EDITORIALS.

MARRIAGE AS A TEST.

Scribner's for August contains an article entitled "Marriage as a Test," in which the vagaries of some of the modern religious "reformers" in reference to social life are handled rather severely. The celibacy of the Shakers is thus attacked:

"Shakerism is good for nothing if it is not good universally,—if it ought not to be adopted universally. But universal adoption would be the suicide of a race, and a race has no more right to commit suicide than a man. Besides, the damming of one of the most powerful streams in human nature only sets the water back to cover the banks it was intended to nourish and to drain. It is too late to talk about the superior sanctity of the celibate. We have no faith in it whatever. The vow of chastity simply emphasizes in the mind the passion it is intended, for spiritual reasons, to suppress, and fixes the attention upon it. The Shaker in denying love to himself and all the hallowed influences that grow out of family and home gains nothing in holiness, if he do not lose irretrievably. He is a victim of a shocking mistake, and he disgraces himself and his own father and mother by his gross views of an institution before whose purity and beneficence he and his whole system stand condemned."

Most of the above sentiments we fully endorse. Celibacy is contrary to nature and revealed religion. The intercourse of the sexes under marital relations and proper restrictions, is not only essential to the perpetuation of the race, bnt is consonant with the highest degree of purity, physical and spiritual. To denounce marriage or defame its relations as debasing, is to dispute with Deity and call that vile which he has ordained and commanded for the happiness, progress and exaltation of his children. What is called "the vow of chastity" is a perversion of truth and a violation of natural and divine law. People are not necessarily more chaste through remaining unmarried or dissociated from the opposite sex. Sometimes they are made mentally and spiritually impure by their unnatural condition, and in consequence of the thoughts which it suggests and makes prominent and continual. And in many cases this leads to practices which render them bodily corrupt. A vow of celibacy, therefore, is not always a vow of chastity.

But we cannot agree with the writer in *Scribner* that nothing can be good which ought not to be adopted universally. There may be cases in which celibacy might be better than marriage. Not because of a vow to remain single, but in consequence of disqualifications for the matrimonial state. Many things may be beneficial to exceptional cases which would be baneful to the multitude. Universality of application is not always a true test of a system, social, religious or political. When the conditions are precisely similar, the rule of universality will hold good. That is, a system should be of universal application when all are in like conditions. For instance, baptism is a universal requirement of the Gospel. It is administered for the remission of sins, and all have sinned, therefore, it is universally applicable. But its benefits can only flow to those who comply with required conditions. They must believe and repent, or baptism will be of no effect. In one sense then, baptism is a universal law of the Gospel; in another sense it is of only partial application. But where the conditions are alike the application is general.

Marriage may be viewed in the same manner. It is an institution suited to all nations in all ages. But there are rules applying to it which must vary in different conditions. In some countries where physical development is more forward than in others, very youthful persons may mate to advantage, while in other places their union should be postponed for several years. And, as we have previously shown, there are cases in which marriage ought not to be engaged in or permitted. Plural marriage, as practised by the Latter-day Saints, is a case in point. It is of universal application under like conditions. But some men are not qualified to engage in its practice. Indeed there are men who are not fit to be entrusted with one wife, therefore it is no marvel that all are not suited to the cares, duties and responsibilities of enlarged matrimony. All the qualifications necessary in the head of a single family are required in a greater degree in the head of a plural family. Therefore, the system of a plurality of wives, while adapted to all persons under like conditions, is not of universal application in the broadest sense of the term, and consequetly, as in many other things, universality, as laid down by the writer in *Scribner*, is not a correct test to apply to it.

He says:

"Of course we do not need to allude to the Mormon. His views of marriage—revealed of course—are simply beastly."

We have no hesitation in saying that he has no idea what are the "Mormon views of marriage." All the eulogies he pronounces on the matrimonial state are really "Mormon" utterances. There is but this difference in them and ours. While he would confine the benefits which arise from the family and the home within a limited circle, we would extend them to the utmost possible limits. It is a grand mistake of the opponents of plural marriage to imagine that this system destroys the home and breaks up the family. On the contrary it makes more homes and establishes more families, using those terms in their fullest and best sense. To quote a scriptural blessing on the polygamist, "God giveth him families like a flock." All the good influences surrounding a well arranged monogamic family are multiplied and extended in a properly conducted polygamic family.

The *Scribner* writer makes what he calls "Christian marriage" his test of all new schemes or systems of religion or philosophy. He says, "If it tampers with that it is always bad, and can by no posibility be good." A little investigation will show that he assumes a great deal too much, and dogmatizes with more positiveness than authority or reason. His idea of "Christian marriage" is the union of one man with one woman and no more. But it is impossible for him or any one to prove that this is "Christian marriage," that is, the marriage system established by Christ. No such monogamic system is found in the Christian record. The New Testament does not bear out his assumption. Modern Christianity is essentially different to primitive Christianity. If the old form and spirit should be revived or restored, it would certainly "tamper" with the existing system in all its bearings, marriage included. And it is possible, notwithstanding his dogmatism, that such "tampering" might be good. Looking at the social condition of so-called Christendom, it might be reasonably considered that "a more excellent way" could be adopted, one which would prevent much of the crime, bestiality and corruption which prevail and are increasing in the civilized world. And it is the want of something better which is coming to be recognized by many of the best minds of the age, that causes most "reformers" to attempt the introduction of some change which they imagine would be the better for society. If they make mistakes, and run into error, that is no reason why the true and correct method should not be brought forth.

We "Mormons" claim to have it. Wisdom would dictate the policy of investigating it and its actual workings before pronouncing judgment upon it, and of giving it time to work out its evil or good results to a positive demonstration. And we can assure those who look upon it as "beastly" that they do it a gross injustice, either through ignorance or malice, and that were we inclined to retort, we could expose the beastliness of the common manner of practising enforced monogamy till its upholders would blush with shame, if they have any.

If Christian or Biblical marriage is to be the test of a religious system, we are perfectly willing that it should be applied to ours, and then we shall take great pleasure in applying it to the popular forms, if their advocates are only willing to abide the issue. Let us have the marriage test by all means.

A JUST JUDGMENT.

A FEW days ago Elder Henry P. Richards, lately returned from his mission to the Sandwich Islands, received a letter from Honolulu, stating that the case which was pending before a Judge of the Supreme Court, in which he was interested, had been decided in his favor. The particulars are these:

An attempt had been made to collect from the Utah Elders the personal tax of $5 per annum from which, by law, ministers of the gospel are exempt. On resisting payment the Elders were informed that they were not considered "Christian ministers," as the term was understood in the law. To our missionaries the money was but a small consideration; but the principle involved was of considerable importance. So Elder Richards contested the case and it was ultimately carried up before a Judge of the Supreme Court, who thoroughly investigated the subject, heard testimony pro and con and listened to an exposition of our doctrines.

Before a decision was reached Elder Richards was released and returned home, leaving the matter in the hands of the attorney who had conducted his case in court. The ruling has now been delivered, and henceforth our missionaries on the Islands will be exempt from the tax, and be legally recognized as ministers of the gospel, with the same rights and privileges under the law as the ministers of any Christian denomination.

We congratulate Elder Richards on the success of his suit, and commend the action of the Judge as sensible, equitable and right. It would be a blessed thing if all Judges would throw away prejudice and decide in righteousness without fear or favor.

THE POSITION OF THE EXECUTORS.

SALT LAKE CITY,
August 8th, 1879.

Editors Deseret News:

In reading the order of Associate Justice Boreman, wherein he orders that the defendants, the executors of the estate of B. Young, and John Taylor, Trustee-in-Trust, etc., be imprisoned until such times as they comply with the order of said Court, an important question arises.

It was subsequently made known to the *Court by the aforesaid* defendants that it was not in their power to turn over the property mentioned except to the amount they had already done, inasmuch as they had disposed of the other portions of said property which was then beyond their control.

It was made known to the court by defendants' counsel that bonds might be offered the court in lieu of property not in their power to restore; it was then answered by the court, *it would accept no bonds*; if the defendants had previously disposed of this property, it was their lookout, not the court's.

The question I would ask is this: Is it right of any court to imprison any person for the period of his natural life for contempt? It seems that the court must know that such imprisonment is for life, inasmuch as they are made aware it is out of the executors' power to comply with said order.

TRAVELER.

In answer to the question propounded by "Traveler," we say that it certainly is not "right" for any court to punish a case of contempt by imprisonment for life. But the Judge who made the order of commitment of the Executors was never known to show any strong disposition to do right, in a case wherein a prominent "Mormon" was a party. His object has been, to use a term in use among the clique with whom he fraternises and who pull the strings which move the jumping Jacob, to "cinche" them whenever an opportunity offered.

The offense of contempt is defined in our Territorial Statutes under six headings which may be reduced to two general definitions. Disorderly or contemptuous behavior towards the court, or disobedience to its orders. The former is made punishable by a fine not exceeding $200 or imprisonment not exceeding five days, or both. The latter may be punished as follows:

"When the contempt consists in the omission to perform an act which is yet in the power of the person to perform, he may be imprisoned until he have performed it, or until released by the court, and, in that case, the act shall be specified in the warrant of commitment." (Compiled Laws, sec. 1692.)

There are two points to be considered in this section; first the power of the offender to perform the act required; second, the extent of the punishment.

As to the first, the Executors were required to turn over to the Receivers appointed by the Court, the property and effects of the estate of the late Brigham Young. They complied with the order of the Court so far as they were able. That is, they turned over all the residue of the property remaining in their hands. But they had distributed the estate according to the provisions of the will under the direction and sanction of the Probate Court, as provided for by law, and had received the full and legal releases of the heirs and legatees. It was, therefore, impossible for them to comply further with the order of the Court. This was set forth in their sworn answer in the case. The Court now undertakes to compel them to do that which they have shown to be impossible. But the section of the statute which we have quoted, and from which the Court derives its power to imprison in this case, provides that the act required must be "yet in the power of the person to perform." The imprisonment of the Executors, therefore, is not only wrong but is unlawful.

Now as to the perpetuation of the punishment. It is evident from the wording of the statute that its object is, not to deprive men of their liberty for life, but to enforce orders of the Court, which can be and of right should be obeyed. It does not contemplate the continual confinement of any person, and we believe it has been decided in this same Court, on more than one occasion, that a person imprisoned for contempt cannot be continually held in custody. The cases to which we refer were brought up from Justices Courts. The principle laid down was that although the law provided for imprisonment until the person in contempt complied with the order of Court, he could not be imprisoned for life for such an offence, and that a law providing such a penalty would be unconstitutional.

The Eight Amendment to the *Constitution provides that "cruel* and unusual punishments shall not be inflicted." Imprisonment for life in the case under consideration would certainly be both cruel and unusual. In a case of persistence in a refusal of obedience to a peremptory writ of mandamus, the extent of imprisonment provided by the same statute is one month. (Compiled Laws, sec. 1682.)

There are means by which this matter can be reviewed, but we have nothing to say on that point; the Executors and their counsel will no doubt take such a course as seems best to them. Meanwhile they are not in the least cast down because of their incarceration, knowing that they are suffering in a just cause, and that they have the sympathy of all just people of every creed and party. The order which sent them to prison is well understood to be entirely unnecessary, based upon the most infamous falsehoods and designed to favor one of the most wicked conspiracies ever concocted to defeat the wishes and instructions of a deceased testator and place his property in the reach of a pack of legal wolves.

IS IT A CANARD?

ON Saturday evening, we published a press dispatch containing a singular announcement; it was to the effect that the "Mormon" question had assumed a position of "international importance." According to the telegram, the Secretary of State has prepared a letter to the representatives of the United States in European countries, instructing them to present before the Governments to which they are accredited the subject of "Mormon" emigration, explaining that all persons "who come to this country with the design of affiliating with the 'Mormon' Church" do so with "the avowed intention of becoming criminals. They are further instructed to call on the "consuls in those countries, without delay, to assist them in gaining information as to the manner in which the ranks of the Mormon church are recruited and to forward information as speedily as possible to Washington."

The whole thing has the appearance of a sensational dispatch, fabricated by an ingenious correspondent hard up for an item of general interest. Journalism in these times is not remarkable for reliability, and New York *Herald* correspondents are particularly famous for the manufacture of news when exciting facts happen to be scarce. If the *Herald* Bohemian who stabbed his vest and suspender buckle on the table of a hotel in this city, and wrote long letters to his paper of his narrow escape from the dagger of a "Mormon" assassin, is now the Washington correspondent of that journal, it will be easy to understand how such an extravagant report has been sent over the wires.

It is difficult to believe that a man with a brain like Secretary Evarts' would commit himself to such nonsense as this alleged letter purports to contain. It is absurd to suppose that any European Government would undertake to establish an inquisition for the purpose of determining the religious faith of all intending emigrants from its shores. It is equally absurd to assume that all "Mormons" who emigrate to Utah intend to break the laws of the United States. And the "member of the cabinet who said that the administration did not consider "Mormon" immigrants as any more entitled to respect than so many persons who had been convicted of felony," must have been afflicted with temporary insanity.

The basis of this reported attempt to prevent "Mormon" immigration is a fallacy. There is no intent in the hearts of the great bulk of our emigrants to do anything that may be reasonably construed into a violation of law, and to view them in the light of convicted felons argues a strange obliquity of vision. There are no immigrants who land at Castle Garden that have stronger intentions to become law-abiding citizens of the United States than the class complained of, and the Government would be sadly blind to its own interest if it were to attempt any such ridiculous proceeding as to attempt to prevent their landing on American soil. Every "Mormon" who comes from a foreign shore and takes the oath of allegiance to this Government is an addition to the wealth of the country. The "Mormon" emigrants are pronounced by English officials the best that leave the port of Liverpool, by American officials the best that enter the harbor of New York.

If the Government desires information "as to the manner in which the ranks of the Mormon Church are recruited," it can be obtained without giving the poor consuls any trouble to collect it. Our Elders go out to the different nations, at their own expense, when required, to preach the *gospel of Christ* as they understand it. They call upon the people to repent and be baptized in the name of Jesus Christ for the remission of sins. Upon those who comply they lay their hands that the Holy Ghost may be imparted. The converts are instructed that God has commenced to gather his people from all nations to build up Zion, and that the present gathering place and bosom of the Church are in Utah. The desire to emigrate at once takes possession of them, and either by their own means or by the assistance of friends in this country, they leave their native lands to identify themselves with the Church at headquarters. When inquired of, our Elders explain our views on the marriage question. Undoubtedly most of their converts believe that plural marriage, as practised by the patriarchs and the good men and women held up as patterns in the Bible, is right in the sight of God. But their intentions concerning it, as forbidden by an enactment of Congress, are not to be defined either by a Secretary of State or any other person, and in most if not all instances, are undefined even to the emigrants themselves. They come here to serve God and worship him in the place they believe to be appointed by him for the gathering place, under the freedom guaranteed by the constitution of the country of their choice. No one has the right to assume that they intend to violate the Act of