DESERET NEWS.
WEEKLY.
TRUTH AND LIBERTY.
WEDNESDAY, - FEB. 19, 1879.

THE WEDGE OF INTOLERANCE.

ON the 3d inst. an invalid lady was baptized in a river near West Palmyra, Pa. The ice was broken for the ceremony, and she had to be carried to the water in a chair. She was immersed three times, according to the custom of some of the Baptist denominations. She was taken out apparently dead, and, though she revived, at the *latest* accounts she was not expected to recover. This event occurring so soon after the remarkable ruling of the Supreme Court of the United States, that the Government, while debarred from interference with religious belief may interfere with religious actions, has sprung the question of the propriety of suppressing such ceremonies as that described above.

A gentleman, signing himself Morris S. Wise, writes to the New York *Herald*, citing the decision in the Reynolds case and asking some very pertinent questions. He says:

"Without venturing to say ought against the doctrines of a most respectable denomination, which numbers among its adherents many intelligent people, but which permits the happening of the revolting spectacle above described, it is a question whether the law should not interfere to prevent the recurrence of such a religious immolation.

These are called days of civilization and of humanity, but there is no civilization and no humanity and no behest of any ratienal religion which calls for such a bitter sacrifice. This case is not an isolated one; nay, it is a very common one, and it may be profitable to inquire briefly whether the law has the power to prevent such religious sacrifices. We think it has, and upon distinguished authority."

He then quotes freely from the Supreme Court argument in the Reynolds case, and says in conclusion:

"Should this woman die it is apparent that a clear case of manslaughter is presented under the above decision, for the act was positive and knowingly done. It is as complete a case of immolation and sacrifice as the Suttee or the casting of infants to the sacred alligators in the Ganges. It is emphatically an act which conflicts with our laws and civilization as much as the Juggernaut would. It is to be deplored, and it is also to be hoped that the good sense and intelligence of so refined and cultured a body of men as the majority of the incumbents of the Baptist clergy are, will make it their business to prevent a recurrence of this West Palmyra horror, without the interposition of *fiat justitia*."

When once the barriers raised up by the founders of American institutions, to prevent the State from interference with the Church, are thrown down or broken through, who can tell where the arm of secular power shall be stayed in its assaults upon religious liberty? Baptism, as administered to the sick lady in Pennsylvania, is regarded by many persons, who consider themselves advanced in civilization and intelligence, as unnecessary, ridiculous and injurious to the subject. If laws may be made under this professedly free Government to regulate religious actions—and this broad principle(?) is laid down by the learned Justices of the Supreme Court—baptism by immersion may be suppressed by law and penalties imposed upon all who submit to or administer it. And this rule will hold good as regards other ordinances and ceremonies which some sects consider essential, but which the future dominant church may decide are not religious, or are inimical to the welfare of society. Thus legislation may be obtained against any and all religious practices that do not come under the title of orthodox. Or, if infidelity increases so that it controls the minds of our national lawmakers, every religious practice may be forbidden, and no member of any religious body be permitted to do anything religious except hold opinions.

The N. Y. *Herald*, commenting on Mr. Wise's remarks, says:

"After all that may be said, however, in favor of legal repression of practices which, though supposedly commanded by religion, come under the worldly definition of unlawful acts, it is very unlikely that the law will ever be employed against isolated individuals whose only victims are themselves. There is a wise difference, too, between the impulses which lead to unlawful acts under the guise of religious duty. The lady whose doctrinal zeal was so fervent as to lead her to baptism when the ceremony was almost the equivalent of freezing to death had nothing earthly to gain by her course, in which respect she differed widely from the bulk of so-called religious people who have been threatened by the law—the Mormons for instance."

What does the *Herald* mean by all this? Is it that the law will be employed against communities and not against isolated individuals, or is it that where a practice concerns only those who engage in it the law will not be invoked? If the former, why should the law be employed against the many and not against the few, and does isolation affect the nature of an offence? If the latter, then the "Mormons" should be exempt, because that part of their religion which Congress has construed into a crime affects only those who practice it. Again, if impulses or motives are to be considered in the question, who is to judge of the impulses or motives that lead the "Mormons?", and what "earthly" things have they to gain more than the lady had whose "doctrinal zeal" led her into danger?

When the straight path of right is departed from, what a muddle the estrays get into! The *Herald* in trying to justify wrong, flounders about almost as badly as the Supreme Court in rendering Attorney *Devens' decision. If the* line of the law is to be drawn at religious practices which bring no earthly benefit to the devotees, are we to understand that ceremonies which do bring "earthly gain" to the recipients or administrators may be legislated against? Is there not a great deal of "earthly gain" and many impulses to obtain it, connected with ceremonies and forms and movements in all the various sects of Christendom? And if the line is to come to the point where the religious act impinges upon others than the performers thereof, what are the Hebrews to do with circumcision? Objection to our argument that plural marriage affects only the contracting parties is sometimes raised by referring to the children, who, it is claimed, are rendered by it illegitimate. This is a most tremendous begging of the question, for it is only those who oppose the system who seek to stamp our children as illegitimate. But in the case of circumcision, an act is performed "under the guise of religion," as the *Herald* would put it, without the consent of one of the parties—the one chiefly interested; and if the infant's protestations are any guide, much against its wishes. Here is a religious act which will affect the physical condition of the subject, and have an effect upon his mind and his religious tendencies during the remainder of his days. Under the ruling of the Supreme Court and the reasonings of the *Herald*, this practice may be forbidden by the law with far more show of logic than "Mormon" polygamy.

So also with "infant baptism." It is an act "under the guise of religious *duty*," performed without the consent of the party chiefly concerned. It looks just as inconsistent and nonsensical, not to say ludicrous, to us, as some of our religious observances may appear to others. And it has no sanction in Holy Writ. It is contrary to the teachings of the Book which its practisers hold up as their only guide. One of their arguments against our marriage system is, that it was not a part of original "Mormonism." To which we reply, neither was infant sprinkling a part of original Christianity. And the interpretation of the Constitution, which allows legal interference with one, will logically allow legal interference with the other, and ultimately with every religious practice, ordinance and ceremony. The driving home of the wedge for the destruction of religious freedom is only a question of time and opportunity. The thin end thereof is the very thin and weakly argument in the Reynolds case, begotten by the Attorney General, and fathered by the solemn Solons of the Supreme Court of the United States. Let Israelites, Baptists and all other religious bodies watch for the next stroke upon the wedge of intolerance.

ENFORCED COLLECTION OF TAXES.

THERE seems to be a misunderstanding on the purport of the ruling in regard to the tax case decided on the 5th inst., in the Third District Court. The Assessor and Collector of Salt Lake County levied upon certain property of the Wasatch and Jordan Valley Railroad, for delinquent taxes, part of which was due for 1878 and parts for 1874, 1875, 1876, and 1877. Against this the Railroad Company applied for an injunction. The ruling of the court denies and refuses the injunction, and revokes a restraining order previously issued, so far as the tax for 1878 is concerned. This allows the Collector to collect the tax by levying on the property.

But a temporary injunction is granted against distraining on the property for the tax for the former years. And some suppose that the taxes for those years are thereby made uncollectable. Here is their error. The Court does not decide that the taxes for those years cannot be collected, but simply restrains the Collector, temporarily, from levying on the property for those taxes. The remedy of a suit at law to recover them is still open. The decision says, that "a temporary injunction will issue as prayed in the amended complaint, but *not to restrain* the defendant from instituting or prosecuting any suit or action at law for the collection of any tax that may be due," etc.

Delinquent taxpayers, therefore, should not hug to their hearts the delusion that the "back taxes" are uncollectable. Taxes are never outlawed. The only point in dispute now is the manner in which collection of the old taxes may be enforced. Property may be taken for the taxes of '78. But according to the present ruling of Judge Schaeffer—to which the Collector excepts—the back taxes under the old revenue law can only be collected by a suit at law. That they *can* be collected, in one way or the other, is not denied by the Court.

It is curious to note the differences of opinion obtaining among learned Judges on points of law submitted to them. But what is more curious is the opposite rulings at different times of the same Judges on the same questions. For instance, Judge Schaeffer rules to-day that collection of the *old* taxes can only be enforced by suit or action at law. About a year ago he decided that they could not be collected by suit, but only by levying on the property. In the case of Salt Lake County *et al., vs.* Frederick and Margaret Reich, Judge Schaeffer so decided, and, on appeal to the Supreme Court of the Territory, the decision was affirmed, the same Judge rendering the opinion, in which the following language occurs:

"So far as we have been able to learn, there is no statute of this Territory authorizing the Collector of taxes to sue for the same. Sections 353 and 360 of the Compiled Laws of Utah afford ample and even summary powers and means for the collection of taxes without suit; and we think the rule is well settled that when ample powers and means are afforded by statute for the collection of taxes without suit, and when there is no statute providing for suit to be brovght for taxes, no action can be maintained therefor."

This decision was rendered Feb. 20, 1878, as may be seen by the records of the Supreme Court. We are sometimes taken to task for not bowing down in admiration and worship of the great lights of the law who sit upon the judical beneh. But when they veer round like weathercocks and decide first one way and then another, in each case against the local authorities, we cannot retain that respect for their judgment which is expected of "benighted Mormons" towards a Federal official. Perhaps if a little more consistency was exhibited we might have a little more veneration for the great Moguls of the judiciary.

BEGINNING TO WORK.

THE following dispatch came over the wires from New York this morning:

"Under the recent decision of the Supreme Court against polygamy, a formidable movement is begun against the Oneida community of this State. Bishop Huntington, of the Episcopal Church, is the originator. A conference of leading clergymen of different denominations, was held at Syracuse University, yesterday. A committee was appointed to examine and report a practicable method of proceeding against the community, which numbers 500 persons and owns several million dollars worth of property."

It is difficult to perceive wherein the ruling of the Supreme Court will affect the Oneida Community. The question at issue was plural marriage. The Oneida people do not believe in marriage at all. They live and cohabit together under rules prescribed by the society, but there is no pretence of matrimony either for life or a specified period. Even the offspring of these temporary and changeable sexual relations—which are few and far between, as their system is opposed to family increase except to a very limited extent—are not considered the children of their respective fathers and mothers, but belong to the community.

The ruling of the Supreme Court does not reach them. True, the theory is set up therein that Congress may make laws to regulate or suppress religious actions which may be considered by the majority inimical to the social welfare. But Congress cannot legislate on this matter for the State of New York. The States must regulate these matters for themselves. The law in relation to polygamy was framed, and the ruling upon it was rendered specially against the "Mormons," and to suppress a part of their religious faith and practice, and neither has any application whatever outside of the Territories.

If the pious "Christians" of New York wish to unite to suppress a sect which, though small in numbers, is rich in property, and to show their zeal for public morality by stamping upon a community which advocates, on principle, some of the disgusting practices carried on, against conscience, in their own societies, they will have *to obtain* special legislation at Albany; Congress can afford them no relief and the ruling of the Supreme Court has no practical bearing upon the case before them.

But though they manifest some ignorance on this matter in their determined raid on Oneida, there is far more consistency in attempting to rectify the social errors within their own State, than in getting up crusades and sending petitions to Congress for the persecution and proscription of the "Mormons," who are quietly endeavoring to mind their own business thousands of miles away. But before they open fire upon Oneida they *would* do well to proceed against the free love, licentious doings, fœticide and other abominations common and widespread within the sanctified circle of their own "Christian" church organizations. Their movement indicates what we have maintained from the first, that the ruling of the Supreme Court is the thin end of the wedge of intolerance, and that our institutions are not the only establishments of religion that will become the objects of sectarian attack. The poison of bigotry is beginning to work, and, if no antidote is applied, the end will be the death of religious liberty in the United States.

THE RULING IN THE TOOELE CASE.

THERE are several points in the decision of the Supreme Court of this Territory in the Tooele election case, which was rendered by Judge Emerson, that are of importance to the people of Utah.

It has been contended by some lawyers that the adoption of the Compiled Laws of Utah, during the last session of the Legislature was in the nature of new legislation, and therefore invalidated any Act passed during that session, previous to the day of adoption, which was in conflict with any of the provisions in the Compiled Laws. This decision settles that point. The compilation was the work of a committee, it contains no new provision and the act of the Assembly was merely an approval of the work, and not new legislation.

It has also been argued that certain statutes of Utah were not passed in due form and were therefore void, the alleged informality being the failure to pass, by a vote of both houses, a bill which had been amended by one House, and the amendments non-concurred in by the other, being settled by a conference committee, the action of the committee being concurred in by the Assembly. The Court decides that this method is usual with legislative bodies, and that the passage of acts in this way is regular and lawful.

The decision settles the point, that the new election law not only designates plainly the duty of the clerk and selectmen of the County Courts, in canvassing the returns of elections, but also enjoins it upon them. Henceforth this duty must be attended to as required by law.

The next point in the decision is one about which there has been some difference of opinion, many imagining that it virtually disfranchises women voters. An examination of the text will show that this is not the case. The opinion of the Court amounts to a declaration that the clause in the law requiring a male citizen to take oath that he is a taxpayer, is void, because a female citizen is not required to take a similar oath. The principle of law cited in support of this position is, that all regulations of the elective franchise must be *uniform* as well as reasonable and impartial. The effect of this reasoning is that male citizens as well as female citizens may vote without being tax payers. Still, the ruling is not very well supported. As is admitted by the Court, the Territories have power to prescribe the qualifications of voters, subject only to the restrictions that voters must be citizens over twenty-one years of age, and that no citizen shall be denied the suffrage on account of race, color or previous condition of servitude. The election law does not step over these restrictions and the logical inference is that it is therefore valid. But be that as it may, the ruling only affects the provision requiring male citizens to be tax-payers. And though this provision be void, the validity of the rest of the law is declared unaffected thereby. It is therefore settled that part of a statute may be valid and another part invalid.

The qualifications of voters are not really fixed or specified in the new election law, but are prescribed in other statutes, which are not in conflict with the Constitution, the Organic Act or any law of the United States. And the question here is pertinent, if Congress has the right to provide that an alien woman shall be a citizen, simply by becoming the wife of a citizen—which it has done—why may not the Legislative Assembly make a discrimination in regard to the fair sex, which amounts to no more in principle? A male alien, under the laws of Congress, must go through a certain fixed form to become a citizen, but a female alien may become a citizen without this form or even taking any oath of allegiance. This is not any more "uniform" than the provision in our election law in regard to the tax qualification for male citizens and none for female. Is a law void which requires a poll tax of every male of a certain age and none at all of females? It is certainly not "uniform" in the sense that term is used by the Court.

The opinion settles the point that the County Courts sitting as a canvassing board can only exercise ministerial powers, and that an attempt to assume judicial powers, such as passing upon the validity of the election returns, adjudging the sealing of envelopes or ballot boxes insecure, &c., is an act of usurpation abhorred and prohibited by the law.

The effect of the ruling, so far as Tooele County is concerned, is to require the "ring" who have usurp-