EDITORIALS.

A STRONG VOICE RAISED FOR THE RIGHT.

THE Chicago *Times* has been laboring with the "Mormon" question and has brought forth some very sensible sentences. In an article on the Edmunds law some errors occur which indicate the usual editorial loose manner of collecting data on Utah affairs, but the sentiments advanced on the main question at present under discussion are sound and worthy of general diffusion. The *Times* also handles without gloves, in another article, the disfranchisement policy advocated by the clique of which our absent Governor is the representative, and both editorials are worthy of reproduction. We have only space for portions of the first, but will give the other in full.

The *Times* starts out with some remarks on the failure of the law of 1882 which it says has not "fulfilled the expectations of its author and its over-zealous advocates any better than the enactment of 1862," which was "to stamp out polygamy," and gives some of the reasons for this. One of these is, the woman vote, the *Times* declaring that the "Mormon women are polygamous to a man," and the "forlorn Gentile" has no chance against the "complacent Mormon," who can "exert the voting power of a whole flock of wives." The *Times* seems to have forgotten that section of the Edmunds law which took away the voting power from all polygamists and their wives, and the report of the Commission which shows that none of those disfranchised persons have attempted to vote at the last two elections.

The statement of the *Times* that "polygamy in Utah is rooted and buttressed not so much in any religious lust of men as in the emotional nature of women," has more truth in it than many of the opponents of the system are willing to admit. And the further assertion, that if the bulk of the women of Utah, or even the influential minority, were hostile to the institution, religious preaching could not save it," shows a clearer insight into the situation than is common with journalists. And so with the following conclusion: "Not all the legislative nostrums that Congress may prescribe can eradicate it until that condition appears."

It is popularly supposed that the women of Utah are held in bondage and forced into the polygamic relation. But it must be clear to sensible people who understand feminine human nature, that if it were not for the religious element in woman and the religious convictions of the "Mormon" ladies, plural marriage would be an impossibility. If anti-polygamists can obtain an Act of Congress which will abolish that element and change those convictions, it will be easy to extirpate polygamy by special legislation.

The *Times* thus refers to the erratic notions of a local scribe:

"It is the office of government to govern," says a sapient philosopher at Salt Lake; "and if it is proper for government to enforce its laws, why not do it?" The philosopher is growling because all the legislative proscriptions for the Utah disease have failed, or "been nullified," as the Salt Lake philosopher puts it. One more prescription of special legislation, he thinks should be tried—namely "the legislative commission,"—and if that should fail, "let us have martial law!" For the social evil which is manifested in keeping a harem of non-combatants, martial law would be very heroic treatment; but that it would prove any more efficacious than the legislative treatment which has so conspicuously failed admits not of a rational belief."

Coming to the workings of the Edmunds law, the *Times* remarks:

When the Edmunds statute passed, the *Times* stated, among others for anticipating its failure, its offensive character of special legislation. It was an act directed by the national legislature, not against an evil incompatible with the general welfare wheresoever it might be practiced, but against the practice of that evil in one particular locality. It was not made applicable even to all of the class of people called Mormons, but only to those dwelling in Utah. Thus, it was an act by which the national legislature selected a small section of citizens and set them apart from all others as special objects of the nation's wrath. It had every appearance, every character, of an act of persecution. It contained a deliberate design not to treat that particular group of citizens upon a just basis of equality before the law with all citizens; not to make them feel that they were a part of a great political society governed under the same equitable laws and regulations in all parts of the land; but to deal with them as a class proscribed and outlawed from the operation of that "equal and exact justice to all" which was some time the pretentious boast of American rulers. History contains no record of any people, race, or group that has been brought under voluntary subjection or into amicable relations to any ruling power by that method. Had there been no other reason for its failure in Utah, it must have failed for that reason.

On the same principle the *Times* opposes the further legislation suggested by the Commissioners—who are five in number, not three as it supposes—and closes the sensible and vigorous article as follows:

"There is that in the average character of the American people which does not incline them to passive submission to this mode of government; still less to love and admiration of it. It is well that it is so. It is the only trustworthy guaranty of just rule that this people possesses. It is the only effective obstacle this people can ever hope to make effective against unjust and tyrannical rule. It is one of the most convincing evidences of the fitness of the preponderating part of the inhabitants of Utah that they have been neither captivated nor subdued by this prospective mode of government. It encourages the belief that, how far soever it may be pushed, it will result only in failure—as it will deserve to.

"It is the office of government to govern." But it is not the office of government to proscribe, neither to persecute."

It is very rare that a non-"Mormon" journalist penetrates to the inward facts of the pretended anti polygamy crusade *and the real motives of its principal champions* with the sagacity displayed in the following caustic article, reviewing the remarks which Mr. Murray has managed to get into print and have telegraphed over the country as a press dispatch:

Mr. Eli H. Murray, Governor of Utah, declares that he has not been disappointed in the total failure of the latest congressional nostrum to eradicate the Mormon practice of supporting too many wives. "I told you so" says Mr. Murray. "Congress would not take the bull of polygamy squarely by the horns," as Mr. Murray reccommended, and so, refusing to do the wrong Mr. Murray wished to have done, "failed to do the right."

If Mr. Murray had been the law-making power of this country, what would he have done? He would have done what he said it was necessary to do to take the local administration of Utah wholly away from the Mormons and give it to the "Gentiles." According to his own statement, "not above 20 per cent of the Mormons are polygamists," but the other 80 per cent, "or monogamists, as they are called, are largely in excess of the 'Gentile' population," and therefore "can easily outvote the 'Gentiles' and elect their territorial legislature." This is exactly what they did in the election held under the provisions of the "Edmunds bill." The "Gentile" party, with the territorial governor at their head, were utterly routed, "horse, foot, and dragoons."

To render such a result impossible, Mr. Murray would disfranchise the 80 per cent of Mormon monogamists as well as the 20 per cent. of Mormon polygamists. That is, he would limit the elective franchise in Utah to persons who will come forward and swear that they are not professors of the Mormon sort of religion. That is, that he would establish in Utah, by act of Congress, a religious test, which the Constitution declares Congress shall not do. That is, upon the pretense of extirpating the practice of polygamy by 20 per cent. of the Mormons, he would by legislation in the nature of attainder attaint the Mormon Church, disqualifying the innocent 80 per cent. of its members equally with the guilty 20 per cent. Mr. Murray may be a virtuous and a moral man in his own opinion. Nevertheless his prescription for the cure of the too-many-wives distemper in Utah raises the suspicion that his moral perceptions have been so blinded in his pursuit of the trade of politics that he has lost the faculty of discriminating right from wrong.

It has been charged that the real motive of the "Gentile" party in Utah, the motive which impels them to cry aloud to Congress, begging that the lawmaking power will deal with the Utah Saints after the manner of the charitable wish of Paul respecting those who, in his opinion, were not Saints, by cutting them off, is not only to get possession of the Territorial government, but, by the use of it, to drive the Mormons out of Utah and possess themselves of their inheritance. The spirit of the demand for a religious test of political exclusion against all who profess themselves of the Mormon religion, whether polygamists or monogamists, has a strong flavor of the verity of that charge.

Why, then, should the proscription which Mr. Murray would not limit to polygamists, be limited to Mormons? If the Mormons were cut off, some other religious sectary—Baptists, Methodists, Campbellites, Quakers, Buddhists, or something else—might appear in their place, "outvote the 'Gentiles,' and elect the legislature," which the "Gentiles wish to control. Admit as probable that something less than 20 per cent. of the new anti-Gentile party would be polygamists, that would not furnish any guarantee of the legislative power and the offices to the Gentiles. The Mormon monogamists and polygamists, "all stand ready to do the bidding of the church," says Mr. Murray, and vote for the candidates recommended by the much married Elders. But that is hardly a trait peculiar to Mormons. It has been observed that persons attached to other ecclesiastical establishments have stood ready to do the bidding of the church and to vote the wishes of bishops, priests, deacons and preachers. It has been observed that, not receiving contrary orders from the church, the bulk of voters stand ready to do the bidding of party bosses, who, as everyone knows, set up as the high-priests of an over-living church without a religion. Obviously, then, *the only sure way for the Gentile minority* in Utah to get uppermost and keep uppermost is to get an act of Congress limiting the legislative office, the electoral office, and all the other offices in Utah to themselves alone.

That is plainly what they desire. That is the manifest aim of Mr. Murray's wise recommendation to Congress. But as the plan he proposes would not be a means adequate to the end which the Gentile party aims at, he ought to enlarge and improve it in the manner suggested."

The dishonesty of the pretense that the "Mormon"-eaters are working for the suppression of polygamy, is broadly exposed by their new appeal for congressional assistance. Everybody, male and female, that can be said to have ever been connected with the practice of polygamy have already been deprived of the right to vote and hold office. The legislation now desired is directed against "Mormons" who have not contracted plural marriage relations. What is the palpable inference? Why that it is not polygamy that is objectionable, but the power to vote against the anti-"Mormon" interest. The *Times* is exactly right. Mr. Murray's own words are a tacit confession of the real object of his clique. What he complains of is that the "80 per cent. of monogamists can easily outvote the Gentiles." Well what is that to the country? Should not the majority of legally qualified citizens be able to outvote the minority? And if the majority happen to be "Mormons" have they not as much right to outvote their opponents as if they were Methodists? What a plea to set up before the American people! The non-polygamist "Mormons" outnumber the "Gentiles" four or five to one at the polls, therefore Congress should disfranchise them as well as the polygamists. That is the suostance of Mr. Murray's "argument."

The press of this great country ought to wake up to a comprehension of the facts set forth by the Chicago *Times*. In echoing and endorsing the cry for more legislation against the "Mormons," they are not waging war against polygamy, as they vainly suppose, but supporting the scheme of a very few unscrupulous politicians who are seeking for personal advantage, and the success of whose conspiracy involves not only the oppression and robbery of scores of thousands of people who have broken no law, but the desecration of that sacred instrument on which our system of government is founded, and on utter departure from the principles which are essential to the liberties of the people of this Republic.

A FEW JUDICIAL FALLACIES.

WE publish in another column the charge of Chief Justice John A. Hunter to the Grand Jury, in relation to polygamy and also to the cases of mob violence which occurred recently in this city and in Park City. We have nothing to say about the latter except that we consider His Honor was perfectly right in directing special attention to these violations of law and order. But we have some reflections to offer concerning a few of the Judge's remarks concerning polygamy.

His Honor concedes the right of the people of this Territory to their belief on that subject, and that "the State has no right or power to provide by the usual mode of legislation for the suppression of *that belief*," but alleges that the right of Congress to provide for the punishment of those who carry that belief into practice "is not and cannot be a question." We are of the opinion that it both can be and is a very serious question, about which there is a wide difference of opinion. It is true that the Supreme Court of the States has ruled in favor of that right, and as a technical legal proposition that may be considered the end of controversy. But Judge Hunter does not confine his reasoning to simple points of law; he takes up the subject on broader grounds, and it is here that we join issue with him and take the position that the right of Congress to legislate directly for an organized Territory, with a Legislature of its own having authority over all rightful subjects of legislation, has to be assumed and cannot be proven. Congress derives all its powers from the Constitution, and there is not a line in that instrument which, except by a forced construction doing violence to other parts, can be cited as authority for such direct interference with the right of local self-government.

And supposing that this question is decided adversely to our view, because of usage and long exercise of this assumed authority, it does not follow that Congress has power to enact laws prohibiting the free exercise of that religion, belief in which the Judge admits to be an unassailable right. The decision of the Supreme Court may be again cited to settle this point. But we have the right to dissent from that opinion and to show, if we can, its fallacy from its own reasoning. And equally we have the right to expose the weakness of Judge Hunter's argument based on similar grounds. We do this as a citizen and a journalist, and because His Honor has gone beyond the strict line of legal logic and entered the field of polemics. On the bare proposition that an unrepealed law is on the statute books of the nation and that it has been sustained by the highest court of the land, and therefore it is the duty of the grand jury to inquire into infractions of that law, we could have no dispute with the Judge. But it is on his comparisons and reasonings outside of that proposition that we claim the right to dispute his conclusion.

Judge Hunter states that "certain acts are by statutes enacted by the legislators who are the delegates of the people declared to be crimes," and proceeds to argue for the punishment of plural marriage on the ground that the anti-polygamy laws were so passed. This is incorrect to begin with. Those statutes were enacted for the government of an organized political body of people who had no voice in the passage thereof. The people who elected the delegates or Congressmen that passed the laws in question are not affected thereby; those enactments are directed solely against a community who had no voice directly or indirectly in the passage thereof. A fundamental principle of our system of government is in this instance ruthlessly set aside, and the bottom of the Judge's argument is *non est*.

Then he attempts to make a comparison between the statutes against plural marriage and those against stealing, and to draw a parallel between a community practising enforced communism as a religious creed, and another community practising plurality of wives as part of their religion. It is the same fallacious reasoning, only in another form, adopted by Attorney General Devens and fathered by the Supreme Court of the United States on the same question. The Suttee, or Indian widow burning, and Thuggism, or Oriental murder, were brought into comparison with "Mormon" plural marriage, and the reasons why they could be lawfully prohibited and suppressed in this country, made to do duty as arguments for the prohibition and suppression of "Mormon" polygamy.

The weakness in both arguments lies in the total dissimilarity of the things claimed to be alike. Enforced communism of the kind described by Judge Hunter would be an invasion of the rights of property. The practices cited by the Supreme Court are violations of the rights of life. "Mormon" plural marriage is not of the nature of either. It compels no one. It infringes upon no natural right. It would not be criminal if not made so by statute, and is not then of the essence of crime, because no wrong is intended against any one and the very root of crime springs from the intent.

Neither is the Judge's assumption correct that in the community where "all laws save one for the proper governance of the people are enacted and enforced," the fact alone that "the marital relations of a great number of persons" are contrary to that law, "take from it all the prestige of being an orderly and peaceful community." The proof that he is wrong lies in the fact that but for the noise and nonsense made about those marital *relations by a few officious and designing individuals*, there would be no disorder or disturbance of the community nor of the country as a consequence thereof. The Supreme Court of the United States while admitting, like Judge Hunter, that our religious belief cannot be lawfully assailed, declared, quoting from the preamble to a Virginia statute framed by Mr. Jefferson, "that it is time enough for the rightful purposes of civil government for its officers to interfere when principles break out *into* overt acts against peace and good order." Neither Judge Hunter nor the Supreme Court has attempted to prove that "Mormon plural marriage does this in any way, and thus they both establish the reverse of their own conclusions. Religious belief is free, religious practice must be equally free, unless it interferes with human rights or disturbs the public peace and the good order of the community, and in this case all the disturbance comes from its opponents.

The Judge's argument that the people of this Territory form *but a* small minority of the people of the nation, and that they are morally as well as legally bound to respect our present form of government, is equally untenable. The main principle on which this government is based, *is the rule of the majority in the locality where they reside.* It cannot be denied that if the State of Massachusetts were to legalize polygamy, it would be legal irrespective of the views of the great majority of the people of the nation. The same principle holds good as a moral question, and but for sophistry and the right of mere might would hold good as a legal question in Utah as much as in Massachusetts. It is a domestic question. It inheres to the people of the community. It is not thrust upon any one outside. It belongs to the local government. It is not a national subject. Marriage and divorce are outside of the rightful limits of congressional authority and belong, *if* to the civil law at all, to the several organized commonwealths that make up the Federal Union.

If we are legally bound to respect the present form of government and to obey laws which it has enacted against our consent, we are not morally bound to do so when our common sense, our cognizance of our rights and our religious convictions give us knowledge or full belief that it is wrong. Judge Hunter may be right in pointing out to the Grand Jury their legal duty to indict persons against whom there is probable evidence of violation of the anti-polygamy laws, but he is not correct in his argument from moral grounds. Grand Jurors must respect their oath whatever their private beliefs may be. They are called to act in a public capacity, and may consistently carry