

# DESERET NEWS:

WEEKLY.

TRUTH AND LIBERTY.

WEDNESDAY, - - Apr. 7, 1875.

## THE FIRST CONVICTION.

THIRTEEN years ago the Congress of the United States enacted a law punishing a second marriage while both parties to the former marriage were alive, and known to be so. The first conviction under this law was had to-day. There were several peculiar features to this piece of legislation. It was special legislation. In effect and intention it was directed, specially and solely, against Utah. It was similarly directed against a particular body of religionists in Utah. It was similarly directed against a cardinal point of the faith and practice of that particular body of religionists. It was known everywhere to be so specially and solely and intentionally directed, and it was enacted for the known and avowed purpose of crushing that body of religionists, of destroying that distinctive religious characteristic. Hence one is compelled to the conclusion that it was enacted in a spirit of persecution, pure and simple. This is contrary to the genius of the American government, which is pre-eminently one fostering civil and religious liberty.

The law itself is flatly contradictory to the Constitution of the United States, which expressly forbids to Congress the power to make any law respecting an establishment of religion, or prohibiting the free exercise thereof. Exercise means something more than mere belief. Exercise means practice. Under the Constitution a man is secure not only as to his faith in his religion, but also as to his free practice of his religion. It is a puerile notion that religion consists of belief merely. Says the Apostle, "Show me thy faith without thy works, and I will show thee my faith by my works." Again, "Faith without works is dead," and, "As the body without the spirit is dead, so faith without works is dead also." A religion, therefore, which consists of belief merely, is a dead religion, and a dead religion is equivalent to no religion at all. To such a religion, being no religion, this constitutional provision cannot apply. There is nothing in that to apply to. The constitution in this passage applies to a real religion, a vital religion, a living religion, a religion of works, of practice, of exercises, as well as of faith, and freedom in these works, this practice, these exercises is the very identical thing which the Constitution guarantees.

Now do not all Christians consider marriage an eminently religious matter? Do not they give it their highest religious sanction and blessing? Do not the Roman Catholics consider marriage a holy sacrament? Are not religious priests and ministers the chosen officials in administering in the ordinance of marriage? Is it not celebrated in their churches and chapels, often with songs and prayer and preaching and other imposing religious ceremonies? Is not marriage regarded as a most sacred rite? Are there not special religious forms for the performance of the marriage ceremony? Do not many religious people consider themselves not married until the ordinance thereof has been administered by a properly ordained minister? If this ordinance has thus to be religiously attended to, in the solemn conviction of Christendom, is not marriage pre-eminently a religious matter, an establishment of religion, the free exercise of which is positively protected by the Constitution? If so, are not these marriage prosecutions in Utah flagrant violations of the Constitution, positive persecutions of a religious people, indications of infidelity, and utterly unworthy of the country and the age in which we live?

Profane Brooklyn people now call Plymouth Church "The Church of the Holy Slobber."

## THE RIGHT TO VOTE.

It has been argued in this Territory by the ringites, to favor their own election frauds, that any person who was a citizen of the United States could vote at the local elections, any provisions in the local laws to the contrary notwithstanding. As appears by a dispatch from Washington in the NEWS to-day, a question covering this point has been heard by the Supreme Court of the United States on writ of error to the Supreme Court of Missouri, and the unanimous decision of the higher court was rendered to the effect that "the Constitution of the United States does not confer the right of suffrage on any one, and that the constitutions of the several States which commit that trust to men alone are not necessarily void."

If this is correctly reported, then, the decision virtually settles the question in regard to the validity of the provisions of local legislatures defining and regulating the qualifications of voters, and this will deprive the ring here of one of their strongest hopes on election days.

## THE CALIFORNIA LICK.

THE people of San Francisco and of California generally are very much exercised concerning their philanthropic millionaire, Mr. James Lick. Mr. Lick was very sick a time back, and he concluded to give away most of his vast property before he died, for divers benevolent and public purposes, such as \$700,000 for an observatory at Lake Tahoe, to certain asylums and relief societies \$25,000, to found an Old Ladies' Home \$100,000, for establishing and maintaining free baths \$150,000, for certain monuments \$150,000 and \$250,000, for a school of mechanical arts \$300,000, etc. His relatives were cut off with paltry sums of from \$2,000 to \$5,000 each.

The property was turned over to seven trustees nominated by him, and they went to work to dispose of it according to the behest. As the business proceeded Mr. Lick became dissatisfied with the action of the trustees, quarrelled with them, and finally wrote to them that when he executed the deed of trust he supposed he had but a short time to live, and the instrument was made without due consideration. But his health improving, he had concluded to rectify serious mistakes and errors in the instrument, and he wished the trustees to stay their work, to resign, and to reinvest him with the subject of the trust, that he might administer it in accordance with his more matured designs, and that the works of benevolence contemplated therein might be well started while he was alive.

The trustees decline to resign, stating that they had no power to do so, nor to reconvey to Mr. Lick the subject of the trust.

Mr. Lick immediately had a revocation of the trust filed in the recorder's office.

The trustees declare that they will contest Mr. Lick's action in revoking the deed of trust in the courts to the extremity of the law, which shows that they don't like to give up the handling of a handsome property like that. Altogether it is a very pretty quarrel, and neither Mr. Lick nor the trustees are likely to make much moral capital out of it.

Nearly two pages of the *Alabama State Journal* (Montgomery) of Saturday are filled with sales of real estate for city taxes.—*Ec.*

Judge E. R. Hoar says he is glad to be out of public life. He becomes once more a sovereign and is a servant no longer.

Mr. George L. Mosher, of Bay City, Michigan, recently caught in Lake Huron a trout, 40 inches long and weighing 40 lbs.

The Governor of Missouri has vetoed the bill authorizing the lessees of the State Penitentiary to work the convicts in any part of the State.

The *Toronto Globe* calls on all Canadians to "rise and spell." It wants that Yankee institution the "spelin' skule" introduced in the Dominion.

## Local and Other Matters.

FROM THURSDAY'S DAILY, APRIL 1.

**The Reynold's Polygamy Case.**—The case was resumed at half past one, after recess, yesterday afternoon.

Mrs. Elizabeth Reed was the first witness sworn on the part of the prosecution. Witness was acquainted with the respondent, George Reynolds. Mary Ann Tuddenham was witness's sister.

Witness was asked whether she knew whether Mary Ann Tuddenham was the reputed wife of George Reynolds.

The defense objected, as the indictment stated that the name of the wife of the respondent was Tuddenham, instead of Tuddenham; also that the question was leading, and that the evidence that might be elucidated would be irrelevant until a marriage was proved in fact. The objection was overruled.

The answer was that Mary Ann Tuddenham was the reputed wife of George Reynolds.

The District Attorney next asked the witness if she had ever heard George Reynolds speak of Mary Ann Tuddenham as his wife.

Objected to by the defense, who quoted a number of authorities bearing on the point raised. Objection overruled.

The question was answered in the affirmative. George Reynolds and witness's sister lived together as husband and wife, and had three living children. Another young woman, understood to be respondent's wife, also lived with him. Her name was Amelia Schofield. She had lived with him since some time last year.

John Tuddenham was the next witness sworn for the prosecution. The daughter of witness, Mary Ann Tuddenham, was the reputed wife of George Reynolds, and they had lived together in that relation since 1865. Witness was present at the marriage ceremony in 1865. It was solemnized in the Endowment House, Salt Lake City. They had lived together since then, and had three living children. Did not know that he had any other wife or reputed wife.

The defense here stated that they admitted the first marriage.

Mrs. Mary Tuddenham, mother of Mary Ann Tuddenham, was next sworn. There was another woman at Mr. Reynolds' house besides witness's daughter. Her name was Amelia J. Schofield. Did not know that she was the second wife of George Reynolds.

James Evans was the next witness sworn for the prosecution. He was acquainted with the respondent and his family. Was also acquainted with first wife Mary Ann Tuddenham. Had seen another woman at Mr. Reynolds' house, who had been introduced to him by Mr. Reynolds as Amelia Reynolds.

Amos J. Lucas was next sworn. Witness was a married man. Was married at the Endowment House on the 3rd of August, 1874. Saw George Reynolds there, and also Amelia J. Schofield, on that day. Neither of them told him what they went there for. Did not see George Reynolds in company with any one in particular. Did not see George Reynolds and Amelia J. Schofield go into the room together where the marriage ceremony is generally performed. Did not know what George Reynolds was there for. Witness was acquainted with Amelia J. Schofield and had heard Mr. Reynolds speak of her as his wife. Did not recollect that he spoke of her in that relation at the Endowment House. Had heard Mr. Reynolds speak of his contemplated marriage with Amelia J. Schofield previous to August 3rd, 1874.

Julia Reynolds was next sworn for the prosecution. Witness was sister to Mr. George Reynolds. She knew that Mary Ann Reynolds was his wife. Knew Amelia Jane Schofield. Could not answer a question put as to whether the latter lived with respondent as his wife. Did not see Mr. Reynolds and Amelia J. Schofield married to each other.

Henry Pusey was sworn for the prosecution.—Was acquainted with George Reynolds. Believed he had three children. His wife's name was Mary Ann Tuddenham. Another young woman, named Schofield, lived with Mr. Reynolds. Never heard the latter say that Amelia J. Schofield was his wife.

David Day was sworn for the

prosecution, but knew nothing of the case.

Amos J. Lucas was recalled by the prosecution. Daniel H. Wells performed the ceremony when witness was married.

John Lyon was sworn on the part of the prosecution. Was slightly acquainted with Mr. Reynolds. Witness was employed in the Endowment House. Could not positively state that he saw Mr. Reynolds there then. Had seen him there several times, as he belonged to a weekly prayer meeting held there. He did not know anything about Mr. Reynolds being there with Amelia J. Schofield. He might have some conception about it. Did not know why he had that conception. The Endowment House was used for religious purposes other than the solemnizing of marriage rites, and numbers of people went there.

Thomas Taylor and Marinda Hyde were sworn and placed on the stand, but they knew nothing of the case.

D. H. Wells was sworn on the part of the prosecution. Was acquainted with George Reynolds. Could not say that he was acquainted with Amelia J. Schofield. Could not remember that he performed a marriage ceremony between the two persons named, on the 3rd of August. He could probably find out whether he had done so, and was allowed till to-morrow morning to obtain the information.

Abinadi Pratt was next sworn, and examined on the part of the prosecution. Was acquainted with Mr. Reynolds, but not with his family. Did not recollect whether he was at the Endowment House on the 3rd day of August. Had seen Mr. Reynolds there within three years. Witness thought he had been there to get married, but could not say so positively. Could not say that he had seen him married. His strong impression was that he had seen him married. Did not know the lady to whom he believed he saw him married. Believed it was within the last eighteen months. Was not acquainted with Amelia J. Schofield or Reynolds. Did not recollect seeing Amos J. Lucas there.

Cross-examined by the defense. Witness did positively not know the lady whom he thought he saw at the Endowment House. Could not identify her if she were present.

Orson Pratt was sworn for the prosecution. Witness was not cognizant of the fact that a record of marriages was kept in each branch of the church. Did not know who kept any record. He knew of branches where such records were not kept.

By the defense. Witness came here with the pioneers in 1847. He was connected with the Church of Jesus Christ of Latter-day Saints as a teacher.

The witness was asked what relation the doctrine of polygamy bore to the belief and practice of said Church.

The prosecution objected, and a short discussion ensued as to the admissibility of the question, when Mr. Sutherland stated that he would bring up the point at another stage of the trial, the object being to show that polygamy was a portion of the religious faith of the respondent, and that the practice or exercise of religion could not be constitutionally hindered or interfered with.

Amelia J. Reynolds, the lady with whom the respondent was alleged to have contracted his second marriage was next sworn for the prosecution, and took the stand. On examination she stated that she was married to George Reynolds, on the 3rd day of August, 1874, at the Endowment House, Salt Lake City, President D. H. Wells performing the ceremony.

## TO-DAY'S PROCEEDINGS.

The trial was resumed at 9 a.m. to-day.

Counsel for the defense stated that they had learned from Mayor Wells that he had satisfied himself that he had performed the ceremony of marriage between George Reynolds and Amelia J. Schofield, on the 3rd day of August, 1874, and they therefore admitted that, rendering it unnecessary to recall the Mayor to the witness stand.

The prosecution here rested.

Counsel for the defense made the following offer, which was objected to by the prosecution, the objection being sustained by the court—

"The defense offer to prove that

on the 12th day of July, 1843, and for many years before, a numerous religious sect commonly called Mormons, existed in the United States; that on that day a revelation from God was received by them, enjoining celestial or plural marriage as a religious duty and a sacrament; that a large number of Mormons possessing this revelation and desiring to obey the commands contained in it, emigrated in a body from the States where they had previously lived, and on the 24th day of July, 1847, arrived at Salt Lake, where this court is now being held. Here they settled for a permanent home on territory belonging to the Republic of Mexico. That here they became citizens of that republic, pursuant to the laws thereof; that they were brought with the Territory of Utah within the jurisdiction of the United States by the treaty between the United States and Mexico in 1848; that at all times after receiving said revelation, during their migration to and always after their arrival in this Territory, polygamy, as enjoined in said revelation, has been taught to and believed in and practiced among them, as a sacred duty made known to them by said revelation; that its effect has been benign morally and physically; that it is practiced as a cardinal and vital part of their religion, and not at all as a cloak to lustful pleasure; that in this Territory there are now at least 120,000 Mormons, nearly all of whom have been reared here, owe their birth to plural marriages, or are in some other way connected by sacred ties, to that conjugal institution called polygamy; that they believe it to be a divine institution, and that they will be indebted for their highest happiness in another life to their fidelity and obedience to it in this, that this defendant holds their faith; that he is and has been for more than ten years a member of the Mormon Church, and a sincere believer in the verity of said revelation, and that it was his solemn duty to obey it; that this is the first prosecution for polygamy in this Territory; that he, in common with other intelligent Mormons, has always believed that the act of Congress of 1862, purporting to make polygamy a crime, is contrary to the Constitution of the United States, and that for this reason no prosecutions under it have been hitherto instituted; that Mormons generally, and this defendant in particular, are so firmly grounded in the faith of their church, and in a belief in said revelation, that they regard the said act of Congress as having been passed in consequence of a misconception of the religious character of the Mormon people, and that it imposes under the name of punishment an additional cross which they must bear to fulfill their duties; that, while they naturally shrink from these pains and penalties, they are all willing to bear them rather than lose the high estate in another life to be gained by celestial marriage.

The true and full text of the "Revelation on Celestial Marriage" was then offered, and considered by the Court as read.

Mr. Sutherland asked the Court to note an exception to the refusal to accept of the foregoing proposition.

The Court then charged the jury as follows:

"GENTLEMEN OF THE JURY:—The defendant is charged with the violation of the following statute of the United States, viz:

"Every person having a husband or wife living, who shall marry any other person, whether married or single, in a Territory of the United States or other place over which the United States have exclusive jurisdiction, shall, except in the cases specified in the proviso to this section, be adjudged guilty of bigamy, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, and by imprisonment for a term not exceeding five years: *Provided* nevertheless, that this section shall not extend to any person, by reason of any former marriage, whose husband or wife by such marriage, shall have been absent for five successive years without being known to such person within that time to be living; nor any person by reason of any former marriage which shall have been dissolved by the decree of a competent court; nor to any person by reason of any former marriage which shall have been annulled or pronounced void by the sentence or decree of a com-