EDITORIALS.

MISSIONARIES IN MEXICO.

THE family of Elder Helaman Pratt, now laboring in Mexico, as a missionary, has received a letter from him in which some interesting facts are related. In the part of the country where he is operating the feeling was, sometime ago, exceedingly bitter; so much so that one wealthy resident offered $300 to some parties if they would assassinate Elder Pratt and his companion missionary. Circumstances that subsequently transpired, however, caused a revulsion of feeling and the same person who was so anxious to have the brethren murdered is now their friend, having invited Elder Pratt to accompany him to his farm, soliciting his advice regarding the purchase of agricultural machinery. The individual referred to and a number of others are now reading the Church works and investigating into the doctrines of the Gospel.

One cause of this change is the occurrence of several instances of persons being healed through the administrations of the Elders. According to Brother Pratt's letter the prospect for a number of additions to the Church at an early day was very encouraging.

THE THREATENED HIGH WATER.

WE notice that at the last meeting of the City Council, a petition was presented by Richard Brimley and thirty-one others, in behalf of the residents of the southwest portion of the city, which called attention to the annoyance and damage received by residents there from a certain canal. The petitioners stated that they had repeatedly asked for redress and had been referred by the city to the county. When they appealed to the county, they said, they were referred back to the city, and between the two they were left to suffer.

We are satisfied that these petitioners, as well as others who live in low situations, have ground for complaint, and as we are threatened at the present time with high water and floods, it is but right that the county and city authorities should take their case, and that of others who are similarly exposed, into consideration, and bestow upon them all the relief that is possible. At no previous season since our settlement of this valley has there appeared greater danger of high water and damage from our streams than at the present time. There should be no disposition on the part of the city or the county authorities to shift the responsibility from one to the other. They should be united in their efforts and vigilant in taking the necessary steps in time to prevent serious disasters. Every canal that can carry off water should be opened, and no one portion of the land should be made to bear the flood alone. The rights of those who live on the low lands should be respected and receive attention as much as those in any other part of the city or county.

The river Jordan at the present time is high. This is in consequence, we understand, of the water being drawn from Utah Lake which has accumulated there during the winter. The present snow, when it melts, will swell the streams and doubtless raise the river still higher. For this the county officials should be fully prepared, and every canal constructed to take water out of the Jordan should be opened to bear its full proportion when the water rises. It would be most unfair to the residents contiguous to the Jordan to have the whole torrent of that stream allowed to run in its bed to the damage of the adjacent property, when its waters might, without injury to any other part of the country, be diverted into the canals which have been constructed for the purpose of using its waters. It would be most unjust to take all the water out during the summer time, when it is an advantage to the residents along its banks to have the water there, and to turn the full flood into its bed when it is likely to overflow its banks and submerge farmers adjacent thereto.

We hope the county officials, as well as the Mayor and city officials, will pay attention to the subject in time. By taking timely precautions the waters may all be controlled without inflicting serious damage upon any part of the city or county. It will not do to let them go unrestrained and as chance may direct, and our officers should now make themselves familiar with the entire situation, so as to be prepared to take the best steps immediately. The citizens look to them to do this, and they can best do it by concert of action among themselves.

PETERSON'S PROXY MARRIAGE.

WE publish to-day Judge Hunter's charge to the jury in the Peterson case, particulars of which have already appeared in the NEWS. We think that lawyers generally will concede the soundness of the propositions and conclusions thereon laid down with two exceptions. The first of these exceptions is the statement that Congress has "exclusive jurisdiction" over this Territory to legislate against bigamy; the other is the conclusion that a conviction for bigamy or polygamy is unnecessary as proof in a trial for illegal voting, when the basis of the charge is that the defendant is a bigamist or polygamist.

We do not concede the point that Congress has exclusive jurisdiction over any organized Territory of the Union, for each Territory possesses the right—we will not stop to dispute as to whether it is inherent or bestowed—to legislate for itself, and is endowed with power over all rightful subjects of legislation. Congress has "exclusive jurisdiction for all purposes whatever" over the District of Columbia, and no other part of the country except similar places owned entirely by the United States. Congress has no right to legislate on the marriage question at all. Not a line can be found in the Constitution which authorizes it. And it is only by changing the word "territory"—which from the context undoubtedly means land,—into "Territories," which the Constitution never contemplated, that the power of Congress to legislate directly for our incipient commonwealth, can be construed to the smallest extent.

The question as to the necessity of a conviction for bigamy or polygamy before definite proof can be offered that a defendant, in a case of this kind, was disqualified to vote when the alleged offence was committed, was clearly argued and sustained in the affirmative by Judge Harkness. The response of the Assistant Prosecuting Attorney that this would render the Edmunds law inoperative is no reason at all. Neither the Court nor the jury were responsible for the failure or incompetence of a poorly framed law which the whole country has been for months deriding as a failure.

But we do not wish to dwell on these points. The principal question arising in the case is the nature of the marriage between the defendant and Caroline Johnson. It was not denied that he was previously married and that his first wife was living, neither that he voted at the Delegate election. If then a *bona fide* contract of marriage was entered into between him and Caroline Johnson, he was, under the Edmunds law, disqualified as a voter and consequently liable to prosecution for illegal voting. But it was shown in the trial that the defendant was not married to Caroline Johnson as Judge Hunter defines a marriage. He did not enter into a contract "in which the relation of husband and wife in this life" was undertaken. Indeed he did not contract with her the relation of husband and wife at all, either for this life or the life to come. He simply stood for the ceremony, and that alone, as proxy for her deceased husband. He committed no offense against any enactment of Congress or any other law-making power, valid or invalid. Therefore, on the Judge's showing, the defendant was not guilty of illegal voting, for he had but one wife and was not disqualified from exercising the elective franchise.

But the jury disagreed, standing eight for acquittal and four for conviction. It is quite likely that the four who stod for conviction did not understand the marriage doctrine explained by the witnesses and argued by the lawyers. But it is very plain and clear to the Latter-day Saints. The doctrine of eternal marriage, by which a man and woman can be sealed together for time and all eternity, is one of the most important parts of our faith. Connected with it is the doctrine of plural marriage and also the doctrine of vicarious administrations. Baptism for the dead is a part of this. On the same principle that a person can be baptized for a dead relative, he can, under certain regulations, stand as proxy for him in marriage.

It is the right of the firstborn son, if there be such, of the deceased man for whom the vicarious marriage is performed, to stand in the place of the father for the ceremony only. If there is no son, or the son is too young, the proxy may be a friend. But that friend in this case, merely stands for that occasion only, to represent the dead person. He undertakes no obligation of marriage whatever with the living woman, either for this life or the life to come. Therefore he is not married to her himself. He stands in the same relation to her as a nobleman in a European monarchy, sent by his sovereign to stand as proxy for a prince in a marriage with the daughter of a royal house in some other country, occupies to the lady at the altar, instances of which might be cited from history. The proxy is not the husband of the lady in any sense whatever. Andrew Peterson, in representing the deceased man Johnson in the solemnization of a marriage for eternity, contracted no marriage for himself with the widow, and was under no obligation or promise to live with her, provide for her, or do anything further than that ceremony only. If he had undertaken to do so with no solemnization of marriage other than that proxy ceremony, his intercourse would have been adultery, the highest crime known to our Church except murder.

It is clear then that Andrew Peterson did not marry Caroline Johnson, as Judge Hunter defined marriage, and further, that as the Judge ruled, the religious ceremony in which he acted "had no element of a civil marriage," and therefore as "courts do not enforce or take jurisdiction in matters which involve only religious belief and do not affect the condition or property of the parties while living," the defendant did not violate the Edmunds law and consequently was not as alleged, guilty of illegal voting. He could not be convicted except by a packed jury, and by the force of religious prejudice.

There are other marriages that might be explained which are of a different nature to that we have described, but they cut no figure in this case. And it must be remembered that the question whether the jury believed or not in marriage for eternity, or considered it as foolish as we regard the god-father and god-mother proxy system of Catholicism, Episcopalianism, etc., had nothing properly to do with the verdict. The facts brought out show it to have been a spite case, and if the promoters of it think they can make such a transparently thin persecution stick, they will find that they have but their trouble for their pains. Andrew Peterson had just as much right to vote as any juryman who sat on his case, or lawyer who prosecuted, or the Judge who sat on the judicial bench, and who, we consider, summed up the case impartially.

GUNNISON SWEETS.

THE pluck and energy of Bishop Madsen, of Gunnison, Sanpete County, as exhibited in his efforts to establish and maintain the sugar and syrup manufacturing industries under difficulties, seem well nigh indomitable. He is master of the sugar-making business in theory, but in seeking to secure practical results has been hampered on every hand for want of the wherewith to produce them to any great extent. He is still hard at work, as superintendent of a company, producing at least one of the sweets of life. It is in the form of a superior article of syrup, the product of the amber cane. It is warranted absolutely pure, containing the entire saccharine matter of the cane, the sugar not being extracted. Unlike the general run of syrups that are imported the Gunnison product contains no glucose, and is consequently better both in body and flavor. We hope to see the home article preferred for several reasons, among which are that local industries should be fostered and the article now considered is more reliable and more conducive to health than that obtained from distant markets. Besides we would like to see Bishop Madsen's adhesiveness to his favorite industry receive a substantial recognition. Mr. Robert H. Ford is soliciting orders in the city.

THE PETERSON CASE.

JUDGE HUNTER'S CHARGE TO THE JURY.

In the case of Andrew Peterson charged with illegal voting at the Delegate election on November 1882 Judge John A. Hunter delivered the following charge to the Jury on Wednesday March 19th 1884:

"GENTLEMEN OF THE JURY: The indictment in this case charges that Andrew Peterson, the defendant now on trial before you, on the 7th day of November A. D. 1882, in the county of Summit, and Territory of Utah, was a bigimist, that is to say, said Andrew Peterson on the 1st day of March A. D. 1870, having a lawful wife living and not divorced or separated from him at Salt Lake City, in said Territory, was married to and with one Caroline Johnson; that said lawful wife and said Caroline Johnson are both still living and said Peterson has not been divorced from either thereof; that on said 7th day of November, A. D. 1882, said Andrew Peterson, being so as aforesaid a bigamist, in said county of Summit, at an election then and there held, pursuant to law, for Delegate in the Congress of the United States, did, without having a lawful right to vote and knowing that he had no lawful right to vote knowingly did vote at said election contrary to the statute of the United States against the peace and dignity thereof."

His Honor then cited the law of Congress against unlawful voting for a Representative or Delegate (Sec. 511 U. S. Revised Statutes) and that which provides that no bigamist or polygamist shall vote (Sec of the Edmunds law) declared that Congress had exclusive jurisdiction over this Territory for the purposes named in these laws and proceeded to say:

"Before you can convict the defendant under the indictment in this case, you must find from the evidence, beyond a reasonable doubt, that there was an election held in the said county of Summit, in the Territory of Utah, on the 7th day of November, A. D. 1882, for a Delegate to the Congress of the United States; that said Andrew Peterson voted at that election: that he voted without having a lawful right to vote. To determine that the defendant voted without having a lawful right to vote, the allegation of the indictment having for its predicate that at the time he did vote he was a bigamist, you must find from the evidence if or not at the time he voted (if you find that he did vote) he was a bigamist under the act of Congress defining what bigamy is, as hereinbefore stated to you.

The burden of proof is upon the prosecution in this case. It does not shift in a criminal case, but is upon the prosecution throughout to establish defendant's guilt beyond a reasonable doubt. The defendant is presumed innocent until the contrary is proved, and in case of a reasonable doubt unless his guilt is satisfactorily shown you must acquit the defendant. A reasonable doubt is not a mere possible doubt. It is that state of the case which after the entire comparison and consideration of all the evidince leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction to a moral certainty of the truth of the charge. You are the sole judges of the credibility of the witnesses, of the weight of the evidence and of the facts.

The laws regulating the exereise of the elective franchise in this Territory are within the constitutional powers of Congress, and all the interests of society and good government demand their enforcement.

It is the duty of the jury to accept and follow and apply the law as laid down by the court. If the court errs in its understanding of the law, its error can be corrected upon a motion for a new trial or by an appellate court on an appeal, and the injured party righted in the premises. If, however, a jury declines to follow and obey the law as declared to it by the court, but administers in the case its own idea and understanding of the law applicable to the case, there are no means by which its error, if it makes one, can be corrected. Such a course, if pursued by juries, would leave the law forever unsettled and unknown.

A criminal intent is generally an element of crime, but every man is presumed to intend the necessary and legitimate consequences of what he knowingly does. If he knowingly intends to do and does do what the law—which he is conclusively presumed to know—forbids, he does the act with the criminal intent the law requires, and no other evil intent need exist.

The crime of illegal voting consists in the voting of a person not authorized by law to vote. If any one not so authorized *does* vote in this Territory, at an election held for Delegate to Congress, he votes unlawfully and commits the offense the law prohibits. In such a case it is no defense, and such a person can not be heard to say that he believed or was advised that he had a right to vote. If he acts upon his belief or construction of the law, he acts at his perll and must abide the consequences.

If a man and a woman agree and promise one with the other to take each other as husband and wife and said agreement is to take effect immediately upon their exchange of promises, they marry each other within the meaning of the law; no subsequent intercourse or carnal connection with each other is necessary to constitute or validate such marriage.

A marriage like any other fact may be proven by the admission of the defendant, coupled with other corroborating circumstances, and if such evidence taken as a whole is sufficient to iduce a conviction in the minds of the jury beyond a reasonable doubt, the jury ought to find the fact of marriage as a fact in the case.

In order to convict a person of the crime of unlawful voting at an election held for Delegate to Congress on the ground that he is a bigamist or polygamist at the time of voting, it is not necessary that the status of a defendant as a bigamist or polygamist shall be proved or fixed by evidence of a conviction of the crime of bigamy or polygamy. All that is required in such a case is proof by the prosecution beyond a reasonable doubt that the defendant at the time alleged voted at such an election for delegate to Congress, and at the time of voting had two or more wives living and undivorced from him.

If the jury believe from the evidence beyond a reasonable doubt that years ago the defendant was married in Denmark to the woman who is known in this case as Caroline Peterson and afterwards, in 1870, and while said Caroline Peterson was living and undivorced from defendant, that the defendant agreed to take as his wife the woman known as Caroline Johnson, and at the same time said Caroline Johnson agreed with defendant to take him as her husband, and both at the same time assented in their minds to such a contract; and if the jury further find beyond a reasonable doubt that on or about the 7th day of November, A. D. 1882, in the County of Summit, in this Territory, both said Caroline Peterson and Caroline Johnson were living and undivorced from defendant, the defendant presented a paper or ballot on which the name of any candidate was printed or written, as that of a candidate to be voted for as a Delegate to Congress from this Territory, to the judge of election at an election held at said time and place for said Delegate in Congress, and that such paper or ballot was received by said judges of election and deposited with other ballots received by them at said election, I charge you that the defendant voted at such election for Delegate in Congress without having a lawful right so to do and that it is your duty to find him guilty of the offense charged in the indictment.

Marriage is a civil contract, requiring the consent of both parties.

A valid marriage must be a contract, to which the law will attach certain incidents and obligations, including an obligation on the part of the husband to live with and protect the wife, furnish her a home and support her and the children of the marriage according to his circumstances in life.

Cohabitation, in fact, is not necessary to a valid marriage, for the parties may waive or refuse it, but the right to actual cohabitation, unless there be incapacity, is one of the incidents of a marriage.

The civil contract of marriage so far as the law enforces it, is one under which the parties contract the relation of husband and wife in this life, and any ceremony intended only to effect their relations after death, is not in law a marriage. Courts do not enforce or take jurisdiction in matters which involve only religious belief and do not affect the condition or property of the parties while living.

If you find the defendant did not intend to marry the witness, Caroline Johnson, or assent to a civil marriage with her during the ceremony, or at any time, no marriage was contracted, which would have been valid had the defendant been free to marry. His assent was necessary to a contract of marriage.

If you find the defendant and Caroline Johnson united in a ceremony, in 1870, which, in accordance with their religious belief, was intended to effect the union, after this life, of the said Caroline Johnson with her deceased husband, that in such ceremony the defendant acted only in the name and stead of and as the religious and temporary sponsor or proxy for the deceased husband, and responded in his name, and that this was the substance and scope of the ceremony, then it had no element of a civil marriage.

In determining what the parties or either of them intended, and how they or either of them understood the ceremony in 1870, it is proper to consider the subsequent conduct of the parties and whether they assumed the relations to each other of husband and wife.

The prosecution must show beyond a reasonable doubt, a marriage apparently valid, and which would have been valid in law only for the fact that the defendant had a wife living, and if from the whole evidence on this question you entertain a reasonable doubt, the defendant should be acquitted."

CORRESPONDENCE.

A Former Member of the Church Joins the Josephites and Regrets the Step.

REESE CREEK,
Gallatin County, M. T.,
February 25th, 1884.

Editor Deseret News:

A WANDERER FROM THE FOLD.

It is now upwards of fifty years since my lot was cast with the downtrodden and oppressed, the Saints of God, and had it not been for the wile of the devil, I should not have been like a prodigal wandering from my Father's house. And I would say to all who are inclined to change their faith in God and in the latter-day work to look very carefully before you leap. Think not that a head can do without the feet, or the feet do without the head; neither should the thing framed say of him that framed it, "Ye made me not." Who is he that would reply against God? Only a vile apostate.

BEWARE OF SNARES.

Beware of false prophets that come unto you in sheep's clothing, but inwardly they are ravening wolves. Beware of such as put on the livery of Christ or His servants to serve the devil with. If any come unto you and have not the doctrine of Christ bid him not God speed, for he that biddeth him God speed is partaker of his evil deeds; and this is what the writer of this article has done to his sorrow. Knowing this also that his servants ye are to whom ye list yourselves servants to obey, has as much reference to a Saint as a sinner. Speaking of the latter dispensation, Christ saith, "Because iniquity doth abound the love of many shall wax cold." Reader, can you point out any dispensation, former or latterly, that was spotless? That was pure in every sense of the word? Did not the Lord know this to be the case. Even the Saints have not the promise: ye shall see eye to eye, until the Lord appears in his glory. Paul certainly says, "From such turn away." Turn away from what? From the Church! Ah! no. But from iniquity; such as loving and lovers of pleasure more than lovers of God. Truce breakers, false accusers, lovers of themselves, traitors, etc.

TRUCE BREAKERS.

Of these latter I wish to speak or write. Who is a truce breaker or covenant breaker so great as he that breaketh the new and everlasting covenant. Who is a traitor so bad as he that would betray his everlasting brother. I will answer for myself according to the law. First. He that would instil into the minds of God's chosen people, that God had rejected His Church, and then assert that God had given the kingdom to another people notwithstanding God Himself declares, such should never be the case. Such impudence is only equaled by Satan himself declaring to one of old "I too am a Son of God worship me." Secondly, He is a false accuser and traitor indeed who, Balaam like, would go or send another, to lay a stumbling block for Israel, by asking Congress to legislate against God's people, to take away their God given rights which even the Constitution and Government guarantees.

To those who think to better their condition or escape the condemnation