

Gowan, (17 Wendall 386) the Supreme Court held that "an acquittal for robbery was a bar to indictment for larceny, where the property alleged to have been taken was the same." In *State vs. Colgate*, (31 Kansas; 511) the court ruled that "the commission of a single wrongful act can furnish the subject matter or foundation of only one criminal prosecution." In Georgia it has been held that "one prosecution will bar another whenever the proof shows the second case to be the same transaction with the first."

The fourth claim is this:

"If the adultery occurred during the unlawful cohabitation which is covered by the conviction, it was a part of and involved in such cohabitation, and a conviction for the latter bars a prosecution for adultery."

It is shown that the authorities establish conclusively that the statute against unlawful cohabitation applies alone to cases where the relation of husband and wife exists, either actually or ostensibly, and that it is a transaction which is "a group of facts," one of which facts is sexual intercourse, and that if involved in or incident to the transaction of which a defendant has been convicted, he has been guilty of an act which if committed separately from the transaction would be indictable, that act is embraced in the transaction, he cannot be made again the subject of prosecution. The decisions of the Court in the Cannon and Snow cases are cited in support of this and of the proposition that the whole policy of the law is against dividing or segregating what happened under one transaction into separate prosecutions.

The record is then reviewed to show that the principles of cases cited apply to this case and that although the time named for the commission of adultery was placed one day after the last date named as the time of the unlawful cohabitation, yet the latter offense was claimed in the indictment to have continued up to the date of the indictment and thus included the date of the alleged adultery. To punish for the two offenses then would be another kind of segregation. One offense being included in the other, the conviction of one bars conviction of the other.

Cases that seem to convey a contrary doctrine are here investigated and shown to be of a different character to the one at issue. Also the difference is pointed out between former acquittal and former conviction, which have a dif-

ferent effect. An acquittal for the lesser offense might admit of an indictment for the greater, but a conviction bars it because a necessary part of what the conviction covered.

The jurisdiction of the Court is then argued and established and the counsel say in conclusion:

"In concluding this brief, we repeat that the theory of this prosecution is contrary to the policy of the law. This is a criminal statute to which no rule of construction or principle of enforcement can be applied that is not applied to other criminal statutes. We would not be understood as suggesting a possibility, that it will be dealt with in any different manner from other criminal statutes. Multiplication of punishments is not the policy of the law, and we cannot believe that it was the intention of Congress to punish a man by fine and imprisonment for living with a woman three years, as his wife, and then to add to that punishment, or make it possible to add to it, hundreds of convictions for sexual intercourse occurring during the period of, and being a part of the cohabitation, the punishment for which would be an aggregate of penal servitude that would require centuries of time to discharge."

Judge Wilson argued the case before the Supreme Court of the United States on Friday last, and was followed by Solicitor-General Jenks, who denied the jurisdiction of the court. Today F. S. Richards, Esq., closed the argument and it is hoped that an early decision will be rendered, as it is of great importance to the people and the courts of Utah.

It is a matter of congratulation that the case has been in such thoroughly competent hands. If the court is not swayed by the desire which prompted the special legislation against Utah, but will be governed by its own decisions and the precedents of centuries, this new attempt to punish men several times for the same offense will fall into the same pit where lies the dead and gone infamy known as "segregation."

FROM THE ORIENT.

By courtesy of Robert Irvine, Jr., we have been enabled to peruse a letter to him from Elder C. U. Loecker. The communication was written at Haifa, Palestine, but he expected shortly to remove to the city of Ainteb, in the province of Aleppo. There he would be under the necessity of studying the Armenian, Turkish and Arabic languages. Thence he would go to the Island of Cyprus—first to Larnaka,

the capital, then to Mersina, then through Tarsoos; which is the ancient Tarsus. Cyprus is the island that was purchased by the British government—under the Beaconsfield administration—as a military base, with a view to the probability of war breaking out by the re-opening of the Eastern Question.

ON THE RAMPAGE.

THE rush into Oklahoma is illustrative of the disposition of mankind to stampede, as cattle do sometimes, without sense or reason. It is a kind of craze that occasionally seems unaccountable. Half the energy, labor and general effort which many persons will waste over the race into Oklahoma, would secure them homes in much more congenial regions and save them a world of trouble and disappointment. It is like the gold fever which has impelled many people to hurry as if for their lives to some distant place where the yellow god was worshipped.

It is a similar craze which makes a thoroughly worked up "boom" so profitable to land speculators. It is sometimes manifested in following a foolish fashion. "It is all the rage;" that is reason enough for those who drop into the swim. The masses of mankind are mere imitators. They often do things because other people do them, not because there is any sense in the action. This is one of the weaknesses of human nature.

Rational people should avoid this current in the tide of thoughtless humanity, for it often leads to the maelstrom of destruction. No one should follow a multitude to do evil nor join in a crowd to mingle in folly. To think and act like intelligent beings is the duty of all who are endowed with ordinary understanding. We fear that many of the Oklahoma boomers will rue the day when they broke up home and sought their fortune in an unknown and unsubdued country.

DIVERSE VIEWS.

How different the same thing appears to different minds! The remarks of President Cannon at the late Conference, which we have already explained, about the folly of our young men scattering into other Territories, is viewed by some papers as proof positive that "Mormonism" is going to pieces, while others see in it the extension of the power of the Church.