

## UTAH JUDICIAL MATTERS.

Chief Justice McKean, in passing sentence on Thomas Hawkins at Salt Lake on Saturday, warmly assured him that he was "sorry" for him. If the Utah Jeffreys has any real friends they are doubtless "sorry" for him; and their sorrow is not feigned, however it may be with McKean. Perhaps the latter really is sorry for his victim. He has reason to be sorry for him. If he will now confess that he is sorry for himself, and ashamed of himself, we will acknowledge that he is not the hardened bigot we believe him to be. The outrage has now been fully consummated. Its enormity is not lessened by the professed mental distress of the chief actor, nor by the fact alleged by the New York Herald that Hawkins will live in history. He will live in history, and so will the man who was at once his persecutor and his Judge; but all the material has not been prepared for the historic chapter that will embalm their names. The matter is not as yet a finality. It is hardly possible that such an arbitrary act of injustice will not be undone. It is gratifying to know that the best papers in the country, of both political creeds, are taking the correct view of this matter. There is general, severe and deserved censure, from all quarters, of McKean's conduct. He will not dare to face the storm he has raised. He will hardly be guilty of taking part in another such transaction as the conviction of Hawkins. If he shall be prevented from convicting any more men illegally, the discussion his conduct has provoked will not have been in vain.

But we have not only hope for others who have been singled out for impalement, but we have hope for Hawkins himself—and hoping for Hawkins' deliverance is hoping for the vindication of law, the triumph of justice. He has been convicted illegally, and that very fact makes his cause that of the entire American people. His religious creed has nothing to do with it. He is convicted of violating a Utah statute—a Mormon enactment—which reads as follows:

"Every person who commits the crime of adultery shall be punished by imprisonment not exceeding twenty years and not less than three years, or by fine not exceeding one thousand dollars and not less than three hundred dollars, or by both fine and imprisonment, at the discretion of the Court. And when the crime is committed between parties any one of whom is married, both are guilty of adultery, and shall be punished accordingly. No prosecution for adultery can be commenced but on the complaint of the husband or wife."

Now let us suppose that this section had originally and still has this addition—

"But the crime of adultery as understood by this Act is not as defined by any State or Territory, except the Territory of Utah, and cannot be committed between persons who have been married to each other, according to the forms of the Church of Jesus Christ of Latter-day Saints, or whose cohabitation is sanctioned by that Church."

It strikes us that most people will agree that McKean would have had great hardihood to convict Hawkins under such a section as the above. Yet the section under which the conviction was had means just what we have added to it. It is impossible for it to mean anything else, as it is the work of a polygamist Legislature. McKean knew what it meant; he knew it could not stand the interpretation he put upon it. If he did not he would be utterly without sense, and his course during the proceedings showed that he had got some sense.

If the other two District Judges (who, with McKean, will constitute the Supreme Court to which Hawkins is appealing) are as confirmed bigots as the Chief Justice (they are probably not), still, there is hope that they will reverse the latter's action. He raised the storm; they see it. He committed the outrage; they have had plenty of time to see the effect of it. We believe they will overrule McKean and release the prisoner.

Prominent Mormons are under indictment for lascivious cohabitation. They are indicted under a Mormon law, which doesn't cover their cases, and under which they cannot be convicted legally. Other prominent Mormons have, within a day or two, been indicted for murder and other crimes. The accused in these latter cases, can be convicted legally—that is to say, if they have taken human life with malice aforethought, they can be con-

victed legally under Mormon law. Let stern justice be dealt out, but, let us have no petty tyrants. Despotism are not the ministers of justice. Let the government commission men—inflexible, but learned and just—to deal with the Mormon delinquents. In the meantime the country looks to McKean's two associates to uphold the sacred rights which he has assailed.—*Sacramento Reporter.*

## PROSECUTION SHOULD NOT BE PERSECUTION.

The conviction of Hawkins, at Salt Lake, for illicit cohabitation with women other than his first wife, means the conviction of the whole polygamous set of Mormons from Brigham Young down to the lowest in authority who is able to keep more than one woman. No doubt such is the object of the prosecution by the Government officials. The end of the affair is not, however with the decision of a court in Utah. The case will go to the Supreme Court of the United States for final settlement. If the reports have been correct, the prosecution of the Mormons for polygamy—for that is what it means—is undertaken, not under a statute of the United States, but a law of Utah, signed by Brigham Young himself in 1851, and which was not designed to cover a case like that which the polygamous elders of the Mormon church present. How they can be held amenable under a statute of their own not intended to be applicable in cases of plural marriage has not been explained. The intention of the act must be known to know its meaning. If there is any other law by which these sultans of the American desert can be punished, it would seem that the United States Courts ought to resort to that as sure to bring conviction and punishment. The arraignment under a law that was clearly not intended to strike at polygamy is a virtual admission that there is nothing better in law to which the authorities can go. The proposition is not disputed that the Territorial law was not intended to forbid or punish polygamy, and how it can be used in such cases as that of Brigham Young has not been elucidated, except that the prosecution is only attempted as an annoyance, or to provoke hostilities, knowing well that the weaker and the despised will be the sufferers in the end.

As we have said in former articles, we have no sympathy with the peculiar institutions of the Mormons, nor much respect for their pretended faith. But laws are laws, and should be executed according to their real intent and meaning, and if there is no better law than the one under which the Mormons are held, and under which one has been found guilty, it is time to make one, and cease what will certainly be regarded as a persecution, which always is to the growth of the sect persecuted. We very much fear that this raid on the institutions of the Mormons is dictated more by popular hate than springing from an honest desire to rid the Territory of Utah of an institution that has not the sanction of the civilized world. All evils are best removed by legitimate means, without taking counsel of passion or prejudice. If means do not exist to destroy polygamy in Utah, let the means be provided from headquarters, and in a way that shall be beyond dispute legitimate, that the punished may have no excuse to cry persecution.—*Sacramento Union.*

No TIN.—The Washington Star of Oct 30 has the following respecting "That Utah Tin mine"—

"Samples of so-called tin ores received at the General Land Office from Utah Territory have been subjected to a chemical analysis, also to a crucible assay, but in neither case could the least trace of tin be detected."

How's this? We should like to hear what our expert tin miners have to say to it. The Star gives no names, but gives the Utah tin ores a "bad name" on general principles, based on a specific analysis and assay. It is bad for any institution to have no tin, but it is absolutely ruinous for a tin mine to show none.

"ALL ARE TALKING OF UTAH" in deed and in truth. The papers are full of it, and they ought to consider themselves under many great obligations to the "Mormons" for furnishing the occasions for so much interesting matter. Our columns are far too limited to give our readers a quarter of a fair representation of the good, bad and indifferent things which are being said about Utah. So we must be excused for any apparent lack of attention to any of our contemporaries.

ABOUT APPEAL.—The Philadelphia Age has the following—

"One result of the recent trials in Utah Territory, will probably be an appeal to the Supreme Court of the United States, and a decision there, upon the jurisdiction of the Federal government over the subject of marriage. In the States it certainly has no such jurisdiction, and it has never before exercised any in an organized Territory, with a legislative body, competent to make laws on local subjects."

To which the Omaha Herald answers—

"The Federal Court in Utah fixes its own jurisdiction, without regard to law or precedent. There is no appeal from its decisions."

This refers to criminal cases, and the object of the "ring" appears to be to make all "Mormon" cases criminal, if possible.

DRINKING AND NATIONAL DECAY.—Wendell Phillips talks thus to the bibulous Bostonians: "If there isn't statesmanship and law, and morality and Christianity enough to cure the drinking habits of our great cities, the republic is just as much fated to go down as the Roman republic was; and your children will live to see the soldier on horseback or the aristocracy, fortified in wealth, who will take possession of the government. Every great city in the United States is ruled to day by a mob. [Applause.] And there isn't a Mayor from the city of Boston to San Francisco, due west, who was not elected by the grog-shops of his own city. Not one." Wendell is slightly mistaken in one instance. We have just this minute shaken hands with a Mayor "who was not elected by the grog-shops of his own city." Salt Lake is a temperate city, so far as the imported judiciary will let it be so, and we will say that not one Mayor, of all the Mayors who ever were elected, of and by this city, was "elected by the grog-shops of his own city." Wendell will like to hear that.

No COMPARISON.—An Omaha paper says—

Shakespeare, Milton, Byron, these are the monarchs of English verse, and have crowned England with her rarest and ripest literary glory. To compare a system like the Mormon to either of them, even by way of illustration, is an insult to the august and eternal memory of either.

We seldom compare "Mormonism" with anything, simply because there is nothing really comparable with it. But of the trio named, we may remark that Byron was a notorious and confessed libertine who gloried in his shame. The "Divine William," in spite of all his merits, was a very smutty gentleman, and "glorious John Milton" wrote an able argument in defence of the divine character of polygamy.

NOT FLATTERING.—The Reese River Reveille has a very poor opinion of that sentence, judging by the following—

"In pronouncing his sentence this Judge took occasion to inflict on the prisoner a homily which for hypocrisy and venom surpasses anything of the kind we ever read. It commences thus: 'Thomas Hawkins, I am sorry for you, very sorry.'"

## NOTICE!

TO Whom it may Concern: That cash entry for the Town site of Rockport, Summit County, Utah, made July 17, 1871, embracing the South half of N W quarter of section 4, and the north west quarter of S W quarter of section 4, Township 1 south, range 5 east, containing 120 acres, has been made, in trust for the inhabitants; and is now ready to be disposed of in lots, to any person or persons entitled thereto.

All persons claiming to be owners or possessors of any portion of said entry, will take due notice and make the application as provided in the statutes of Utah.

A. E. HINCKLEY,  
Probate Judge.  
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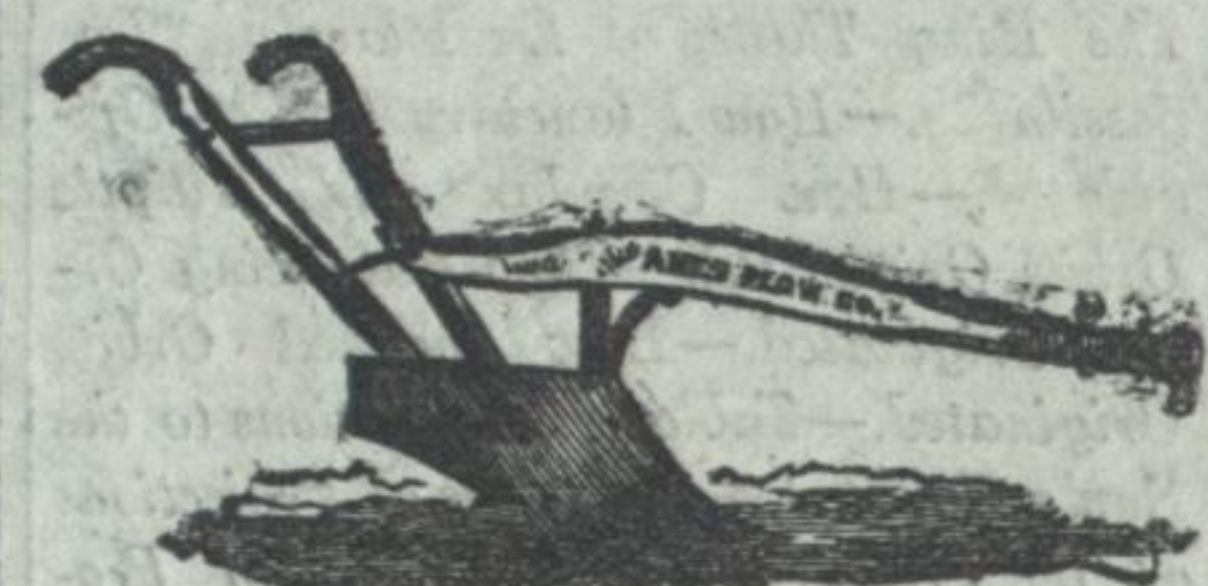
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