EDITORIALS.

HOW CONVICTIONS ARE SECURED.

THE case of James Taylor in the First Judicial District was disposed of in a similar manner to the second case against Lorenzo Snow. There was, however, but one indictment against the former while there were three for the same offense against the latter. Mr. Taylor was reputed to have three wives. The evidence showed that he had lived with one since the passage of the Edmunds law. Each wife occupied a separate house. He had visited them a few times during the past three years. The understanding of the public in his vicinity was that he had ceased living with his plural wives. But under the ruling of Judge Powers he was found guilty of cohabiting with them and now awaits his sentence.

The people of Utah have almost ceased to wonder at the absurdities and contradictions of the courts in their determination to punish the "Mormons." But some may be curious to know on what peculiar quirk or quibble a man can be convicted of cohabiting with more than one woman, when the evidence is conclusive that he has only cohabited with one. It is done in this way: Proof is given that, as a matter of fact, a man has cohabited with one plural wife, but not with any one else. Cohabitation with the legal wife is then presumed. Conviction thus is made easy.

There is a certain amount of plausibility to this. In law, cohabitation with a legal wife is presumed. But that presumption is not proof. And it may be set aside by evidence. If evidence of non-cohabitation is adduced the presumption fails. In the Snow case on the second trial the Court instructed the jury that cohabitation with the legal wife was to be presumed, after the evidence had proven non-cohabitation. Thus the rule of law was ruthlessly trampled upon and the instruction of the court was tantamount to an order to convict.

In the Taylor case the evidence of cohabitation was with the legal wife, so the tactics resorted to in the Snow case would not answer. And "the habit and repute of marriage" with the women named in the indictment could not be made to appear. The evidence of the witnesses for the prosecution went to show that not only the habit but even the repute ceased, after the passage of the Edmunds law, the repute being that Mr. Taylor no longer lived with his plural wives. How did the court manage in this emergency? Here is the report of what he said to the jury after similar instructions to those in the Snow case:

"I charge you further that no public act of divorce, or proclamation, that he had put away the women will be sufficient to hold him guiltless, if you find beyond a reasonable doubt, that he lived, or cohabited, *as I have defined the term*, during the time mentioned in the indictment, with the women *or any of them* named in the indictment. All such matters would be immaterial. The question before you is: did they live or cohabit, as the term has been defined to you, during the time named in the indictment?"

Note the words we have put in italics. The definition of cohabitation, which the jury were to follow, was not that of the Supreme Court of the United States, but "as I" Orlando W. Powers "have defined the term." And they were to find the defendant guilty if he had in that sense cohabited with *any* of the women named. What is the meaning of "any?" It is "one out of many." Therefore, as the defendant had cohabited with his legal wife, he was to be found guilty, and was found guilty on those instructions, of cohabiting with more than one woman!

There has been a great deal of talk about some method by which a polygamist could announce to the world that he has ceased his polygamous relations. And it has been argued against some defendants that "neither had given any public notice that he had dissolved his polygamous relations." But where is the use of attempting to do so under the ruling of Judge Powers? A decree of divorce from the legal wife and a public proclamation of separation from the plural wives, make no difference. A defendant, if he does not dwell under the same roof with either of those women, but is seen to "associate" with them or either of them, or if he should call occasionally at their houses and enquire after their children, would be just as liable to conviction and punishment as if no public act of separation had taken place.

It seem that so long as a man is a "Mormon" and has married more than one woman he is to be punished whether the law touches his case or not. Cohabiting or not cohabiting makes no difference. The sentence appears to be you'll be damned if you do, you'll be damned if you don't. And the only safety lies in keeping out of the way. The wisdom of those who, foreseeing the course that would be pursued, and perceiving that there was no likelihood of a fair trial or a just adjudication, have quietly placed themselves in retirement for a season, must be evident to all who see things with two eyes and a level head.

POISONING BY PTOMAINES.

WE do not suppose that more than one out of every thousand of our readers could correctly answer the question, What are Ptomaines? or has ever heard of a case of ptomaine poisoning. Quite a controversy has recently arisen in Omaha over the sudden death of Ex-Mayor Patrick F. Murphy of that city, who appears to have been highly respected by the officials and the people. Dr. Stone, an eminent physcian who attended him, announced that he had died from ptomaine poisoning.

Ptomaines are noxious properties which are formed in decayed animal matter. They are found in putrid or tainted fish, beef, mutton, poultry, sausage, etc. They are not all poisonous, but some are said to be exceedingly so. The poisonous effects in bee-stings, snake-bites, etc., are due to the presence of ptomaines. Different people are differently affected by them, some being more susceptible than others to the poison.

Mr. Murphy and his family were all affected by some disease which followed indulgence in a chicken diet. Mrs. Murphy was attacked and took seidlitz powders and then quinine, and recovered. Four children were similarly affected, and treated to the same medicine with similar results. The symptoms were chills, with vomiting and pains in the shoulders followed by a sore throat. Mr. Murphy was seized on the Wednesday afternoon, and the remedies applied to him did not have the desired effect. He grew worse. On Thursday Dr. Stone was called in, who, after inquiries, said Mr. Murphy was suffering from ptomaine poisoning caused, by eating tainted chicken.

The means employed not having the desired effect, another physician was called who coincided with Dr. Stone, and their combined wisdom failing to relieve the patient, still another doctor was sent for, and after consultation, while other medicine was being procured, Mr. Murphy died, a high fever having set in with violent hiccoughs.

A *post mortem* examination was had, at which four physicians assisted, and the autopsy showed bad congestion of the stomach and intestines. The doctors agreed that the cause of death was gastro-enteritis. But the cause of the disease is the subject of controversy. Dr. Stone maintains his position; the other doctors differ with him. A chemical analysis was rendered abortive by fluids injected into the body by the undertaker, to preserve it.

From the discussion that has ensued, we glean these facts: That attention was first called to the existence and effects of ptomanies in the human body by a number of cases of poisoning from eating insufficiently-cooked sausages, in Swabia, in 1789. Out of 76 cases in that year, 37 were fatal. The cause was traced to ptomaines. Many experiments have since been made, and it has been found that similar ptomaines existed in the bodies of the dead to those in the uneaten portions of tainted food partaken of by the patient, and those when administered to animals have produced death, after similar symptoms to those of the poisoned person.

It is argued that some nations eat putrid food with impunity. Also, that some persons in the Murphy household ate of the chicken without bad results. But this is met by the argument that different individuals are differently affected by the same poisons, and that the existence of ptomaines in tainted flesh, and that some of them are poisonous in their nature, are proven facts.

The lesson to be drawn from this is, that putrid and tainted food of all kinds should be avoided, and that sausage, veal, pork, poultry, etc., should be thoroughly cooked before it is eaten. There is no need to get up a chicken scare, for poultry is at least as wholesome as any other flesh when it is in proper condition for food, and after all, some grave doubts yet remain over the cause of the death of the ex-mayor of Omaha.

ONLY ONE ELEMENT.

THE Ogden *News* pretending to reply to the DESERET NEWS in regard to the case of Apostle Lorenzo Snow says:

"The Courts have held that the offense is complete when a man holds out to the world two or more women as his wives."

"The Courts" have not done anything of the kind. On the contrary they have held that as only one element of the offense. Read the decision of the U. S. Supreme Court. Will the Ogden paper tell us how a man can be guilty of unlawful cohabitation when he does not cohabit?

A JUDICIAL FARCE.

THE third trial of Apostle Lorenzo Snow was nothing but a broad farce. From first to last it was treated as a useless form, except for the purpose of striking another predetermined blow at the head of the venerable gentleman whose family relations were outside the reach of the law, but not beyond an ordered verdict.

Many of the jury had formed part of a previous jury that had convicted him upon the same absence of evidence to be offered in this case. The witnesses gave similar testimony as twice before. The charge was the same, the verdict the same, all was the same, except that the counsel for the defendant simply acquiesced in the proceedings, knowing that the conclusion was foregone. They did not object to the illegal jury, they did not cross-examine the witnesses, except to save certain points on appeal, they made no argument, they uttered no protest. There was no deliberation of the jury, there was no expectation of a favorable verdict.

The whole thing had a cut and dried appearance. The form had to be gone through that the result might be achieved. But for that it was useless, and the Court might just as well have said: "The defendant is an Apostle of the Church; there is no evidence of his living with more than one woman, but it is necessary for certain reasons that an Apostle should be punished under my jurisdiction, and therefore, as he has acknowledged that he has several wives and lives with one of them, cohabitation with another will be presumed and therefore he is guilty. A trial would be only waste of time. He will be sentenced on the 16th inst."

Under such rulings as had been given in the two previous trials for the same offense, there was no reason to hope for a different result. The defendant's counsel, who had done valiant service in the former trials, were now entirely helpless. They were not allowed to show what was the law nor the ruling of the highest court of appeal; the dictum of the miniature autocrat of the First Judicial District was to be the law and that, he declared, was final.

How much respect can the people of Utah entertain for the judiciary imposed upon them by arbitrary power, when they witness such exhibitions of spite and malice, of pettifogging and double-dealing, of word-twisting and sophistry, of disregard of settled meanings and defiance of the highest judicial decrees? The three trials of Apostle Snow were rendered a mockery of justice and a burlesque on law by the ridiculous rulings of the Court. And the last trial was but a sham, its formalities but a humbug, its chief figures but actors in a play, its jury but puppets that jumped to the pulling of the judicial string. The audience—the public—laugh at the poppet-show and hold the whole business in derision.

While the laws of Congress and the appliances of Courts are used in the manner which has disgraced the Snow trial, instead of that reverence and submission which "Mormons" are expected to accord to national enactments and judicial proceedings, there will increase in Utah doubt as to the validity of the one and derision and contempt for the course of the other.

THE "CHRISTIAN UNION" ON THE NEW EDMUNDS BILL.

THE *Christian Union* is a vigorous advocate of the suppression of polygamy by the strong arm of the law. It does not seem to have much confidence in the force of Scripture or the power of argument for that purpose. But it has favored very extreme measures to overthrow that which the "superior civilization" and "religious influences" of the age do not succeed in affecting to any appreciable extent. However, even the *Union* cannot stand the latest emanation from the committee room where sits as chairman the dyspeptic sage of Vermont. The following editorial appears in the *C. U.* of Dec. 31:

"The anti-polygamy bill of last year, with no material modifications, has been reported back from the Senate Judicial Committee. It passed the Senate in 1884 by a vote of 33 to 15, and is likely, therefore, to pass the Senate again. In the House it may be expected to receive sharp discussion. Some of its provisions appear to us to be admirable, such as that of making a lawful wife a competent witness against her husband, and that of requiring a recorded certificate of every marriage ceremony. But there is danger lest, in the righteous, passionate fervor against polygamy, fundamental principles of the American Constitution shall be violated, and if the provisions of this bill are correctly reported some of them appear to us open to this charge. It provides that fourteen persons appointed by the President shall be added to the trustees of the Mormon Church; it forbids any religious corporation—that is, presumably, in Utah—from acquiring or holding more than $50,000 worth of real estate, and provides for the forfeiture to the United States of real estate beyond that limit held by such a corporation; and it requires the Attorney-General to wind up the affairs of the Perpetual Emigrating Fund Company, a Mormon organization to promote immigration. What business the United States has to appoint trustees of a Mormon Church, more than a Roman Catholic or a Protestant Church we are at a loss to conceive; or why it should intervene to destroy an immigration company, if legally conducted, because the religious sentiments of the Mormons are obnoxious to the people of the United States. If anything is settled in American national life, it is that no man shall be called to account for his religious opinions. Polygamy we have a right to fight with every legal instrumentality, but the superstition and the ignorance which enthrall the larger portion of the Mormon population we must fight with the church and the school house. If the United States would put a public school, well equipped, into every school district in Utah, it would do far more to undermine the Mormon hierarchy than by undertaking to forfeit its property, or appoint trustees for the Church of the Latter-day Saints."

It seems a little singular to see a "Christian" journal which has a great deal to say about the sanctity of home, the sacred relation of husband and wife, and the unity and integrity of the family, endorsing as "admirable" a measure to compel wives to give evidence against their husbands, which has been regarded from time immemorial as contrary to the best interests of society, and calculated to break down the safeguards which law and religion have placed around the institution of marriage.

But the *Union* rightly denounces the proposition to put under governmental control the property of an organized religious body, and to seize upon the funds of a corporation organized to aid immigration. We have no objection to the establishment of government schools in Utah, if the government pays the cost. But we dispute the right of the government, or any other power, to support such schools with means stolen from the "Mormon" Church, the Perpetual Emigration Fund, or any other private property of individuals or corporations.

As to the "superstition and ignorance" supposed to exist in this Territory, we assure the *Christian Union* that there is more of that to be found in one Ward of the great city in which that able paper is published than in this whole Territory. Our educational facilities are not by any means perfect, but they will bear favorable comparison with many others, they are all the time improving, and those who imagine that ignorance is a necessary concomitant of "Mormonism" are reckoning upon a groundless basis.

We think with the *Union* that the dishonest and unconstitutional measure will most likely pass the Senate, like some other senseless bills, in a pig-headed anti-"Mormon" fashion, but we do not believe the House will consent to such a bare-faced attempt at wholesale robbery, even of the unpopular people vulgarly called "Mormons."

THE DIFFERENCE BETWEEN THE TWO CHARGES.

IN another column will be found the charge of Judge Powers to the jury in the second Snow trial. The first was published in the DESERET EVENING NEWS of January 2nd. We give these charges in full because we want them on record, and because we do not wish to depend for our arguments upon a synopsis, nor do injustice to any one. Errors sometimes occur through the addition or omission of a word which alter the meaning of a speaker entirely, and comments based on such errors are necessarily fallacious.

On comparing the two charges to the jury we find some differences which are important. At the first trial Judge Powers charged the jury that it was "not necessary that the evidence should show that the defendant and these women, or either of them, occupied the same bed, slept in the same room or *dwelt under the same roof*." In the second charge those words we have placed in italics are left out. If they were right in the first place, they would have been right in the second place. Their omission implies discovery of their error, and that error is fatal to the first charge. It renders the definition of cohabitation nonsensical, and hostile to the ruling of the Supreme Court of the United States. To say that a man can cohabit with two or more women when he does not dwell under the same roof with either of them, is the same as saying that a man can cohabit without cohabiting.

In the first charge Judge Powers stated that "the Edmunds law says there must be an end to the relationship previously existing among polygamists." This is omitted in the second charge, and wisely so. For the Edmunds law says nothing of the kind, and the ruling of the Supreme Court of the United States shows that the relationship may continue with no criminality, if without cohabitation. In the place of this incorrect assertion, the second charge contains a quotation from the ruling of the Supreme Court on cohabitation, which is a very sensible substitution.

The next and most important difference is the insertion of the paragraph, which we have previously discussed, on the presumption of cohabitation with the legal wife. That presumption having been set aside by the evidence, according to well known rules of law it had no existence in this case, and by charging the jury as to this point, a grave error was committed, resulting in the conviction of the defendant on the Judge's instructions, in direct opposition to the evidence adduced by the prosecution.

These cases will both be brought, no doubt, before the Supreme Court of the Territory, after sentence has been pronounced, and the errors we have pointed out will be fully exposed before that body. Unfortunately one of the judges of that court is the person who made the mistakes (?) and the injustice will be committed of permitting him to sit in adjudication upon his own alleged wrongs. Is not justice in Utah pretty much of a farce?

QUESTIONS ON SCHOOL TAXES.

WE have been requested by different persons to answer the following questions in regard to school taxes. We group them from various sources for convenience in reply:

"Does the proviso in the school law allowing the Trustees to assess a tax of one-fourth of one per cent., apply to any district other than the one having a graded school and a population of twelve hundred?"

Yes. The intention of the Legislature was to restore the old provision which gave a little working capital to school trustees, independent of a vote and without the difficulties attending the calling of a special meeting and the determining of a tax. It applies to the Trustees of every School District in the Territory.

"Are the trustees authorized to pay out of said tax, an assessor and collector, or themselves, for their services as trustees?"

Yes, as to the assessor and collector; No, as to the Trustees. The power to appoint the assessor and prescribe his qualifications is given to the Trustees, and it is usual for them to pay him for his services, the amount being reported at the annual meeting with other financial accounts. But the compensation of Trustees is to be determined by the registered voters at the annual meeting. If the Trustees appoint one of their own number to assess and collect the tax, he may be paid out of it for his work as assessor and collector but not as a Trustee.

"Can a person having taxable property resident of a school district, but having paid no taxes, said property being assessed and taxes paid in the father's name, vote at a special school meeting to raise a tax?"

No. But if he has property in his own name and right, subject to be taxed for school purposes, he can vote on the tax to be assessed upon it.

"Can a wife owning taxable property, said property being assessed to the husband in connection with his own—the wife claiming she pays her share of said taxes to her husband—vote at a special school meeting."

No. She cannot vote upon the tax unless she has property in her own right and name, subject to be assessed for school purposes.

"Can a person just moved into a school district to make his home, having taxable property, but who has never paid any taxes anywhere vote at a school meeting to raise taxes."

Yes, if he has property liable to the tax to be voted upon at the meeting. The courts have ruled that a person who has taxable property is a taxpayer within the meaning of the law. And the intention of the Legislature, it is evident, was to give all persons residing in a school district who are liable to be taxed for school purposes, a voice and vote in the determining of the rate per cent. to be paid. This is just and fair, and for the proper protection of property owners.

A CHARACTERISTIC "ARGUMENT."

THE organ of the debauchees went into delirium as soon as Senator Teller's truthful remarks about Utah, and solid objections to the new Edmunds monstrosity, reached the hands of the chief anathematizer. Teller was assailed in nearly a column of billingsgate in that long-faced type which gives every printer that sees it the gripes. He is accused of "showing the cloven hoof;" of being a "Jack Mormon;" of using arguments "utterly pointless;" of talking "gibberish;" of being "a knave or a credulous fool." He is told that he "flatly lies;" that he "reveals his ignorance;" that one "lie was probably fed to him by John T. Caine," but that there was more than ignorance in his statement. The *Tribune* denunciator believes "he lied," that his speech was "simply infamous," "the speech of a thoroughly dishonest man;" that he was "the Mormons'" attorney in the Cabinet, and is their attorney now;" that his speech "dishonors the mother that bore him, and his wife and daughter, if he has any;" that he "dishonors the Government" and "trifles with his oath," and much more in the same strain. It is unlikely that the Senator will ever see the thing that it written or the thing that wrote it. The sight of the former would most likely make him smile, the sight of the latter would doubtless make him sick. Wonder how much "concentrated bellfire"—one of the scribe's mild phrases—it took to work up that brutal budget of rot? It is a sample of *Tribune* argument against a gentleman who does not agree with its bibulous ravings.