EDITORIALS.

CONFUSION WORSE CONFOUNDED.

WITHOUT intending to be invidious or unnecessarily critical, we would like to venture a question as to what the interpretations of the Edmunds law by Judge Zane and his associates are leading and what they are likely to produce. The beginning of the new order of things by his honor produced confusion which threatens to be thrice confounded through the new ideas advanced and different if not conflicting theories of law set up. The Judge, in the trial of the first of the series of cases for unlawful cohabitation brought before him, had what was thought to be a settled, fixed and definite meaning attached to the terms of the enactment, and all the people had to do in that connection was to read, ponder and inwardly digest to enable them to comprehend where an offense ended and good conduct began. Some of those who thought they were on safe ground, according to the Court's interpretation, were not permitted to indulge in the fleeting luxury longer than the winding up of another case; still others who imagined themselves, even in the light of the later development, on safe ground, have been undeceived, and thus it has been going on up to the present time, and interpretations and expositions have so thickly overspread the law as to become confluent and give the original document the appearance of a little law floating around aimlessly in a sea of explanations, orders and opinions.

Perhaps the loftiest flight in the direction of the pinnacle of this distorted structure, is the "opinion" given by his honor in the case of the United States vs. John Daynes, for unlawful cohabitation. We say "loftiest," because it went above and beyond all former achievements in the way of an off-hand "interpretation"—a proceeding in which the Judge is supposed by his friends to be extremely felicitous—with no design of having the reader understand that it is higher in the scale of soundness or goodness. The prisoner at the bar, having sacrificed moral principle to escape physical imprisonment, naturally desired to know what kind of programme he must thereafter adopt to make his dearly bought freedom secure. He was the husband of two wives, both of whom, it is to be presumed, he married through his own preference, principle and duty; the price of liberty was the discarding of one or the other (the sequel showing a preference for the "other"), and whether his Napoleonic plan of dismissing the Braganza and cleaving unto the Hapsburg was to be the means of involving him in another entangling alliance with the court, was what he wanted to ascertain. Well, the power on the bench did not keep him in suspense long; while it was the "moral" duty of the trafficker in wives to live with and maintain his first or "legal" companion, unless there were some other reasons for a separation not appearing then and there, still, there was no law making it compulsory for him to do so; but in any event he must not "hold out" or live with more than one. That is—to use our own language to convey the Judge's idea—"Any woman you may elect to live with is your wife according to the Edmunds law; the statute law everywhere recognizes but one marriage or state of marriage at a time; the first wife taken and the others are not your wives when the holding-out business ceases; you may take your choice from the number, and when the choice is made all other contracts are annulled and the one you choose is elevated to the proud distinction of being your companion through life, the bone of your bone and flesh of your flesh, so to speak." The burden of this is not so greatly at variance with his honor's sentiments on former occasions as to give it the prominence previously spoken of, but the entanglements and confusion growing out of a strict construction of the language used, is, as, for example: Daynes had a living, undivorced wife, presumably a legal one by statute law, and undoubtedly legitimate by common law, when he took a second one; statute law will not recognize a second wife, and all contracts of that kind are therefore void; he has the privilege of abandoning the first and *sans ceremonie* taking the second, who is not a wife to anybody and never has been, to his embrace, thus making her the only Mrs. Daynes and striking that title from the original holder of it. (The reader will please stay with us a while longer, and see what we can jointly make out of all this.) So much for the Judge's holding; now for the deductions and sequences: Mrs. Daynes the first was legally married in accordance with the forms of law, lived with her lord and bore children to him; then comes Mrs. Daynes the second, who is not Mrs. D. at all, because there can be but one at law, and the place was not vacant; so that, having married him, she became the wife of a man who was not her husband! Again: If Daynes elects to choose her as the legitimate partner of his toil, his feelings and his fame, by simply exercising his preference under the sanction of the Court, how can the latter recognize the antagonizing conditions which he helps to create when he announces in almost the same breath that a "male person" must not live and cohabit with one of the opposite sex if he already has a living and undivorced wife? His honor knows full well that the process of obtaining divorces is more solemn, formal and complex than that, and warns the male element of the community against taking a wife unless the one formerly in possession has previously been detached by means of those solemnities and formalities, at the same time advising them that their own choice obviates the law "as interpreted by the Court" and establishes marriage and divorce in one simple, unaided act! If the reader follows the subject carefully and arrives at any other conclusion than we have herein—that is, confusion worse confounded the more it is investigated—and can give us in exchange for what we advance a lucid, clear and distinct understanding of the situation, we should be pleased to have him furnish it for immediate publication; and he might then, while his mind is prepared for feats which in others would produce chronic aberration, unfold the mystery surrounding the abiding place and character of the sectarian God, a being destitute of body, having no parts and devoid of passions, sitting on the top of a topless throne; or, if he prefers something more in the range of science, he might enable us to mentally grasp the infinity of space. Certainly, if he succeeds in the first, he can go a long way toward a conclusion as to the other two.

THE ROSSITER CASE.

THE trial of Wm. A. Rossiter on the charge of unlawful cohabitation with two wives, ended yesterday, the customary verdict of guilty being pronounced by the jury; this produced no surprise in any quarter, because it is a foregone conclusion in all cases where the Court, the prosecution and the jury see eye to eye, and each is a harmonious factor in the accomplishment of a purpose. Whatever Mr. Rossiter's domestic relations may be, the evidence and the law failed to make out a case against him, and by both of these were the twelve worthies who filled the jury box supposed to be bound—but what of that? Are they on duty to give conclusions as the law directs and the facts warrant, unless both law and fact happen to be traveling the way they are going? If they are, they either have a peculiar way of showing it or we have all at once become very obtuse.

The points developed in the trial have already been placed before the public and need not be repeated at this time. That an excellent and conclusive defense was made by the defendant's attorneys, was manifest to all who listened and the majority of those who read. The proof of cohabitation, even following the convenient and adjustable interpretation of the Court, was either not proved at all or so insufficiently developed as to create at least a doubt in the mind of an impartial person; and what elsewhere, or here in any other kind of a case, would that failure or that insufficiency have produced? Acquittal.

It looks as though we were daily getting nearer to a condition of things in which the burden of proof will be shifted from the shoulders of the prosecution to those of the defense; that is, an accused person will have to prove his innocence or take the consequences. In the light of recent events, stranger things than even that may be looked for.

CITY CREEK WATER.

IT is to be hoped that the joint committee of the City Council—that on water works and public grounds being united for the purpose—will report early and favorably on the scheme for the acquisition by the City of the entire length of the cañon and creek bearing its name, and that such arrangements as are necessary to complete the transaction by which ownership and control may be effected, will not thereafter be hindered or delayed. The point made by Mayor Sharp, that we must have the entire length of the stream to enable us to wield sufficient pressure upon the water at this point to make it available for distribution through the means of waterworks, was a happy one, right to the point, and worthy of full consideration; but it is not the only one claiming our attention, and all should be duly weighed.

In the first place, we consider sanitary affairs. Bad water certainly is chargeable with a great percentage of the mortality here and elsewhere, and when this can be remedied it ought to be. We no longer constitute an isolated community with a small population, but an inland metropolis whose boundaries are expanding and whose numbers are swelling with each succeeding day; increase of territory and increase of souls peremptorily demand a corresponding increase of all the elements necessary to life and mutual well-being, and to accomplish this we always look first for water, the necessary quantity being gained or in prospective, the quality thereof receiving our next attention. When the roll of residents footed up one-half or two-thirds what it does now, we had plenty of water and of reasonable purity, but the times have changed and we must change with them, bringing the supply up to the demand as nearly as circumstances will permit. To do this we must draw upon those natural resources which are most convenient and accessible, and we know of no source more reliable, voluminous and pure than City Creek; with it under full municipal control, the east and west dry benches would be dry no longer, so far as relates to culinary purposes at least, as the dissemination through mains to be constructed would force a plentiful supply not only there, but to remote parts of the city elsewhere, notably the lower wards, where ditch water is merely the accumulated slops of the city and miasmatic influences permeate the atmosphere during all the warm months of the year by reason thereof.

Wells, except of course the flowing ones which cannot become the receptacles of filth and retain it, while superior for culinary purposes to the lower ditches, are not the best sources of supply, and are themselves in too many instances fruitful sources of sickness and death. It should be the object of this and every other community to dispense with them as soon as practicable and use only flowing water as it comes in its native purity from the everlasting fountains of nature. The importance of such a condition of things can scarcely be overestimated, and we trust it will be dealt with by the local authorities in the manner which the best interests of the greater number of our citizens demands, and with as little delay as will be consistent with an undertaking of such consequences.

There are other reasons why the cañon should pass into the control of the municipal authorities. Adjacent to the city, at the mouth of the cañon, are immense deposits of gravel of the best quality and inexhaustible quantity. These, if utilized, would be valuable, whereas now they are comparatively worthless, or worse than that, because in the way of building and other improvements in that vicinity. As the gravel is taken away, the rugged places will be made smoother, and eventually level sites will be found instead of mounds. Residences would speedily follow; gardens, flowering shrubs and fruit and shade trees would take the places where now aridity, unproductiveness and useless undegrowth prevail. City Creek would then through such control and regulations as it would receive, be a source of benefit and pleasure to the other divisions of the corporation. As a thing of beauty and a joy at all times, it would be valuable; but as a reservoir and aqueduct from which the life-giving and life-sustaining element could be obtained at all seasons of the year, it would be precious beyond all price.

We again, therefore, urge upon the committee the necessity of prompt and favorable action, such action as we have no doubt will be adopted by the City Council and endorsed by at least nine-tenths of our population. Let the good work proceed at once, and no cessation take place till it be crowned with a perfect system of water works.

THE LATEST STEP.

WHEN Louis XIV ascended the throne of France as his father's successor, he conceived the idea of a strong central government, with himself as the central figure and all other things and means tributary, as being an order of things under which great schemes of national, political and social good might be effected; in other words, he would be not merely supreme in the kingdom, but the kingdom itself. His famous pronunciamento, "*L'etat, c'est moi*" (I am the state), defined the plans and purposes of the new order of things completely; all improvements, measures of progress and public ends consummated went forth to the world with Louis' imprint immovably attached to them, and the superficial and fleeting glory gained thereby filled his sturdy soul with complete joy. To say that some good was not accomplished by means of the despot's ambitious projects, would be to traverse history; with a populace composed largely of ignorant and half civilized *canaille*, who knew nothing of law but its pressure, nothing of government but its binding force, and nothing of station but its tinsel, it was quite easy for an unscrupulous despot to make his tenure secure by causing them to believe that a trifling benefit was a marvelous dispensation in their favor, and looking to the king as its source they became more loyal and affectionate, so he could well afford to dispense further (to them) benefactions. The nineteenth century would not tolerate a Louis XIV in civilized and enlightened nations, not even in France; in only one part of one of the educated and progressive nations of the earth—the United States—is such power as that once exercised by Louis wielded, and are such measures as he adopted and enforced even thought of. That part is Utah, and Louis' course is now and then duplicated not only by state but judicial officers. The edict of Governor Shaffer disbanding the Territorial milita, and the more recent despotic action of Governor Murray in assuming legal, judicial, executive and clerical functions in one grand swoop by attempting to annul the will of the majority of our voters and substitute that of an insignificant minority, are two conspicuous instances out of many of the former class of proceedings; most of the official proceedings of several of our judges belong to the other. Nothing more suggestive of this state of things, however, has lately taken place than occurred in the Third District Court room this morning, when Judge Zane passed upon the sufficiency of the demurrer interposed by A. Miner, Esq., to the indictment charging him with unlawful cohabitation. The defendant claimed that the presentment of the grand jury was fatally defective because they styled themselves "the grand jury of the United States," no such body being created or authorized by law; because the endorsement was such as could not be recognized, it being by "the U. S. District Attorney," no such officer having any existence in Utah; and for several other defects. The demurrer was overruled by his honor, the principal reason assigned therefor being that to sustain it "would be to unsettle everything here, and create such confusion as had never been seen!" In other words—"It makes no difference whether your objections are well taken or not; they would, if sustained, unsettle my policy; we are doing very well under my interpretations, and, law or no law, polygamy must go." That is to say, if the Court does not see fit to follow the law as it is, it must be changed until it fits the requirements of the mission in which he is engaged; and once adapted to that end, no disturbances can be tolerated because the programme would become "unsettled." A nice state of affairs, truly!

The presumption of those who look upon courts as the vehicle and Judges as the servants of the law, is that, no matter if the heavens fall, justice should be done; not with the precision of a mat ematical equation, for that is impossible in most cases; but at all times and everywhere in accordance with time-honored usage and well established rules. Omissions, ambiguities, uncertainties and mistakes are all supposed to be construed in favor of, not against, the defendant, because he is for the time being one against many, and this is an age in which the exercise of leniency toward an accused person is not so productive of injurious results as was the case when such restraints as the common school, the press and instantaneous communication were unknown. But Judge Zane's Draconian attitude turns back the wheel of progress an arc representing centuries; it shows a disposition to condemn right and left without benefit of clergy or counsel; it makes of judicial procedure a political war against a class of people whose personal enemy he is—a war of subjugation with no appeal to the court of last resort and a suspension of well-recognized principles; a contest in which the victory is forecast and foreordained; a policy which means, first, employing all means to crush. If he had adopted the words of Louis XIV, changing but one word to suit the difference of position, he could not have expressed himself or described the situation more accurately; "*La loi c'est moi*" would sound strangely enough coming from mortal lips in this advanced age; but they might as well be uttered as acted. "I am the law" for the time being; for how long, the Supreme Lawgiver will determine.

WORSE AND WORSE.

IF the readers of the NEWS are paying particular attention to what is going on now-a-days in the District Court, as most of them doubtless do, and all should, it will be unnecessary for us to ask them to carefully scan the personnel of the juries impaneled to try all cases in which unlawful cohabitation is the offense charged. The time-honored principle of the right of an accused person to a trial by a jury of his peers is no longer expected to be enforced; and so far has the reverse of this become the rule that we are ever and always prepared for it or almost any other perversion of well-settled rules which those who rule see fit to make use of. But it would seem to be the right of the defendant, as it certainly should be the duty of his accusers and prosecutors, to select from the ranks of his enemies—since he must perforce be tried by open and avowed enemies—those who are at least guilty of no crimes themselves. To ask or even demand this is not going very far in the direction of fogyism nor is it such a moss-backed condition of mind and habit as indicates imbecility; it is simply the mildest kind of a protest against the establishment of such a system as characterized the rule of the Star Chamber of Westminster in England long ago, and the inquisitorial doings of the court of St. Marc, in Venice, at a still more remote period. Judges then in any case could arraign without charge, try without evidence and condemn without crime, they themselves holding the power to initiate, conduct and determine proceedings. To accuse was in nine cases out of ten to convict, and to convict was in about the same ratio to commit what we would now denominate murder.

What does—what can—the reader think of a panel of twelve men sitting on a case which involves the liberty and property of a fellow citizen who is supposed up to the time of their contrary finding to be void of guilt, containing in its number at least one, perhaps many more, who are untombed from the sepulchre of charitable silence for the express and foreordained purpose of sitting in judgment upon men who are their superiors in any respect and from all points of view? Think of John W. Irons, for instance, trying a man for the heinous offense of acknowledging and supporting his family and taking care of his children! Evolve from the depths of your mentality, if you can, the moral aspect of a person who seduces a girl, commits murder to conceal his guilt, seeks to make light of the matter until it is exposed, and then makes such little reparation as public opinion forces upon him—marriage—declaring upon his oath that Charles Seal is guilty of a crime and should be punished because he married more than once and swerved not from the responsibility of such a relation so much as to cause one moment's hesitation!

If the times are not out of joint, if judicial chaos is not close at hand, if all that is worthy of reverence and regard in the dealings of man with man is not being obliterated, if liberty itself is not being cast to the dogs, what can be the meaning when in the evening of the nineteenth century and in the heart of the most powerful government on earth, such things as we are compelled to record nearly every day are becoming so familiar as to scarcely excite comment among the masses? We may well ask, When will the end be? Let those who make use of such means to accomplish such purposes as are herein unfolded pause for one moment in their blind career, and ask themselves—What will it be?

CRIME AND ITS RESPONSIBILITY.

BEGGARS and other unfortunates we have always with us; the record of their existence extends back beyond the Christian era, beyond the flood, beyond profane history. They are frequently spoken of in Holy Writ, and we are taught therein not to despise them, even while not instructed to extend encouragement. Their antiquity and the greatness of their numbers in all the ages of the world down to the present time, seem to create for them the special distinction of constituting a race without nativity, a family without a home, a band of strangers upon the very soil that produced them. The time was when they were almost unknown in Utah, and, where known at all, it was simply as an isolated and peculiar case, one that caused as much comment by reason of its infrequency as would now result from the sudden and unheralded advent of a New Zealand cannibal. But that time has passed, and things are greatly changed; we do not now have to go far to find a beggar or a vagrant, not nearly so far as to avoid meeting one, and their ranks contain not merely broken-down old women and those of younger years festering with corruption and reeking in filth, but what in the absence of liquor and degraded habits would be able-bodied, intelligent men. They are here, not so numerous as elsewhere we are glad to say, but still more numerous, even in proportion to population, than they once were or ought to be now, and something or somebody is responsible for the increase.

The fact that there is a stringent local law against begging or plying any vocation that may become a nuisance on the public streets, has no more effect than periodically fining prostitutes and gamblers has; it assails the form without touching the substance—plucks off a branch here and there and leaves the trunk uninjured. Those who through misfortune or natural depravity elect to beg will beg, law or no law; those who walk the streets at night with the hope of picking up small sums by means of immoral or dishonest practices, are rarely circumvented in their purpose; and all this in a community which, left to itself, could control as well as subdue the nocturnal evils and the diurnal annoyance which now exist and threaten to keep in existence, if not to increase as they go along. It is not that we are deficient in means of prevention or punishment—the statute books and published ordinances contain an abundance of both; but perhaps that our local officers who alone pursue the evils complained of find neither encouragement, sympathy nor support coming from the superior powers, and are held responsible for not accomplishing things beyond the power of man to achieve—when one or more of the worthies referred to are victims of the practices of the low and vile element in our midst. No wonder that justices of the peace and police officers find themselves unable to cope with many evils which they once handled and controlled; no wonder they become discouraged when expected to do something in aid of their detractors. Too many obstacles have been placed in the way by those who are more responsible for the increase of local lawlessness and sin than is any other class, to enable effective work to be done; those who followed in the wake of the