EDITORIALS.

LEGAL WIVES NOT WITNESSES.

LEGAL wives in all the States and Territories should be informed as to their rights as witnesses in cases arising under the laws of the United States. Perhaps this may not be of so much importance to ladies anywhere except in Utah and Idaho, because only in those Territories is it probable that any attempt will be made to force them to testify when the law excludes their testimony. There are ignorant Commissioners and malignant prosecutors who have often exceeded the bounds of the law, and who might presume on the lack of legal information of many ladies, so the public should be posted on this matter:

The first section of the new Act of Congress which became a law without the President's signature provides:

"That in any proceeding or examination before a grand jury, a judge, justice, or a United States commissioner, or a court in any prosecution for bigamy, polygamy or unlawful cohabitation, under any statute of the United States, the lawful husband or wife of the person accused shall be a competent witness, and may be called, but shall not be compelled to testify in such proceeding, examination, or prosecution without the consent of the husband or wife, as the case may be: and such witness shall not be permitted to testify as to any statement or communication made by either husband or wife to each other, during the existence of the marriage relation, deemed confidential at common law."

It will be seen from this that the legal wife may be called before a grand jury or a court in a case against her husband for an offence against the Edmunds law, but she may not be compelled to testify without the husband's consent. And she may not be permitted to testify at all as to a confidential statement or communication made to her by the husband during the existence of the marriage contract.

This effectually shuts the mouth of every insulting public prosecutor, when he wants to harass a wife and irritate her husband, by plying her with prurient questions and endeavoring to sow the seeds of discord between married persons. It is a blast from Congress from which some spiteful attorneys cannot recover. It is a rebuke to the excessively zealously officials who have used the terrors of the law, in order to frighten lawful wives into making statements that could be used to criminate their husbands. It is liberation from the torture which legal fiends have taken delight in inflicting upon helpless victims.

But legal wives must understand that if subpœnaed they must attend and obey the summons, if properly served, and can then establish their right of exemption from giving testimony. When they are duly sworn they can state the fact of their marriage to the accused, and when and where the contract was made, but need not answer any questions as to their husband's relations to other persons, or give any testimony calculated to criminate him when he is charged with bigamy, polygamy or unlawful cohabitation or when an indictment is sought against him for either of those offenses.

This is the redeeming feature of the latest anti-"Mormon" legislation. It is in accord with both common law and statutory provisions in England and America. Contrary practice in Utah has been predicated upon a strained and partial construction of a Territorial statute, which every associating circumstance went to show was designed in the same spirit as the law of Congress now in force.

Let legal wives stand upon their rights, and let no husband or wife be imposed upon by special pleadings or arbitrary rulings, when the new law is so plain that all may understand its language and intent.

DECADENCE OF MORAL COURAGE.

A SHORT time ago we expressed our views on the lack of moral courage in public men, deplored its decadence, and illustrated it by reference to the course of Congressmen, who voted for anti-"Mormon" measures which their judgment and conscience alike condemned, but which they were afraid of opposing because of popular opinion. We clip the following on this subject from the editorial columns of the Boston *Herald*. Commenting on the speech at Chicago made by James Russell Lowell, the *Herald* does not review the whole oration, but touches on this point only:

"When he said 'I have a feeling that what is wanting in our politicians of the present day, more than anything else, is the one element of courage,' he probed to the seat of the disease that makes our partisanship so dishonest and our legislation so scandalous. The men who lead in the politics of to-day are wanting in courage, the high courage which is not afraid of being in a minority, and, therefore, makes a man brave and powerful in advocacy of the convictions of his own judgment, no matter who or how many are in opposition. They are disposed to ridicule the fanatic who said, "One man with God is a majority." Perhaps they admire the sentiment of Luther, who would enter the hostile city though every tile on the roofs was a devil; but they beg to be excused from imitating his example. They much prefer to comfort themselves with the maxim, *vox populi vox Dei est*, or the sentiment attributed to Napoleon: "God is on the side of the heaviest artillery."

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"It is not only that those in office want the courage to resist by speech and votes the enactment of laws which they believe are unwise and injurious when there is a popular clamor for them, although that weakness is as common as it is injurious, but they want the courage to say, at home and to their fellow-citizens what they really think upon questions of public policy. They neglect the duty of contributing to the discussion of public affairs their honest judgment, and they do it because they are cowards. They are content to think, or at least to advocate, whatever the majority of their party thinks or advocates, and are in far too many instances unwilling to commit themselves until they discover what opinion other people want them to have.

Thus they lose the opportunity of helping to form and establish public sentiment; but they are apt to get in front of the procession with a flag in their hand, when they have discoverd which way it is likely to march. These 'dreffle smart' politicians imagine that the only way to direct the people is to humor and delude them. They fancy that it is easier to flatter wrong ideas and circumvent them than to show them wherein they are wrong. That in this particular a large proportion of politicians justly estimate their own talent cannot be disputed. They are by nature and training disqualified for exerting any influence in forming men's judgment; their only hope of success lies in pandering to the prejudices of the mob.

By habituating themselves to a suppression of opinions that are unpopular in order to get office, and to doing acts which their better judgment condemns, in order to keep office, they soon blunt their apprehension of the right or wrong of measures or policies, and even come to think that there is no right or wrong involved, or no other right and wrong than that which relates to personal or party success. We have no doubt that Gen. Bragg told the exact truth when he said that he knew, from talks with them, that numbers of Representatives on the Republican side thought the disability pension bill was an unwise and wrongful measure, but there wasn't a man of them who had the courage to vote to sustain the veto. It was judged to be a measure of party policy to vote against it. The next elections should teach them a lesson."

The truth of the foregoing cannot be successfully denied. It is as patent as it is deplorable. When Hon. George Q. Cannon was denied his seat in the House of Representatives, as Delegate from Utah, there were scores of members who knew the action taken was wrong and despicable, and they felt like kicking themselves for their own cowardice in failing to stand up for fairness and right. But they asked, "What can we do? It would cost us our positions if we attempted to stem the popular tide. We are ashamed to own it, but we haven't the courage to resist it."

When the Edmunds bill was howled through the House without consideration and without fair debate, similar confessions were made. The bill was demanded by the clergy and their congregations. It was known to be vicious legislation and purposely made capable of more than it expressed; but public men who knew this dared not maintain correct principles and their own honor by opposing the measure.

Exactly the same in the enactment of the latest law against the "Mormons." Men in both Houses refrained from voting because they had not the valor to fight against it, and they could not endorse the errors and evils it contained. A few brave souls raised their hands and voices in protest against the iniquity, but most of the objectors either shut their eyes and swallowed the dose, or remained on neutral ground, neither receiving nor rejecting it.

This was also the position of President Cleveland who, however, has manifested so often the courage of conviction in face of a host of opposers, that he may perhaps be pardoned for failure to resist the enormous pressure brought to bear upon him in this instance. Moral courage is a rare quality, but it is as admirable as it is uncommon, and he who shows it when the greatest odds are against him is a hero and a prince among men, and when he battles for the right will be approved of God and honored by all just people.

A CUSTOM THAT SHOULD BE ABOLISHED.

WE have received, for publication, a card expressing the thanks of its writer to a Bishop and Counselor of one of the Wards of this city for acts of kindness performed during a time of sickness and affliction. We refrain from publishing it on several grounds. The first is, that we doubt very much that the two ward officials referred to would appreciate such a public method of thanking them for performing a plain and beneficent duty of their calling. If it is in order in that way to thank men acting in their capacity for doing their duty in relation to looking to the welfare and consolation of the afflicted, then it would be equally in order to censure them in the event of its neglect. The brethren who performed the acts of kindness in this instance were not moved by a desire to be "seen of men," but to have the satisfaction which accrues from alleviating distress among their fellow-men and doing that which was obligatory upon them. The motive of the person who sent the card is, however, beyond doubt, being unquestionably good.

We consider that the offices held by the gentlemen who exhibited their solicitude for the afflicted gives us a plain opportunity to decline to publish without running the risk of hurting the feelings of the person who desires the insertion of the card in these columns. It also gives us occasion to state that cards of thanks generally, from bereaved persons, are not in good taste, and we hope that our friends will remember that this opinion is pretty strong with us. The reason they have been published has not been because we have thought them either called for or consistent. People who manifest kindness—both substantial and sentimental—toward the bereaved and afflicted are actuated by a generous disposition, and are not presumed to be desirous of having their private acts of goodness placed before the general public, and they cannot but understand that they are appreciated by those upon whom they are bestowed.

We hope the custom of publishing cards of thanks under such circumstances will speedily die out.

SHE IS NOT HAPPY.

WE learn from the Kansas City *Journal* that Miss Kate Field there recently delivered her "'Mormon' Monster" in the presence of a somewhat large audience. That is to say that a portion of those gathered together on the occasion were present during the whole of the operation, a large number arising from their seats and leaving the hall before its completion. This want of appreciation of the lecture on the part of the Kansans inspired the little woman with disgust—the same sentiment which doubtless incited them to retire.

The lecturer was interviewed, after the remnant of the audience dispersed, by an enterprising reporter of the *Journal*, and the following is a part of the conversation:

"On being told that it was rumored that, as one of the richest women in America, she would invest heavily here, she said:

'What rot! If I was a rich woman I tell you I should live up to my reputation, and shouldn't be living around this way lecturing. I wish the rumor to be contradicted.'

When asked why she objected to the idea, she said: 'First, because it is a lie, and I hate lies; and, then, I am overrun with begging letters.'"

The features that project in that extract are that Miss Field is somewhat slangy, does not want to be considered wealthy, is running the "monster" business as a mere pecuniary consideration and is not one of that kind of women who run around hunting up objects of commiseration upon whom she can bestow charity.

PREVENTION OF FIRES IN RAILROAD WRECKS.

IN view of the many disastrous results of the present methods of lighting and heating railway cars, and the unanimous verdict of the traveling public that something should be done at once to insure greater security from the terrible death by fire so frequently occurring in cases of accident, the railway kings are anxiously casting about for methods that shall meet this pressing necessity. Among the plans suggested to accomplish this purpose the Boston & Albany railroad have decided to adopt that of heating by steam and lighting by means of electricity. The superintendent states that the cars are now being fitted with these appliances and that shortly two through trains between New York and Boston will be running on this plan, thereby insuring comparative immunity from death by fire.

The New York Board of Railroad Commissioners, however, reports on this subject that it finds that the heating by steam from the locomotive is not feasible in the general railroad service. Its recommendations are contained in a bill which prohibits any stove in passenger cars, inside or out, unless it is constructed and guarded so as to prevent the car from taking fire under all circumstances; prohibits oil in lamps of less than 300 degrees fire test; prescribes flooring in bridges and cattle guards strong enough to support derailed cars; with guard rails on them and their approaches to guide the derailed cars back upon the rails and pressable guard posts at approaches to bridges to catch the blow from any derailed car instead of the superstructure of the bridge itself.

The minority report recommends the heating of cars by steam from the locomotive and objects to kerosene for light. Bills to those ends are presented.

One firm in the east, in order to avoid fire, is building incombustible cars which are constructed exclusively of iron. The main objections to these, so far advanced, is that they are far from being either beautiful or comfortable. Massive, indestructible stoves, so locked and guarded as to prevent the possibility of the fire reaching the woodwork of the cars, have been proposed, and lamp oil of such a heavy character as to entirely obviate the danger of explosion has been suggested, and we believe is now used on the Union Pacific lines.

It is said that in a multitude of counselors there is safety, and it will probably not be long before some plan will be generally adopted that will avoid the dangers of the present system of heating and lighting railway carriages.

PROBATE COURTS AND PRIVATE CORPORATIONS.

SOME people in their undue anxiety to appear upright get so straight that they lean over backwards. The Edmunds law Number Two provides:

SEC. 12. That the laws enacted by the Legislative Assembly of the Territory of Utah, conferring jurisdiction upon probate courts, or the judges thereof, or any of them, in said Territory, other than in respect of the estates of deceased persons, and in respect of the guardianship of the persons and property of infants, and in respect of the persons and property of persons not of sound mind, are hereby disapproved and annulled; and no probate court or judge of probate shall exercise any jurisdiction other than in respect of the matters aforesaid, except as a member of a county court; and every such jurisdiction so by force of this act withdrawn from the said probate courts or judges shall be had and exercised by the district courts of said Territory respectively.

In the incorporation laws of this Territory it is provided that when a corporation is organized for mining, manufacturing, commercial or other industrial pursuits, or for other specified purposes, an agreement in writing, signed by each of the incorporators shall be acknowledged by at least three of their number before the Probate Judge of the county in which the business is to be established. The agreement, with the oath or affirmation, is to be filed with the Probate Clerk of that county and by him recorded in a book kept for the purpose. Before the officers of the corporation enter upon their duties, they are to enter into bonds to the acceptance of the Probate Judge, and the bonds are to be filed with the County Clerk. A certificate to the effect that these provision of the law have been complied with is to be issued by the Probate Clerk, and, *in some cases*, this, with a copy of the articles of agreement and the oath or affirmation must be filed with the Secretary of the Territory, who is to issue a certificate under the great seal of the Territory.

Some newly organized corporations, not having been fully advised, perhaps, have jumped to the conclusion that the Probate Judges are no longer authorized to perform the duties defined in the incorporation laws, and have rushed to the District Court supposing that thereby they were complying with the new law of Congress. We believe that the results will show they have made a great mistake. Let us examine the question briefly but carefully:

The new law transfers all jurisdiction, except in respect of the powers named, from the Probate Courts of Utah to the District Courts. The question to be decided then, in relation to this subject, is what is meant by "jurisdiction?" Here is the definition given by Bouvier, a recognized authority on all legal terms:

"A power constitutionally conferred upon a judge or magistrate, to take cognizance of, and decide causes according to law and to carry his sentence into execution."

Webster's definition is in accord with this. Judicial authority is comprehended in the term. The word appearing in the law in reference to the powers of a court must be taken according to its legal signification. Jurisdiction is either original or appellate, civil or criminal, concurrent or exclusive. In either case it relates to the exercise of judicial functions. The jurisdiction of a judge means the power he holds as such. The acknowledgment of a legal paper, the acceptance of a bond, the issuance of a certificate are not judicial acts. They are often performed by persons who have no judicial powers whatever.

The Organic Act provides that

"The judicial power of said Territory shall be vested in a Supreme Court, District Courts, Probate Courts and in Justices of the Peace."

"The jurisdiction of the several courts herein provided for, both appellate and original, and that of the Probate Courts and Justices of the Peace, shall be as limited by law."

For a long time the Probate Courts exercised concurrent, original jurisdiction with the District Courts in both civil and criminal cases under the laws of the Territory. But in 1874 the Poland law was enacted which provides that,

"Probate Judges in their respective counties shall have jurisdiction in the settlement of the estates of decedents, and in matters of guardianship and other like matters; but otherwise they shall have no civil, chancery, or criminal jurisdiction whatever; they shall have jurisdiction in suits of divorce, for statutory causes, concurrently with the District Courts; but any defendant in a suit for divorce commenced in a Probate Court shall be entitled after apearance, and before plea or answer, to have said suit removed to the District Court having jurisdiction."

The authority vested in the Probate Courts to enter land for the occupants of towns, etc., was not called "jurisdiction" by the Poland law, and was retained under it, as were all other powers except in respect to their *jurisdiction*, which was limited as above.

Now comes a further limit to that jurisdiction, taking away the powers of the Probate Courts as to suits for divorce, which are made original and exclusive to the District Courts. The jurisdiction of the former is limited to the exercise of probate powers. But this does not deprive them of authority over matters in which no judicial power is used and which is conferred upon them by law. The territorial laws in regard to the incorporation of associations for business of different kinds, are not affected by the Edmunds law Number Two. The Probate Judges are hereafter to be appointed by the President and Senate instead of elected by the people, but this does not change their duties nor limit their powers. The present incumbents will serve out their terms, but their jurisdiction in regard to divorce suits is taken away, and their jurisdiction or judicial power is limited as defined in the section first quoted above.

It will be found, then, in our opinion, that those corporations which have not made their acknowledgements and filed their papers with the Probate Judges and Clerks, have not complied with the law and are therefore not entitled to the benefits thereof. This is a matter worthy of their attention and they should duly consider it.

There is a provision of the law which seems to have slipped the attention of incorporators generally; that is that many corporations have no need to file their articles of agreement, etc., with the Secretary of the Territory nor to obtain his certificate. The law says:

"*Provided* that corporations formed for religious, social, benevolent, educational or scientific purposes, or corporations formed for the construction of irrigating ditches, or corporations known in this Territory as 'co-operative mercantile institutions,' shall not be required to file copies of their articles in the office of the Secretary of the Territory, but the County Clerk shall issue to such corporations, under the seal of the court, a certificate to the effect that the articles of agreement and oath or affirmation have been filed in his office, which certificate shall be evidence of the due incorporation of the same."

This is sufficiently explicit and appears in the law on Private Corporations of 1884. With these considerations, is not the action of those incorporators who have been in such a hurry to run to the District Court a little too previous? It is a matter that deserves careful examination and due caution, for an association unlawfully incorporated is not a corporation, and difficulties and complications may grow out of an unintentional error that will cause great trouble and much expense.

THE LAMENTATIONS OF THE LEAGUE.

WE hear of blue streaks of profanity from the lips of "Loyal Leagues" over the Supplementary Edmunds Law which has taken the place of the Tucker concoction. We cannot repeat their language, we can only allude to their lamentations. If this new law is such a "contemptible," "boneless," "useless" thing, as they declare in private, why do they attempt to pretend that they rejoice over it in public?

We are afraid that the half dollars cease to drop from the dupes who have supplied the ammunition for the campaign, and that they will soon see that the fun and the honey have all been for the two B's who have turned tail upon Washington with their stings extracted, while the chagrin and the waste of cash have all been for the downcast donaters. And that the exclamation at the end of the next financial month will be: "Oh, what a falling off was there!"

The test oath, on which it was confessed "everything depended," turns out to be just exactly what was not wanted by the hungry crew who echo Flanagan's famous query, "What in h—— are we here for if not for the offices?" There is trouble in the "Liberal" camp and much "cussing" of "traitors" who are held reponsible