ity or position in the community or in the nation. Let every member of the People's Party wake up and be a live member, and work for the maintenance of right and the defeat of trickery and wrong, and bring to bear for these purposes whatever influence he has, so long as he infringes upon nobody's rights or liberties.

UNLAWFULLY HELD.

THE full text of the decision of the Supreme Court of the United States on the Nielsen *habeas corpus* case will be found in our columns today. It is a very important document. It settles forever the question whether a man can be punished for unlawful cohabitation and for adultery under indictments covering the same time and involving the same transaction. It also settles the question whether *habeas corpus* is a proper legal remedy under such circumstances.

The Court rules that the double punishment inflicted by the Utah court in this case was not merely an error in law, but a denial of a constitutional right, and that the court was wrong in refusing the writ of *habeas corpus*, for which the defendant applied when unlawfully convicted and imprisoned.

The doctrine enunciated in the Snow segregation case is here repeated, enlarged upon and confirmed. And it is made very clear and positive that the Utah courts in the Snow case, and also in the Nielsen case, acted in direct opposition to a long line of legal precedents—the books being "full of them"—as well as in violation of the Constitution of the United States.

The offense of unlawful cohabitation receives some attention from the Court, and the principle is again laid down that this is a continuous offense; that it is not comprehended in an isolated act; and that only one offense can be charged up to the time of the finding of the indictment. That while proof of sexual intercourse is not essential, yet the act, if proven, is part of and included in the offense of unlawful cohabitation. and therefore adultery is covered by the cohabitation if committed during the time mentioned in the indictment for cohabitation. Also that the offense of unlawful cohabitation, under the Edmunds Act, was intended to apply to men living with more than one woman in the unlawful relation of husband and wives.

These points being settled by the Court of last resort, they are now the supreme law of the land. And they are as powerful in their application to the courts of Utah and the officers thereof, as to individuals liable to be brought before those courts.

As we have stated before, there have been a great many indictments found under this double system which the Supreme Court of the United States declares unconstitutional. We may not have been technically and exactly correct in saying that a number of defendants had been convicted and sentenced under similar circumstances to the Nielsen case in Judge Judd's court at Provo. We do not wish to do any one injustice. The Herron case parallels the Nielsen case more closely than any other in that branch of the First Judicial District. O. F. Herron, of Pleasant Grove, however, served out his sentence for unlawful cohabitation and that for adultery, and so his case is beyond legal remedy—at least to save him from an unlawful sentence.

There are other cases, however, in the Ogden branch of the same Judicial District. And though the numerous cases of double indictment which have been held pending the decision in the Nielsen case were not exactly the same, because the defendants had not been tried and sentenced, yet they were identically the same in principle, and if the decision had sustained the action of the First District Court, the penitentiary would soon be crowded with persons in exactly similar conditions to those of Hans Nielsen. And, further: If it had happened that *habeas corpus* was not the proper legal remedy, or that there had been no appeal from the unconstitutional ruling of the lower courts, these unfortunate defendants, so indicted, would have gone to the penitentiary as others have been sent, not because they were guilty under the law, but simply because there was no appeal to a court where full justice could be obtained under the Constitution of the United States.

The Nielsen case was made a test case, and these numerous other cases of the same kind were held until the decision of the Supreme Court of the United States could be had. So far so good. But was it not believed that the appeal would fail of being heard? And if Mr. Richards, the attorney for the defendant, had not persevered in pushing the matter up to the court of last resort, and the case had been left to the courts below, would there not now be scores of men placed in legal jeopardy, unlawfully, unjustly and unconstitutionally?

The cases of Peter Barton, William H. Maughan and Charles S. Hall, each of them from the First Judicial District, but not sentenced by Judge Judd, are the same in principle as the Nielsen case. There is one feature of this case, however, that leaves them open to legal controversy. They each plead guilty to the indictment for adultery after pleading guilty to the indictment for unlawful cohabitation. Thus Nielsen plead not guilty and hence the appeal. But these men are now in the penitentiary under double indictments of the same kind as that which the court of last resort has declared unlawful. That is very well; they are the same in principle.

It is argued that as they plead guilty to the two indictments there is no remedy in their case. This may be law—we very much doubt it though—but it is not good common sense. Each of them believed that the indictment for the greater offense was legal, or he could not have so pleaded. If it was illegal it was void, and therefore the whole proceedings based upon it were void. Is not that evident as a logical proposition?

But it will be said, if these men were not guilty, why did they plead guilty and seeing they are guilty should they not be punished? The answer is, the highest court in the land says the offense to which they plead guilty was included in the former offense which they acknowledged, and, therefore, their second plea, made in ignorance of the law, should not work to their unlawful injury. And why should they suffer for ignorance which they shared apparently with the learned Judges on the bench and the learned prosecuting officers at the bar? If the second prosecution was unlawful, as the court above rules, then their imprisonment is unlawful in spite of their pleas and admissions. Now, should any person be subject to unlawful imprisonment?

We hope this case will end the undignified and unrighteous efforts of judicial officers to exceed the law in excessive zeal against one kind of offenses and one class of offenders. Let the law be enforced as in other parts of the country, and sufficient