 years.

Deceased was born in Glamorganshire, South Wales, where he received the Gospel and labored as a traveling Elder for seven years previous to his emigration with his family to Utah in the year 1853. Brother Ellis was much interested in the Sunday School work, and was appointed the fir: t superintendent in the ward in which he re-sided. He was among the early settlers of Logan, arriving here in 1860, and sawing cases to which you do not apply it." the first piece of lumber in that city. He In regard to the idea that in a "Mordied in full faith of the Gospel mon" plural marriage a crime is com-

City Poundkeeper Salt Lake City, May 25, 1886.

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nths old.



ment in granting the charter o The fallacy of the idea that a man incorporation in church cases is precan be punished for advocating plural cisely the same as a contract granting a marriage is thoroughly exposed in extended remarks, and the speaker asks :

"Will any lawyer say that if I recommend a man to commit bigamy that I could be jointly indicted with him for committing bigamy? Can I partici-pate with another man in bigamy? It s not in the nature of a joint offense There is no conspiracy which would ie, nor would any court construe that f I recommended a person to commit bigamy, and he did commit bigamy, that I could be held for his bigamy, * Otherwise you would Otherwise you would condemn men for their approval, you would condemn men for their sympathy, you would condem them for their intent, and under our system of crim-inal law I dely any lawyer to present any well-considered case from any court that holds that persons are liable for sympathy with one who has committed a forbidden act. If you extend punishment to sympathy, what becomes of your principle of strict construction? Can you convict a man except for an act which he has com-

mitted? "Act and intent," the Supreme Court of the United States has repeatedly said, constitute a crime, and not intent, but the forbidden act and intent together are necessary." Mr. Chandler, after some further discussion with the committee, ex-

plains that he is not asking for any repeal or change of existing laws, but protesting against the passage of the bill in the hands of the committee, which, he says, "has not a provision in it that does not violate settled and accepted doctrines of our law." He admits that from the standpoint of the Government, polygamy is assailed as a crime. But remarks: "Now will you remove in the pun-

ishment of that crime all the safe-guards to personal liberty? If we can suppress and subdue other criminals

late this matter by the same rules? All coercive process is naturally slow. You cannot lat once expunge any state of things from the face of the not be departed from to punish mur-

ods because of their supreme excel-lence; because of the good which they do to society in their careful, ju-dicious, wise and humane administra-"Now, you have a crime which of-fends a certain class of people who have worked themselves into a frenzy,

and who are pursuing the Mormons a a calling, although they have not suffered a particle from them or anything relating to polygamy. They only know of polygamy by hearsay; they have be-come perfectly enraged at what they call the terrible state of immorality in Utah, and they come to this committee and clamor that all the great principles of our law be suspended that we may punish this outrageous race of polyg-mists in the Territory of Utah. The remedy is tenfold worse than the dis-

The speaker then touches on the project to disfranchise the women of Utah. He thinks women have their ballot, and is not an advocate of woman suffrage in general. But as all who practice polygamy are already see why the principle of local selfgovernment which gives them the ballot should be interfered with. He then takes up the Legislative Commission scheme, advocated by Baskin, and the

charter in any other instance, as for college, etc. Now, there is no doubt but a church is a private charity, and that has been decided in 14 Gray and several Massachusetts cases by Judge Hoar and others that a church is a private charity, and there is no such thing as a public church in this country; that a church is not for the public at large, but for the benefit of those who contribute to its established form of worship, for the circle who conform to the requirements of its ritual. It is a private trust for their own benefit, and therefore being such makes

it a private charity. In three cases in Massachusetts where the attorney general undertook to intervene to corr.ct what he alleged to be abuses of such charities, the Supreme Court dismissed the case on the ground that the State had nothing to do with them; that they were simply a private charity, prescribing their own rules of government and their own methods of redress, and to those rules of government and methods of redress alone was the charity committed."

"And the courts have gone so far in he authorities cited here as to hold that if a person appointed a trustee by the court is not cordially in sympathy with the objects and doctrines and purposes of the trust, that fact is of sufficient importance to authorize the

court to remove him and appoint some The right of a Hindoo to establish

his religion even within sight of the national capital, and of a Hindoo corporation to hold property is contended for, and it is shown that if Congress granted a charter to a Mohammedan Church to hold property it could not impair the title afterwards, nor modify or repeal the chart-

er unless it reserves to itself that right in the charter. A long discussion follows in which Mr. Chandler main-

tains that a religious corporation whose rights were defined at the time of its creation has a title to everything which grows out of those defined

WE learn that the "Mormon" prisonrights. Mr. Chandler next defends the ers serving terms at the Utah peniten-'Mormons" from the general charge tiary for polygamy and unlawful cohat they will not obey the laws, and habitation, have formulated a reply to shows that there can be no complaint the offer made by Governor Westagainst them generally, and that freedom in consideration of their makin attempting to enforce the laws ing a promise to obey the law in fu against bigamy and polygamy ture, as "construed by the courts." after the present mode, violation is The response of the prisoners is in done to the very things that the law writing, and was forwarded, under holds in high esteem. He takes up the seal, to the Governor this afternoon unestion of unlawful cohabitation, and Its arrival would be too late to enable explains the uncertainty that hangs us to give it publicity in this issue of over its meaning, giving some of the the NEWS. We are unable to give latest definitions of the Utah courts, the details of the document, but which seem to have astonished the have been informed regarding the committee, and they could scarcely be- kernel of the nut. Simmered down, lieve that a court would hold that a its effect is, if we are correctly in man could be deemed guilty of crim- formed, that the signers-including all inal cohabitation with women when it the prisoners interested, with the exis not shown that he lived under the ception of one-make an unqualified same roof, slept in the same bed or expression of their position. This is, visited with them. The right and duty that they would rather spend the balof men to support their plural families ance of their lives in prison than they

the committee frankly concede. Mr. would discard their families or re-Chandler remarks on this point: nounce any principle of their religion. This was a natural "Now, in every country of the world -in the old countries-these plural marriages have been tolerated, and in consequence, because, as we have more than once asserted, from no country of the civilized world is it

the standpoint of a Latter-day made reprehensible to support the off-spring of such a marriage. Why, the Saint, the ground of the question inmissionaries held a congress among volved is not debateable. It is clearly hemselves in Calcutta a few years ago and sharply defined. No consistent to take into consideration the policy that they were to extend to the Hinmember of the Church can assume any other attitude, be the consequences

doos whom they converted, and who maintained these relations, and it was never thought improper by any of them for the party to support the wife what they may. ---and offspring after conversion, and the discussion of the subject went so far as to say that it was inhuman and un-BY TELEGRAPH.



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