

## EDITORIALS.

## POWERS AS A CHARGER.

JUDGE POWERS, in charging his made-to-order grand jury at Ogden on Monday evening, quoted from a distinguished judge in relation to the powers, privileges and duties of such bodies. In no other place that we can think of could his honor have placed such language as that he copies to make it so extremely conspicuous; it is so very unlike his own, both as to matter and manner. One is lucid, profound, and breathes a spirit of justice and fairness in every word; the other is bigoted, narrow-minded and splenetic, a mass of words used mostly to conceal thoughts, and exhibiting unmistakably here and there how difficult a thing it is to maintain the semblance of a jurist while being in reality a political missionary.

"In this country," says the Judge, (the distinguished one, not the Ogden imitation) "from the popular character of our institutions, there has seldom been any contest between the government and the citizens which required the existence of the grand jury as a protection against oppressive action of the government; yet the institution was adopted in this country, and is continued from considerations similar to those which give to its chief value in England, and is designed as a means not only of bringing to trial persons accused of public offenses upon just grounds, but also as a means of protecting the citizen against unfounded accusation, whether it comes from government or prompted by partisan passion or private enmity."

We wonder really if Judge Powers gave full force to his reading when he came to the last few lines of this quotation; and if he reflected how they would sound when placed alongside his own a little further on. Surely not. Let the reader judge:

"An indictment may be found against a man guilty of cohabitation for every day, or other distinct interval of time during which he offends. Each day that a man cohabits with more than one woman, as I have defined the word 'cohabit,' is a distinct and separate violation of the law, and is liable to punishment for each separate offense."

This is Judge Zane's invention, which Powers purloined bodily and made a few additions to. It is idle to claim that it is unconstitutional in that it places the person in jeopardy more than a thousand times for the same offense, for the reason that the Constitution is not consulted when "Mormonism" is the object of attack—which it is, and Powers knows it, though he bunglingly tries to conceal his meaning and that of his masters. And then to constitute himself the criterion of what "cohabitation" is in advance of the ruling of the Supreme Court of the United States—a body which now has the subject under advisement and will soon rule upon it—is the very essence of modesty, such modesty as one would naturally look for in a young country lawyer who is suddenly elevated to a responsible position which he is incapable of filling properly, and where the opportunity of oppressing his fellow men is ample and his disposition to embrace it great.

Here is a choice *morceau*. It would fit pretty well in the "big boy's" composition at a school examination:

"Here, amid these mountains—Nature's own great treasure vaults—enclosing valleys so fertile that they need only to be tickled with the hoe in the spring time to laugh with the harvest in autumn, could be framed an intelligent, enterprising State."

However, this will do very well when you get used to such things; you don't then look for anything better. Here is another:

"For years the laws relative to the marriage relation have been set at defiance in this Territory. This is a fact of such common notoriety, that the Court is bound to take judicial knowledge of it."

We have heard of courts taking "judicial notice" of things not immediately before them; but to "take judicial knowledge" is perhaps the more powerful way of putting it. It is a very clear way of stating a much desired piece of information, since it is very obvious that that particular court should "take knowledge" by some means. He needs it.

He says further on, "But this state of affairs cannot be allowed longer to exist." We are glad to hear it; it would afford us sincere joy to know that it was true. To have to submit to such rulings and proceedings generally as a person armed with a little brief authority may see fit to adopt, just or unjust, law or no law, is not right; and when the announcement that such things cannot be allowed longer to exist comes from a credible source, a shout of joy will go forth from a hundred thousand lips—a shout so tempestuous in its volume and penetrating in its tones, that it will almost reach the Empyrean and shake the foundations of the everlasting hills.

JUDGE POWERS, in his charge to the Grand Jury at Ogden on Tuesday, said:

"The offense of cohabitation is complete when a man to all outward appearances is living or associating with

more than one woman as his wife. To constitute the offense it is not necessary that it be shown that the parties indulge in sexual intercourse."

"Each day that a man cohabits with more than one woman, as I have defined the word cohabit, is a distinct and separate violation of the law, and is liable to punishment for each separate offense."

Every ruling by the Judges who have entered upon the new crusade against the "Mormons" brings forth new absurdities. Under the definition which "I, Judge Powers," have given to the word "cohabit," the almanacs for the past three years will have to be brought into requisition, and every day in those years will have to be indicted. For "I, Judge Powers," have declared that "EACH DAY" in which unlawful cohabitation has taken place "is a distinct and separate violation of the law," and as it is "to be inferred" that one day, is as bad as another in that respect, therefore EACH DAY is "liable to punishment for each separate offense."

It will be some thing new under the sun to see a grand jury indicting Time and committing for trial, like much-married "Mormons," the days in which unlawful cohabitation has taken place, while the nights, like salacious "Gentile" seducers, pass by unscathed.

Of course Judge Powers didn't mean what he said, but a judge on the bench should only say what he means. And to illustrate the absurdity of his law and logic, we have merely to apply his remarks on cohabitation to some other offense under the law in this wise:

"The offense of receiving and possessing stolen property is complete when a man to all outward appearances has in his possession an animal supposed to have been stolen. To constitute the offense it is not necessary that it be shown that any actual stealing has taken place."

"An indictment may be found against a man charged with possession of stolen property for every day, or other distinct interval of time, during which he offends."

Seriously, it seems as though every man who takes a prominent and radical stand against "Mormonism" develops into a crank or becomes so blinded by anger and animosity that he exposes his own folly to the gaze of the world.

## REVIEW OF THE UTAH COMMISSIONERS' REPORT.—No. 3.

IN assuming to instruct the Secretary of the Interior as to the meaning and intent of the Edmunds Act, as though they formed a judicial body competent to construe and expound that singular piece of special legislation, the Utah Commissioners say:

"The law was not directed at individual lascivious practices, but against the assault made by the Mormon Church upon the most cherished institution of our civilization—the monogamic system."

That is as much as to say, it is not an aggressive but a defensive measure. It is a virtual acknowledgment that the monogamic civilization of fifty millions of people in this land, to say nothing of the many more millions in other lands, is afraid of the plurality doctrine of the "Mormon" Church, and cannot successfully sustain itself except by resorting to force. A most humiliating confession. But is it true? Is the Edmunds law an attack or a defense? Most assuredly it is the former. For it cannot be shown that the "Mormon" Church has made any assault upon "the monogamic system." The assaults have all proceeded from the latter. It is the "Mormons" who are constantly placed upon the defensive.

When have the "Mormons" raised mobs to drive, plunder and murder those who differed from them in religion, social economy or politics? When have they passed laws against monogamy, or thrust anti-polygamists into prison? And on the other hand when has not the "Mormon" Church been the object of persecution, calumny, violence and unjust and discriminating legislation from the champions of so-called monogamous civilization?

The Commissioners simply repeat a stupid but common untruth when they state that "the living with two or more undivorced wives at the same time in marital relationship," is "by its very nature an attack upon the monogamic system." Could anything be more absurd? Does it follow because a Utah "Mormon" has two or three wives, that a New York or Pennsylvania or Indiana non-"Mormon" must follow his example? Is it not a fact that even in Utah, the majority of the people are monogamous in practice, after more than thirty years open and acknowledged and honored plural marriage on the part of some of the most respected of her citizens? Does "Mormonism" say to any one, "you shall not be a monogamist"? Is it not the monogamists—of a certain class—who say to the "Mormons," "you shall not be polygamists"? It is fanatical monogamy which makes an attack on polygamy, not "Mormon" plurality of wives that attacks the monogamous system. The arguments used to show the superiority of plural marriage are a defense against the assaults of its fierce and implacable assailants.

The Commissioners further instruct the Secretary that

"The laws for the suppression of polygamy were chiefly inspired by ap-

prehension that if this practice should be even tolerated anywhere in the United States, it might one day become a serious menace to the institution of monogamy."

If this was the terror that inspired the national legislators when they rushed that bill through Congress, there should be no wonder at its errors and its injustice. What a scare must have been experienced by some of those spotless statesmen when, after an interview with one of the feminine lobbyists that haunt the Capitol, or a night spent in the society of companions that shall be nameless, they sensed the shocking idea that the pure institution of monogamy, with all its adjuncts and surroundings, was menaced by simply tolerating the practice of plural marriage by a few "Mormons" away off in the valleys of the Rocky Mountains! We can understand why they were in such haste to become intolerant and save themselves from the impending danger.

Seriously, have not monogamy and polygamy flourished side by side in the same communities from time immemorial? In patriarchal times, did not some men have but one wife while others had more? In polygamous nations to-day do not similar conditions prevail? And is it not a natural impossibility that polygamy can be forced upon any nation or become universal in any country? Those who are insincere enough to make the plea put forth by the Commissioners, and those who are thoughtless enough to be influenced by it, persistently close their eyes to these facts: That "Mormon" plurality of wives is not for general practice, that it is only designed for specified individuals; that even all "Mormons"—if there were women enough for plural wives for all the men in the Church—would not be worthy of the privileges of the system, and that it is not promulgated for outside acceptance and proselytism.

This "apprehension" by which our opponents seem to be "inspired" and that provokes the hostility against which we have to defend ourselves, argues manifest weakness in their cause. Why must the law and its terrors be invoked against a system which has only a handful of practical adherents, when those who cannot tolerate them have the civilization of the age, the wealth, learning, literature, churches, schools, customs, prejudices and potent forces of mighty nations on their side? Have they not arguments strong enough and fruits of their popular system attractive enough to pit against this supposed heresy, without flying to arms and invoking the aid of invidious and unprecedented laws to stamp out the diminutive innovation? Why should there be any "apprehension" as to the results of a free and fair contest when all the odds appear to be on the side of the attacking majority? Ah! is there not an inward conviction that there is something rotten at the heart of their boasted civilization, and a fear lest there is a power in their vigorous little "Mormon" David that the great Goliath of boasting Christendom cannot cope with by fair means successfully?

We need not follow the Commissioners through all their wretched perversions and lame conclusions, neither shall we waste time in pointing out the shamefulfulness of many of their suggestions as to additional legislation, the whole of it being a piece of impertinence on their part and, as we have shown, an assumption of authority for which they have not the slightest warrant in law or reason. But we will draw attention to one of their recommendations, as it is too rich to pass by without comment. Here it is:

"6. The appointment of the Territorial Auditor and Treasurer, Commissioners to locate University lands, of the Probate Judges, County Clerks, County Selectmen, County Assessors and Collectors and County Superintendents of District Schools by the Governor of this Territory, subject to confirmation by the Commission."

Consider this in connection with the pious desire expressed by the Commissioners that, "these misguided people should be brought out from under this thralldom which has so long warped their minds and their consciences," and say if there was ever a plainer piece of political intrigue covered over with a thinner coating of rank hypocrisy. They want to bring us out of the "thralldom" of electing our own local officers who handle our purely local affairs, collect our taxes and disburse our finances, and put us under the control of our enemies selected by them and the Governor with whom they are in league for this precious piece of rule and plunder. And two of these Commissioners who are thus legging for this grip on the neck of the Territory, are professed Democrats, who claim to believe in local self-government and the right of the people to elect all their own local officials! What will politicians not do for place and pelf!

We have spent so much time and devoted so much space to a review of the Commissioners' report, because means will be adopted to spread its contents before the public, many of whom will take it to be official, not knowing the limited scope of the Commissioners' authority, and we consider it our duty to show it up in its true light. Some of those officials, if they have any consistency left in them, must be thoroughly ashamed of their signatures to the document, for it is in direct violation of what they have professed to believe, and recommends measures with which they cannot be in sympathy unless for the paltriest and most debasing of motives. Can-

didly, we would much rather be a despised "Mormon," suffering for life unjust incarceration for principles sincerely believed in, than a five thousand dollar Commissioner who would stoop to such misrepresentations and recommendations as are contained in the report for 1885 to the Secretary of the Interior.

## THE LYING GOES ON.

THE following dispatch is reported as coming from the New York Tribune, the originator having telegraphed it from this city. It is in relation to the post office at Brinton, and with one or two exceptions is of a piece with the reports usually sent from here to that paper and the San Francisco Chronicle—that is, utterly untrue:

"James A. Spillet was appointed postmaster there in August, 1883, and he has had his commission for two years, but he has never got possession of the office. The former postmaster, who is still in possession, is a Mormon, and as a Mormon Bishop, lives in the place, he will not let Spillet take possession. Spillet has been afraid to resort to violent measures in order to secure his rights lest he should be assassinated. The Department has directed him to remove all the office fixtures to his own house and set up a post office there, but the Department is not sure that he will dare to do this."

The facts are that Spillet got his commission about a month ago, instead of two years ago, and upon presenting it to the then incumbent, the office was immediately turned over to him without difficulty or words. Spillet was appointed about two years ago, but received no commission; in fact, some time after the news of the appointment was received the postmaster, Mr. Brinton, received notice from the postal department in Washington that the said appointment was revoked. The former postmaster is not still in possession, nor has he been since his successor was entitled to the office. The statement that Spillet was afraid to resort to violent measures lest he should be assassinated will cause a broad grin to overspread the countenance of everybody at all cognizant of the facts; the probabilities are that the individual thus brought into such conspicuous but cheap notoriety has assassinated more men by retailing poison in the shape of bad whisky, than ever harbored a thought of even his temporary discomfiture; and the item that the department is not sure that he will remove the fixtures and appurtenances of the office through the fear aforesaid, would be amusing if it were not disgusting; the idea of a portfolio of the greatest government on earth entertaining such a thought, even if "given information" to that effect, is too absurd for anything. And of such materials is the anti-"Mormon" feeling worked up in the east.

If this is not a nation of liars, it contains enough of them to answer the purpose of their organization and calling—a fight against God and all that is decent and holy.

## SENATOR MITCHELL.

JAMES H. MITCHELL was yesterday elected United States Senator by the Oregon Legislature, to fill a term of six years, beginning on the fourth of last March. The Legislature last winter was dead-locked on this subject, and finally adjourned without being able to effect a choice. It seems that Mitchell (whose proper name is Hipple) was more of a dose than some of the Republican members could stand; and as a consequence they "bolted," though he was the regular caucus nominee.

From all accounts, this Mitchell is a very odorous individual. Changing his name may not have been amiss, because there is sometimes a great deal in a name, Shakespeare to the contrary notwithstanding; but his life seems to have been made up to a great extent with deception, trickery and insincerity. A few days ago, the *Oregonian*, of Portland, published statements which if true should have consigned him to the penitentiary instead of the United States Senate; and that they were true seems indisputable, for that paper, in various ways and at different times, has urged Mitchell to bring a criminal suit for libel, so it could have an opportunity to prove its statements in court; but he would have none of it, and, failing to join issue, judgment by default must be taken against him. The *Oregonian* says that a letter written by Mitchell to his wife's sister has been unearthed; in this letter he offered her marriage—insisted upon it, in fact—and promised to divorce his wife if the sister would take her place. It also charges him with bribery of members of the Legislature, and altogether makes him out as great a scoundrel as ever went to Washington, and that is saying a great deal. Even when he was in the Senate, he was generally looked upon most unfavorably, and he seemed to live and move in an unchanging atmosphere of suspicion if not of guilt. Yet he is the very man of whom the chief "Liberal" organ in this city recently spoke in glowing terms, pronouncing him a "fit person," a "representative citizen," a "worker," etc., or something implying as much, and was disposed generally to

hold him up to the admiration of the world! Measured by that paper's standard, he is doubtless a marvelous proper man; a would-be polygamist who casts off one wife that he may take another; a statesman who owes his prominence to the corrupt use of money; and a distinguished citizen who skulks behind the cover of an assumed name—just the man of men to suit the average anti-"Mormon!" He is doubtless the latter also, to an unlimited extent; that kind of people generally are.

## THE "AMERICAN'S" OPINION.

THE *American*, a paper published in Philadelphia, after giving a brief synopsis of the late report of the Utah Commissioners, comments as follows upon some of its absurd and outrageous suggestions:

"They would shut our ports to Mormon as to Chinese immigrants, and they would exclude Mormons from the benefits of the land laws. We doubt the wisdom of these recommendations. With Mormonism as a form of faith, and even with the belief that polygamy is right and proper, the government has nothing to do. It is only the practice of polygamy within its territory that brings the subject within its ken. To shut out any class of immigrants because they entertain objectionable or unpopular beliefs, or to exclude from the advantages of the homestead law any person who entertains unsound views of the marriage relation, is a very long stride back towards the religious intolerance which we are supposed to have left far behind us. Certainly a law to enact these restrictions on liberty of belief would not stand for an instant the scrutiny of the Supreme Court."

"The territorial authorities of Idaho are taking steps to apply the penalties of the Edmunds law to the polygamists of that Territory. The Saints in Idaho form a large and increasing element of the population: and although fewer of them are polygamists than in Utah, there are enough to give the courts some work. Idaho cannot afford to make herself a harbor of refuge for polygamists from Utah, and that is exactly what she will become if she neglects the growth of this evil. But would it not be wise and politic for the Idaho authorities to apply the 'unlawful cohabitation' clauses of the Edmunds law to any 'Gentile' who is found violating them? It would serve the purpose of showing that religious intolerance was not the purpose or effect of the law."

The *American* can hope for no popularity with the Commissioners or any other non-"Mormon" residents of Utah or Idaho if it is going to make such suggestions as that last. In the language of an Idaho paper, when commenting upon a mistake made by Marshal Dubois, in arresting for unlawful cohabitation a "Mormon" who only happened to have one wife (and after begging for the Marshal to turn him loose), "If men with only one wife are to be prosecuted for unlawful cohabitation, where will this thing end?" The Commissioners are determined that the law shall not be made to fit the cases of any who are not "Mormons," and who may be conspicuous for their lascivious propensities. They doubtless see that if it were so applied it might, boomerang-like, rebound upon its projectors, advocates and enforcers, so they endeavor to provide against that by reminding the Secretary of the Interior that "The law was not directed at individual lascivious practices, but against the assault made by the 'Mormon' Church upon the most cherished institution of our civilization—the monogamic system." It is a wonder they don't recommend the wholesale conviction of the Church for the offense! Indeed, what they do recommend really amounts to a punishment of the whole community, for they would have every person disfranchised and deprived of exercising other rights of citizens who believe in or sympathize with the "Mormon" religion. Whether "religious intolerance" was the purpose of the law or not, there can be no doubt but it is the purpose of its enforcers and the effect of the law so far as they have the power rightfully or wrongfully to enforce it.

The *American* is to be honored for the feeling of fairness which it entertains towards the "Mormons." It is one of the few papers which has a word to say in their favor.

## BAPTIST CLERGYMEN WRESTLING WITH "MORMONISM."

THE Baptists have been holding a convention of ministers in New York, during which many subjects of importance to their society and to the "Christian" world generally have been discussed. Among these "Mormonism" was given a prominent place. All the religious societies, both those whose age has secured for them the title of orthodox, and those which have fought their way from heterodoxy into the lines of orthodoxy, appear to think it necessary to say something on the "Mormon" question when they hold their conferences, conventions, councils, convocations, or other general ecclesiastical assemblies. If the Church of Jesus Christ of Latter-day Saints is a small body, numerically, it