

## THE IDAHO RELIGIOUS TEST OATH.

We publish to-day the full text of an anti-"Mormon" bill, which has passed the Idaho Legislature and received the signature of the Governor. It was introduced in the Council by H. W. Smith, and originally contained the word "Mormon" in Section Three, referring to "Mormon Plural or Celestial Marriage." But that designation was stricken out because it showed too plainly the real object of the bill, and stamped it as a measure specially aimed against a religious body. The words "and that I do not cohabit with any woman not my lawful wife," were introduced as an amendment by "Mormon" members, and adopted after a struggle. The rejection of that clause would have exhibited in a glaring light the kind of morality that prompted the framing of the bill.

Taking the bill as it now stands, it bears on its face the unmistakable mark of special legislation against a religious society. It is intended to debar from office in Idaho, any and every person belonging to the Church of Jesus Christ of Latter-day Saints, commonly called the "Mormon" Church. The oath it prescribes is a religious test. It is framed to prevent persons from holding office who believe in or teach certain tenets, or who, whether they believe them or not, belong to a Church which holds those tenets as part of its creed. This is invidious, partial, unjust and unconstitutional. It is plainly intended to operate against the members of one religious denomination and them alone. Article Six of the Constitution of the United States provides that:

"The Senators and Representatives before mentioned, and the members of the State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution, but no religious test shall ever be required as a qualification to any office or public trust in the United States."

That the oath required to be taken by county and precinct officers in Idaho is a religious test, requires little argument. It is an understood and acknowledged fact that the "Mormon" Church teaches the rightfulness of plural or celestial marriage as a divine institution, to be received as a religious tenet and practised as a sacred ceremony and obligation. Also that the great body of the "Mormon" people accept it in that light. The Utah Commissioners have officially declared that the institution named is "as much an essential and substantial part of the "Mormon" creed as baptism or repentance for the forgiveness of sins and the like."

The right to that or any other belief is guaranteed by the Constitution of the United States. That is conceded by the most inveterate opponents of the doctrine and practice of polygamy. They say: "You Mormons may believe what you like. You may hold the rightfulness of marrying as many wives as you please. But you must not carry your belief into actions that are forbidden by law. The law cannot operate against belief, but it can operate against actions springing from belief." The article in the Constitution forbidding laws against "an establishment of religion or prohibiting the free exercise thereof," is construed to carry perfect freedom of faith but not of action. Even Governor Bunn, who has signed this bill, expressed this view of constitutional liberty in his message. It is a poor, miserable, contracted and pusillanimous view of liberty, but taking it for what it is worth it goes dead against the test oath in the Idaho bill. For that is designed to bar men from office for their belief. Nay, it goes further than that. It excludes them from office for being members of a sect or society which holds a certain doctrine as a religious duty. Thus, though a man may not endorse that particular part of the creed of a church to which he belongs, he is to be prevented from holding office simply because of his church membership. If this is not a religious test, what is it?

The Supreme Court of the United States in the famous Reynolds case, in which the constitutionality of the anti-bigamy Act of 1862 was affirmed, declared that

"Congress was deprived of all legislative power over mere opinion, but was left free to reach actions which were in violation of social duties or subversive of good order."

Also that

"Laws are made for the government of actions, and while they cannot interfere with mere religious belief and opinions, they may with practices."

And the Court quoted approvingly from the preamble to an Act passed by the Legislature of Virginia, framed by the great Jefferson, as follows:

"To suffer the civil magistrate to intrude his powers into the field of opinion, and to restrain the profession or propagation of principles on supposition of their ill tendency, is a dangerous fallacy which at once destroys all religious liberty."

"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."

Commenting on these remarks the Supreme Court says:

"In these two sentences is found the true distinction between what properly belongs to the Church and what to the State."

Now these views and declarations were pronounced by the Court in relation to the polygamy question. The opinions and beliefs specially referred to were those in regard to that practice. These are defined to be beyond the purview of civil government. No valid law can be passed affecting them. They do not belong to the State. The Church may hold them and teach them and expound them, and Church members may believe them without restraint. It is only when "principles break out into overt acts against peace and good order," that the arm of the civil government can be extended to restrain their effects.

We will not stop to inquire here into the question whether the practice of the principles of plural marriage is "against peace and good order" or "in violation of social duties," but will simply say in passing, that the Court did not show this to be the case. However, the point was very clearly set forth that no powers of government can be lawfully exercised against a man's beliefs, or opinions, or principles whatever they may be, and therefore this Act, passed by the Idaho Legislature, is clearly in violation of the Constitution, in that it infringes upon the religious liberty of citizens, and provides a religious test as a qualification for office.

We learn of other measures in the same line of intolerance and infamy as the Act just passed. Our friends in Idaho should be on the alert and be prepared to take such steps as will be necessary to defend themselves against aggressions of this character. Such enactments should be tested to the last extremity, legally, peaceably and calmly of course. A Legislature that will endorse shameless and open fraud, and admit persons to take part in its deliberations who have obtained their places by undoubted corruption and villainy, may be expected to pass any kind of measures calculated to harass and annoy good citizens. But those unscrupulous persons must not be permitted to carry such outrages into the designed consummation without determined but lawful efforts to defeat the purposes in view. Now is the time for action.

## THE ARIZONA CASES.

ON Saturday last we published an article from the *Albuquerque Journal*, in relation to the passage through that town of Brothers Tenney, Kempe and Christofferson, on the way to the Detroit House of Correction, having been convicted of polygamy in Summer Howard's Court, at Prescott, Arizona. It will be remembered, as heretofore published, that conviction ensued without proof of marriage having been adduced at the trial and the Court refused to admit to bail either before or after sentence, which was imprisonment for three years and a half and a fine of \$500 each.

Two special points appear in the article referred to that are worthy of note. One is that the three men, while feeling keenly the deprivation of their liberties and the prospect of the rigors and indignities of prison life and companionship with some of the most depraved specimens of humanity in existence, and while their souls are troubled at the fact of their families, from whom they are ruthlessly torn, being left helpless to shift for themselves in the enforced absence of their natural protectors, they still cling tenaciously to the principles of their religion, which they hold to be true and sacred.

The other point shows the ruffianly disposition of the Judge in whose court these staunch men were convicted. They were asked if they had any reason to offer why sentence should not be pronounced upon them. They proceeded to give their reasons according to the privilege they supposed had been given them, when they were summarily stopped by the Judge, who might be appropriately dubbed Summary Howard. Not only does such a proceeding indicate an utter lack of magnanimity, but it may be consistently characterized as brutality on the bench.

In pleading guilty the other two men indicted, Brothers Flake and Skousen, through their counsel, defined their position so far as their religious convictions were concerned. They pleaded to an infringement of an existing law, while they still esteemed their religion, the exercise of which it curtailed, to be sacred and true. This placed them on the same basis as the other three brethren, all of whom are suffering imprisonment for conscience sake.

The remark of Judge Howard to the effect that if the accused had been illegally convicted the courts were open for them to obtain redress, almost appears in the light of a malignant taunt, coming from a person who refused to admit the prisoners to bail pending an appeal to the tribunals to which he referred. This man who disgraces the judicial bench with his unsavory presence by this heartless, arbitrary and extra-judicial decree sent men convict-

ed of alleged offenses against the law to the United States prison to serve out sentence pending a decision on appeal. Should the decree of the higher court favor the appellants, the appeal could only be of use to them so far as the unexpired portion of the term of their imprisonment is concerned. This pointing by Sumner Howard to the remedy provided in the courts is of a piece with his requesting the accused to state their reasons why sentence should not be passed upon them and then summarily preventing them from doing so. He magnanimously intimates that the courts are open to afford redress for any legal wrongs imposed upon the prisoners and then, so far as lies in his power, places the remedy beyond their grasp.

## THE LEGAL CRUSADE IN ARIZONA.

FROM the pages of the *Prescott Courier*, we glean portions of the proceedings in the cases of William J. Flake and Jas. M. Skousen, indicted for polygamy. When the District Court convened, in Prescott, on the afternoon of December 4th, Mr. J. C. Herndon, one of the counsel for defendants asked permission of the court to withdraw the plea of not guilty, already entered by those gentlemen, and substitute therefore a plea of guilty. Both the defendants were then interrogated by Judge Howard as to whether they were fully acquainted with the consequences of the course they proposed to pursue, and on receiving replies in the affirmative, permitted the plea of guilty to be entered.

Judge Howard remarked that he was prepared to dispose of the cases at once, but a statute of Arizona forbade the imposition of sentence for at least six hours after conviction or plea of guilty. He also made some further statements which it is unnecessary to introduce here, especially in view of the fact that they were mostly if not entirely bancombe expressions.

After the court had had its say, Mr. Herndon addressed its presiding genius as follows:

"At the request of these defendants, and in justice to the counsel for the defense, who feel that it is a duty that we owe to the defendants, to the court and to ourselves, I have been selected to make an explanation at this time as to why this course has been pursued by the defendants.

In regard to the defendant Wm. J. Flake, he has from the beginning stated to us, as his counsel, that he believes in the tenets of the Mormons; that he believes in the Church's assurance; that he believes them as firmly as he believes anything on earth; that in 1848 he married one wife, and in 1868 he married another, and has lived with those women as his wives from that time to the present day; that he has raised children by them, and possesses a home which he regards as a happy one. In view of these facts, and the urgent advice of counsel, he has come into court and entered a plea of guilty—not strictly according to the letter of this indictment that he married in 1883, but because the spirit of the law presumed him thus guilty. Feeling that in so pleading he does no violence to his religious belief or to his conscience, and he desires me to state for him that his plea of guilty is a plea of guilty to the violation of the statute. He has violated the law as the law is, and that is why he now enters this plea.

"What I have said of Mr. Flake applies to Mr. Skousen. He has told his story to his counsel. One wife he married twenty years ago, the other he married thirteen or fourteen years since. He has lived with them constantly, supported them, and is attached to them by as strong ties as the human heart knows. At the time of the second marriage he states that he was ignorant of any law prohibiting it. I state these facts in justice to the defendants here, and I now ask your Honor, though it may not be as proper a time to ask as the time of passing sentence, that you take all the circumstances into consideration. They are human and their affections are as firmly entwined around their homes and little ones as human hearts can be. While their religion we may not understand, and consider it heresy, as it was called here, yet to them it is the holiest thing in life."

Here is an extract from a brief address made by Judge Howard in response to the statement of Mr. Herndon:

"Men who have been tried and convicted, and trial and conviction has been in technical compliance with the law, will, of course, have to bear the consequences; if the trial and conviction is not in accordance with the rules of law the courts are open to correct them."

## THE CHICAGO ANARCHISTS.

CHICAGO appears to be rapidly attaining to the questionable distinction of being the headquarters in this country of the worst elements of socialism. The statement that the more murderous wing of the anarchists in that city have organized in military fashion into four companies, for aggressive action so soon as they believe the opportune time has come, may not appear at first

glance to be a startling announcement. The fact, however, that one-half of these villains are armed with the most approved weapons of modern warfare and that the First Regiment of United States Infantry has deemed it necessary, in view of the threatening attitude of the Socialists, to take special measures to protect the armory, shows that the situation is deemed serious in quarters which ought to be best informed upon the subject. The question of danger from the growth of the extremes of socialism has more gloom in it than crops out superficially. All that is needful to sustain this view in relation to a worm that is gnawing at the bud of every government, that of this Republic included, is to point to the rapidity of its growth within the last few years. It is like the snowball that increases in volume as it rolls, and while the speed of its revolutions may be diminished by attempted remedies, it does not appear in the nature of things that it can, by any known process, be either brought to a complete standstill, or annihilated.

The position is taken by some thoughtful persons that the United States is not a favorable country for such a social fungus development. We take a contrary view. The means for heading off the anarchists are much more complete in the old and minutely organized countries of Europe than in this country. On the Eastern hemisphere they are watched and dogged by the officers of the law, and as indicated by the telegraphic reports, in numerous instances detected and dealt with. This old country rigor causes them to seek the United States as a suitable field for the development of their diabolical sentiments. Hence the immense increase of the villainous classes whose hearts are filled with a remorseless desire to supplant organized society with chaos and ruin.

It is true that so far the operations of the socialists in this country have been confined almost entirely to threats and fulminations. But where there is so much smoke there must be some fire from which it proceeds. They have deceived the public a long time by the cry of "wolf" when that voracious beast had not put in an appearance, but the cry may be one of dead earnest on some occasion, and the populace be taken by surprise and suffer damage from letting it pass unheeded.

Should an outbreak occur, with the socialists prepare for carrying out their ruinous and murderous designs, the terrorism would be unparalleled, unless the means were at hand to promptly and completely paralyze them at the outset. An American mob is a frightful affair, as was demonstrated by the tumult and destruction at Pittsburg a few years ago, and the bloody scenes on the streets of Cleveland, Ohio, only a few months since.

The precautionary steps taken at Chicago are evidently prompted by wisdom, because if it is a fact that there are already four regularly organized companies of Socialists in Chicago, judging from the unsavory character of that city for ruffianism, a moderate sized army could probably be found ready to flock to the spoliation standard in case of an emergency.

Not only is Chicago noted for being a strong centre around which radical socialists gather, and for being a prolific nursery for criminals generally of the baser sort, but she aims to be one of the leading lights and towers of strength in an anti-"Mormon" crusade. But it appears to be a pretty general custom in this degenerate age for individuals and communities who are rotten to the core, to pose as moralists and regenerators of those who are in advance of themselves in everything that is commendable. Chicago and her self-righteous would-be reformers should turn their eyes inwards and their nasal organs to the moral filth in their own back-yards, and let speculative morality in relation to people at a distance alone. But perhaps the sight would give them the blind staggers and the effluvia create permanent nausea. They should give special attention to those who propose to break up social order in their own midst in place of seeking to demolish it in its purest and best form in Utah.

## HE SHOULDN'T.

AN incident is being worked up that shows the ludicrous side of anti-"Mormon" inhuman nature. It serves as one among thousands of similar instances to exhibit to what shifts some people of that class are driven to make something out of nothing.

Last Thursday night two men from Idaho were removed from the Theatre because, being under the influence of liquor, they deported themselves in such a way as to make their presence objectionable to other people in the audience, and they were removed after having been twice ineffectually requested to be quiet by an usher and also by an officer. This morning the *Salt Lake Tribune* heads a long editorial with "The Theatre Outrage," but the farcical part of the matter is manifested in these words:

"The truth is the men were spotted" as part of the anti-Mormon crowd from Idaho."

We hope our readers will restrain their hilarity and extend their sympathy to the "intelligent" scribe who, in this nutshell fashion, uncovers a horrible plot against anti-"Mormon" Idahoans.

The "Mormons" must have seen in this instance an excellent opportunity to foil the inimical legislation lately passed by the Idaho Legislature, and could not afford to let it go by. Now won't that scribe get up something else on the outrage plan, that the terrible Latter-day Saints may be fittingly exposed.

But if possible this passage from the same article is still more striking in the ponderosity of thought embodied in it:

"Of course, if this is to be the new rule, the Gentiles would like to know it, because then they will know what theatre to patronize."

Now, won't the non-"Mormons" rise up en masse and Boycott the Salt Lake Theatre, on account of this adroit and masterly bid for patronage for the toher house of entertainment. Surely this unthinking scribe has made himself food for laughter among his own friends. He evidently needs rest of a more or less permanent character. Those interested in his welfare should see that he has it.

## THAT METHODIST AGAIN.

HITS OFF THE SOCIAL EVILS AND THE FASHIONS.

BOZEMAN, Dec. 24th, 1884.

Editor *Deseret News*:

"And in that day seven women shall take hold of one man, saying, We will eat our own bread and wear our own apparel; only let us be called by thy name, to take away our reproach."

Whatever may be said against polygamy, there certainly can be no harm in quoting a little scripture. Dr. Clarke informs us that there was a tradition among the Jewish rabbis that this scripture was literally fulfilled in the days of Judas Maccabeus. As a general thing we cannot depend very much on tradition, and even if it had been fulfilled in the days of Maccabeus, there are pretty good reasons all around us why it should be fulfilled again. But if we read the third and fourth chapters of Isaiah in this connection, as I think they ought to be read, it is very plain that it should take place in the last days. Since the days of Sodom, I don't suppose that the world has ever seen a more corrupt state of affairs than exists all around us at the present time. We have no account either by tradition or in history of such inhumanity as can be found in every town and hamlet throughout our land. When women can wage a high-handed and successful warfare against their own offspring, and then boast of it, and yet pass in society as members of the upper ten, there must be something wrong somewhere. I heard of a woman not long ago that openly

BOASTED OF TAKING THE HEADS OFF

FROM ELEVEN.

How is that? Or, how does that compare with the beastly practices of the Mormons? And where you will find one that will acknowledge to it, you will perhaps find a thousand that are guilty of the same crime, but unwilling to acknowledge it. There are women in almost every community that make it their business to go from house to house to practice this diabolical business. Only a short time ago I read in the papers of a doctor being arrested in Massachusetts, who had a list of over five hundred names of women on whom he had practiced abortion. How does that compare with the beastly practices of the Mormons?

Not very long ago I read of the arrest of a doctor in Philadelphia, in whose cellar were found the skeletons of twenty-five little innocents that he had slaughtered. How does that compare with the beastly practices of the Mormons? And it is safe to suppose that there are thousands of cases equally bad or even worse, all over the land, that will never come to the light.

You may travel all day in some sections of our country, and you will find children at about one half the houses you may pass. Now and then one will find a little, puny, sickly fellow who is suffering for the want of a little brother to share his peanuts. If you inquire: Where are the children? it is nearly always the old story of the woman and her ducks,

"ALL DIED OFF WITH THE STRADDLES."

But generally upon close inquiry you will find that there has never been any to die with the straddles.

If things keep on in this way much longer our government will be obliged to adopt a polygamous system of marriage for self-preservation. I sometimes think it is almost too late already. The best blood of our land is fast disappearing. Seven of our Presidents have died without a child to bear their names. The names of Webster, Benton, Calhoun, and many others of our best and purest statesmen have disappeared from the earth and are nowhere to be found except as they appear in the public records of their deeds. The very first command that God ever gave to man, and repeated oftener than any other, was the command: "Be fruitful and multiply;" and yet we have plenty of good Christian women who live in daily violation, not only of this command, but of almost all other commands that God has given. God has said: "Let the woman be subject to her husband in every thing;" but what do we see to-day? Most men are merely footballs for their