attained. He might conclude for himself what he would do to show to the world that the polygamous relationship had ceased, but it was

AT HIS OWN PERIL,

and he could not complain, if, when the case was again considered by a jury, it was decided against him. He must, to avoid this, accomplish the ultimate end. He should not make his visits to his children a cloak to cover an illegal relationship with their mother.

The situation was a harsh one, it was true, but they were themselves responsible. They should bear the burden when the consequences followed their own acts. When the jury considered the evidence, they must have started with the proposition that the defendant had promised to obey the law when the consequence of his crime had overtaken him. This was a circumstance against him. He had not endeavored to keep the law until it laid its heavy hand upon him. The jury had a right to consider whether the line of conduct pursued by the defendant was in good faith with reference to the law, or was in continuation of the former unlawful relation. As to the visit to Ogden, married men do not take women other than their wives on a trip like that. They had gone to Ogden and remained a day. This fact was

A VERY SUSPICIOUS ONE,

owing to the frailties of human nature, especially in the relations of the sexes. The defendant's legal wife was the one who should have accompanied him to Ogden. He would not have taken a woman with whom he had had no marital relationship.

When he had visited the house he had gone into it by the back door. He had also gone out riding with his polygamous wife and the sick child. This fact alone was not sufficient to convict, but in connection with other circumstances, the jury had a right to say it was simply a cloak to cover other association. They had a right to say the explanation of the visits was not satisfactory; that the sickness was not so urgent as to require the defendant's presence with the sick child. The defendant should have shown in a more marked way his intention to obey the law, if that intention was honest. So far as the world was concerned there had been no ceasing to flaunt the existence of a polygamous household. The defendant should have so regulated his conduct that the world could have no doubt of his intentions, and he had himself to blame if he did not. The obtaining of a decree from the Court might even have been insufficient to announce the separation to the world. He could not use such a

DECREE OF NULLITY AS A CLOAK

under which to continue the former relationship clandestinely. The suggestion of the District Attorney was simply an illustration of one of the ways in which the defendant could announce the fact of the separation. Unless the evidence was so glaringly insufficient that the jury could not convict on it, the verdict should stand.

Mr. Rawlins, in his closing remarks, said that because the defendant had pleaded guilty to an offense should have had no weight with the jury on a subsequent charge. The law left room for repentance. He had been punished for his offense, and that account was settled. He promised to conform to the law, and the law should encourage him to keep the promise. The object of punishment was to obtain obedience to law, and that object had been gained in this case. The jury had no right to conjecture that the defendant's acts were a cloak to cover something unlawful, when there was

ABSOLUTELY NO EVIDENCE

to justify that conjecture. The jury were not permitted to take evidence that meant one thing and say that it meant the opposite. If the prosecution had shown that there had been masquerading under a cloak on the part of the defendant, there might be room for conviction. But this had not been done. As to the defendant's visiting his children and going into the house at the back door, the evidence showed that that was the usual way of entrance for all who went there. The proposition of the defense that Mr. Arnold had not transcended his legal duty, had not been controverted. All of his visits had been open and above board. The claim that the defendant could not complain if his acts did not satisfy the law, was unjust. The mere suspicion that there was something hidden was not sufficient to convict. There was no evidence that Mr. Arnold pretended to anybody on earth that he was not conforming to his agreement with the court. In fact the contrary was shown beyond doubt. The assertion that it was improper for the defendant to invite a lady not his wife to Ogden, was fully explained by the evidence, and the defendant had proper business there. The suspicions of the public were insufficient to constitute guilt. The mother of the defendant's children was entitled to considerations which a woman who did not occupy that position was not entitled to. There was no significance to this class of actions, in the light of reason, when taken in connection with the circumstances shown.

THE MOTION OVERRULED.

The Court, in ruling on the motion, said that the principal reason given in asking for the granting of the request was that the evidence was insufficient to justify the verdict. There was no controversy about cohabitation with the first wife, but the question was as to the cohabitation with Fanny, the second wife. The issue, then, was, Did the defendant associate with Fanny under the semblance of marriage? or, Did their association indicate to the world that it was as husband and wife? The defendant had been married to Fanny according to the forms of the Church law a number of years ago. He cohabited with her for considerable time, and several children were born to them. About a year before the indictment was found the defendant pleaded guilty to another indictment for a similar offense, and promised to obey the law, stating that he did not desire to do anything more than care for and support his children. He and his first wife lived in one part of town, and the second wife in another part. He had been in the habit of visiting his plural wife, sometimes with his son and sometimes alone. The neighbors saw him passing in and out frequently. He was there once a week, more or less. He also

TOOK DINNER WITH THE CHILDREN

in that house. He had gone in and come out of the house late at night, when his child was sick; on one occasion of this kind he stayed all night. He took the plural wife and his children out riding, and also took her home from the Theatre once, and to Ogden with him once. At the latter place registered her name as "Mrs. Arnold." Their rooms were adjoining, and were connected by a door. In explanation of these acts the defendant claims to have visited his children. His calls at night were when the children were sick, and the driving out was for the benefit of the child. The question was whether this was sufficient explanation of his association with his plural wife, in the light of polygamous marriage which existed. The result of their former association threw its effect over the whole proceedings, and the inquiry arose what did people think of it? The jury must have found that there was no reason for his frequent visits. There was no excuse for his taking the plural wife to Ogden, and his actions there were suspicious. Their rooms were connected by a door.

HE LED HIMSELF INTO TEMPTATION;

there is no question of that. The opportunity was so good, he would have to have been as good as Joseph to have resisted the temptation. This visit and others furnished so many opportunities, and the inclination and disposition to take advantage of them, as evidenced by the marriage originally, were doubtless still with him. He said in court that his promise to obey the law did not change his inclinations. The jury doubtless thought the old habits and inclinations were still on him. I am not prepare to say the jury erred. It was not necessary for him to do as he did. If a man could do this, any man could hold out the indication of a polygamous marriage and go unpunished. He should have been very careful. His actions convinced the jury that he was associating with her as his wife. He must not act so as to lead to that conclusion.

Reference had been made to the hardships that would follow if he was not allowed to visit as the defendant had done. All punishment carried with it

DISTRESS AND EVEN AGONY.

If a man, in anger, committed manslaughter he and his family suffered. The suffering of to-day in polygamy and unlawful cohabitation was that the woman of the next generation might be free in the enjoyment of the sanctity of the monogamous home. The blessings to follow outright the agonies of to-day. The immediate results must not be looked at. If slight punishment would not do, the law in all its power and vigor must be applied. These remarks had been made because reference had been made in the arguments to the sufferings to follow such an interpretation of the law. The motion for a new trial was overruled.

THE SENTENCE.

Court—Stand up, Mr. Arnold. About 18 months ago you pleaded guilty to the crime of unlawful cohabitation, and promised to obey the law. You have been convicted again by a jury, and it is the duty of the court to pass sentence upon you. Have you anything to say why judgment should not be pronounced?

Mr. Arnold—Nothing, only I supposed I was obeying the law. That is all I can say. The best I——

Court—Do you say you intend to obey the law in future, as interpreted by the courts, not as you interpret it?

Mr. Arnold—I have done as I understood the law to be construed at that time.

Court—You must understand that you cannot visit your children in the presence of their mother under such circumstances as will indicate that you associate with your second wife as a wife. Will you obey the law as interpreted by the courts?

Mr. Arnold—Well, I promised to do so, am willing to—I have done so to the best of my ability, but anything further I cannot do.

Court—You won't promise to make any changes, then?

Mr. Arnold—I may have made some mistakes—some errors in my judgment that I did not intend making.

Court—Whatever mistakes you have made you have yourself to blame for.

Mr. Arnold—That may be true.

Court—Well, it becomes my duty to pass sentence upon you. The object of the law is not to inflict punishment, but to protect society. It is demanded of the government to make laws, that society might be protected. Those laws must be enforced. You will be sentenced to imprisonment in the penitentiary for six months on each of the first two counts, and three months on the third, and pay a fine of $150 on each count, and the costs of prosecution. That is, fifteen months' imprisonment, $450 fine, and the costs, and will stand committed until the fine and costs are paid.

BAIL DENIED.

Mr. F. S. Richards asked that the defendant be admitted to bail pending an appeal to the Supreme Court of the Territory. This case was an unusual one, it being the first in which a defendant who had promised to obey the law had been prosecuted. It involved the determination of the line of conduct of a man, and what care, if any, he could bestow on his plural wife and her children. In view of these circumstances the defendant should be admitted to bail pending the final settlement of the case.

Mr. Varian made no reply, and after a short pause, Judge Zane said the circumstances alluded to were not sufficient to induce the Court to admit the defendant to bail, and the application was denied.

Mr. Arnold was sent to the penitentiary this afternoon.

FROM FRIDAY'S DAILY, OCT. 22

Praising the Choir.—We are in receipt of a communication praising the singing of the Tabernacle Choir of this city at the concerts given by it at Nephi, and expressing the high appreciation of the people of the visit of the Choir to that place. Having already given an account of the excursion and concerts, we do not publish the communication referred to.

To the "Pen."—Last evening the following brethren were brought from Provo and taken to the penitentiary to serve out their terms of imprisonment for refusing to renounce their wives:

Bishop J. W. Loveless, sentenced to six months in the penitentiary and to pay a fine of $300 and $97.40 costs.

John Durrant, six months' imprisonment and a fine of $100.

Hans Jensen, six months' imprisonment and a fine of $100.

Sudden Death.—The family of Brother W. R. Jones, of the Fifteenth Ward, is plunged in grief by the sudden death of his infant son last evening. He is absent traveling for J. H. Parry & Co., and is supposed to be in Summit County. Telegrams have failed to reach him. If his whereabouts is known to any of our readers they will perform an act of kindness by sending word to him to return home at once. We sympathize with the bereaved.

Found Dead.—Yesterday the body of an aged man named John Sovn was found in the brush, about 400 yards from the road, in George's Cañon, back of Fort Douglas. A couple of weeks ago the old man, who was quite helpless, and who has been receiving attention at the Sisters' Hospital for several months, wandered away from the latter place unobserved. All search for him was futile. The body was brought to this city and identified. The evidence that he had died of exposure at the point where he had wandered to and was found, was conclusive, and an inquest was considered unnecessary. The remains were interred to-day by Undertaker J. W. Taylor.

Narrow Escape From a Bear.—Under date of the 19th inst. John Clark of Upton, Summit County, sends us the following account of a thrilling incident:

On Friday, Oct. 15th s Mr. Conrad and William Staley, both of Upton, were out for a hunt, and came across a bear. Having a dog with them, they sent it after the bear. Two boys, aged 12 and 16 years, were likewise out on a hunt, and seeing a bear coming towards them, which proved to be the one chased by the dog, they started to run. The bear gained upon them. The younger boy fell down screaming. The older boy named E. Staley, seeing no chance of escape, turned and fired at bruin. Fortunately the shot took effect in the bear's brain, killing it instantly. It weighed over 400 pounds.

An Exciting Incident.—This morning a carriage belonging to President George Q. Cannon was conveying a number of that gentleman's children to school, when a serious mishap was met with. In the vehicle were six children—two boys and four girls. When a point about half a block south of the *Juvenile Instructor* office was reached, the neck-yoke broke; the lad who was driving pulled on the lines, when the carriage ran on to the horses, frightening them. All that appeared to prevent them running away and causing a terrible catastrophe was the lines becoming entangled in the wheels and holding them back. They kicked the dash-board to splinters, wheeled and plunged, finally upsetting the carriage and throwing the children out upon the street. One of the girls, Miss Hester Cannon, was picked up in a state of insensibility and carried into an adjacent house, where she remained until this afternoon, when she was taken to her home. We have not learned the extent of her injuries, but sincerely hope they are not serious. The other inmates of the vehicle were, we are pleased to be able to state, comparatively unhurt, although all were, as a matter of course, very badly frightened.

A "DEMOCRATIC" NOMINEE.

WM. M. FERRY, OF PARK CITY, SELECTED WHEN R. N. BASKIN DECLINES.

The members of the "Democratic" Territorial Central Committee met in Hall & Marshall's office last evening. There were present J. B. Rosborough, chairman, Parley L. Williams and Wm. C. Hall, of Salt Lake; J. W. McNatt and E. A. McDaniel, of Ogden; Wm. Ferry and R. I. Waddell, of Park City; H. S. Krighaum, of Corinne, and J. H. Wolcott, of Ophir.

R. I. Waddell, W. M. Ferry and P. P. Williams made speeches, and in the usual venomous style denounced Hon. John T. Caine, Delegate to Congress, and the "Mormon" people.

A proposition to call a general convention of Democrats to nomen nomination for Delegate to Congress was opposed on the ground that "Mormons" would attend and control it.

R. N. Baskin, who figured as the "Liberal" delegate at Washington during the last session of Congress, endeavoring to secure unrepublican legislation, was then placed in nomination.

The following resolutions were introduced by the chairman, J. B. Rosborough, and were carried:

WHEREAS, The name of John T. Caine, Delegate to Congress from Utah, has heretofore been placed on the Democratic Congressional Committee, while he is in no sense a Democrat:

Resolved, That it is the sense of the Democrats of Utah, that said Caine occupies that position under false pretenses, and that the fact is a reproach to that committee, and a discredit to the Democratic party.

Resolved, Further, That, as a protest against said discreditable fraud, a sound and reliable Democrat should be selected to receive the support of Democrats at the ensuing election for Delegate to Congress from Utah Territory.

Resolved, That in view of the brief time to lapse before such election, this committee suggests and nominates Judge R. N. Baskin as an acceptable Democrat, and asks in his behalf the co-operation and support of all voters in the Territory who concur with the reasons which prompt this action.

Mr. Baskin's nomination was unanimously endorsed by the nine members of the committee.

The nomination was, however, positively declined by Mr. Baskin, who thought he could better work against the "Mormons" without being handicapped in the way proposed. He thought that after the Tucker-Edmunds bill passed the Gentiles could unite and elect a man from their own ranks.

Wm. Ferry, one of the committee, was then nominated by the committee, as the "Democratic" nominee for Congress. His name was substituted in the resolution for that of R. N. Baskin, and the committee adjourned.

PETITION FOR HABEAS CORPUS.

IMPORTANT ACTION LOOKING TO A TEST OF SEGREGATION.

In the Third District Court to-day F. S. Richards, Esq., filed a petition in *habeas corpus*, in behalf of Apostle Lorenzo Snow, now undergoing imprisonment in the Utah Penitentiary on a conviction of unlawful cohabitation, the offense having been segregated into three counts in the indictment.

On seeing the document Judge Zane asked what the object of the proceeding was, and was answered to the effect that the design was to test the legality of segregating indictments. Judge Zane stated that as Mr. Varian was not present the court would take no action in the matter until to-morrow morning at ten o'clock, when it will come up. The proceedings then will depend upon Mr. Varian's attitude, or upon his line of opposition, should he oppose the granting of the application. Following is the text of the petition:

In the District Court of the Third Judicial District, Territory of Utah, Salt Lake County.

In the matter of the application of Lorenzo Snow for a writ of *Habeas Corpus*.

The petition of Lorenzo Snow respectfully shows: That he is now a prisoner confined in custody of Frank H. Dyer, United States Marshal in and for the Territory of Utah, in the penitentiary of said Territory at the county of Salt Lake in said Territory, for a supposed criminal offense against the United States, to-wit: Unlawful cohabitation.

Your petitioner also shows that such confinement is by virtue of the judgment, warrant, and proceedings of record, including three indictments against your petitioner, his arraignments thereon, and pleas thereto respectively, as well as demurrers to such pleas, decisions thereof, and verdicts of the jury, being the record of said matters in the District Court of the First Judicial District of the Territory of Utah, copies of all of which are hereto annexed and marked respectively, exhibits A, B, C, D, E, F, G, H, I, J, K, L, M, N, O and P. And your petitioner further shows that under said judgment, a copy of which is marked exhibit "P" and in execution thereof he has been imprisoned in the penitentiary for more than six months to-wit: continuously since the 12th day of March, A. D., 1886, and has paid $300 in satisfaction of the fine adjudged against him and all the costs awarded and assessed against him on said prosecution.

And your petitioner further states that he is advised and verily believes that his imprisonment is illegal and that such illegality consists in this: the court had no jurisdiction to pass judgment against your petitioner upon more than one of the indictments or records referred to in its said judgment, for the reason that the offense therein set out is the same as that contained and set out in each of the other said indictments and records, and the maximum punishment which the Court has authority to impose was six months' imprisonment and a fine of $300.

That by his said imprisonment your petitioner is being punished twice for one and the same offense.

Wherefore your petitioner prays a writ of *habeas corpus*, to the end that he may be discharged from custody.

LORENZO SNOW.

TERRITORY OF UTAH, Salt Lake County. } ss:

Lorenzo Snow, the petitioner above named, being duly sworn, says that he has heard read the foregoing petition, and knows the contents thereof; that the same is true of his own knowledge, except as to matters therein stated on information and belief, and as to those matters he believes it to be true.

LORENZO SNOW.

Subscribed and sworn to before me this 21st day of October, A. D. 1886.

JAMES JACK, Notary Public.

REFUSES TO TESTIFY.

MRS. KATE BASSETT WILL NOT BE A WITNESS AGAINST HER HUSBAND.

To-day the grand jury came into the Third District Court, after having spent some time in considering the case against Bishop Bassett, and presented the following document:

To the Honorable C. S. Zane, Judge of the Third District Court, Territory of Utah:

Your grand jury respectfully report that in their investigation of the charges against Wm. E. Bassett, on behalf of the United States, of unlawful cohabitation and polygamy, evidence was adduced tending to show that in 1872 the defendant was married to Sarah Ann Williams, and then and there had her for his wife. That afterwards, to wit, in the year 1884, in the Territory of Utah, and while she, the said Sarah, was still his wife and living, the said defendant, in the Territory of Utah, married and took to wife one Kate Smith, and then and there had her for his wife.

That said evidence also tended to show that the defendant and the said Kate Smith went through a subsequent ceremony of marriage in the year 1886, the one with the other, while the said Sarah was yet living. That the place and time of said alleged second marriage are undetermined and in doubt from the evidence. That the said Sarah, the first wife, is still living, and was a witness herself. That after the introduction of the evidence aforesaid, and while said matter was so pending before your grand jury, and while the place and time of the said alleged second marriage were yet undetermined, the said Kate Smith was called and presented herself as a witness on the matters aforesaid, before your grand jury; and after being duly and regularly sworn as such witness, the following interrogatories were by your grand jury severally propounded to her:

Question 1.—Did you go through a marriage ceremony at Logan, in this Territory, with William E. Bassett, prior to your marriage with him in Salt Lake City?

Question 2.—Did you, at any time in 1884, go through any ceremony of marriage with the defendant, Wm. E. Bassett, in the Temple at Logan?

Question 3.—Have you gone through a marriage ceremony with Mr. Bassett at any other place in the Territory of Utah, except in the city of Salt Lake?

Question 4.—Were you not married to him in the year 1884, and have you not since said marriage lived with him as his wife in the Territory of Utah?

To all of which questions the said witness made no answer, but declined and refused to answer them or either of them.

Wherefore your grand jury pray the consideration of the Court in the premises, whether said questions, or either of them, are competent and proper to be answered, and that such action may be taken by the Court as the law and the premises will warrant.

Grand Jury rooms, at Salt Lake City, Utah, October 22, 1886.

RICHARD MACKINTOSH, Foreman.

The ground on which Mrs. Bassett refuses to testify is that she is the legal wife of the defendant, and under the law cannot be compelled to testify against him.

The Court instructed her that the questions were proper and must be answered.