EDITORIALS.

A PHYSICIAN WITH STRONG SYMPTOMS.

As relating an instance of superabundant assurance mingled with unmitigated presumption, we commend to our readers the account of an incident connected with the city quarantine. There does not appear to be any special effort on the part of the spoliation party to disguise the fact that certain of its members expect to fill certain specified offices in the event of the Edmunds-Tucker bill becoming a law. Doubtless numbers of these prospective appointments have been arranged for. Those who have offices in their mind's eye are in hot haste to seize them in fact. Some of them are not willing to merely let

"Fond anticipation forward point the view,"

But are seeking to appropriate them now.

There's many a slip
'Twixt the cup and the lip,

And if Dr. Taggart has been assured that he will have a claim to afflict the community of this city as quarantine physician, in case certain contingencies arise, he should not forget that the opportunity must exist before the anticipation can be realized. Still, we have no objection to his making a usurpative attempt. He is credited with stating that if Dr. Clinton, the city quarantine physician, should do a certain thing he would have that functionary arrested. The city officia has done what he forbade him to do Now, what is in the way of his putting his threat into execution? Suppose you do it, Dr. Taggart!

THE CURFEW ORDINANCE.

The City Council on Tuesday evening considered the form of an ordinance establishing the curfew in this city. It was ordered to be printed and will come up for future action. Its provisions, with one exception, we believe will meet the approval of all citizens who desire to help parents in keeping their children within doors after dark, and the police in clearing the streets from the crowds of young folks that are now permitted to prowl around after nightfall. The exception is the four o'clock in the morning bell, which we think is needless and will serve no other purpose than to wake up good people who desire a little more matutinal slumber. There may be reasons for it with which we are unacquainted, but as it now appears it looks unnecessary and unwise. We hope the ordinance will receive immediate and candid attention from the City Council, and that when it is revised and enacted, special policemen enough will be detailed in the various wards to see that its provisions are rigorously enforced.

FIRING AT A HOLE IN THE GROUND.

From all accounts "Grim visaged war" has not finally "smoothed his wrinkled front," and the peace society will have to wait yet longer for the advent of that sweet dream of peace when every man in every place shall meet a brother and a friend. Our exchanges teem with editorials on the expected struggle in Europe. War is claimed to be inevitable and almost at our doors; that within three months Europe will be shaken by the shock of millions of men in mortal conflict and the end thereof no man knoweth. While this is the situation abroad our military *savants* at home seem apprehensive that stray shots may straggle across the Atlantic, and they are anxiously casting about for the best means of coast defense. The coast is a long one—so long that any attempt to defend it by ordinary methods of fortification would be manifestly impracticable. As for our navy, a recent official report virtually characterizes it as a lot of old tubs that can neither fight nor run. The situation in regard to coast defense reminds one forcibly of the excitement in Great Britain during the late war of the rebellion, at the time of the conflict between the *Monitor* and *Merrimac*. The London *Times* was so profoundly impressed with the power of those ironclads as engines of destruction that it published repeated editorials, day after day, manifesting the greatest anxiety for the safety of the kingdom; claiming that for purposes of defence the "wooden walls of England" were utterly useless in the face of such vessels; that they could cross the Atlantic, steam up the Thames and bombard the City of London, in spite of all its fortifications and the famous English navy, with perfect impunity. But the situation is now changed While the United States government has made comparitively little improvement in vessels since the war, the nations of Europe have been supplied with terrible ironclad devastators, floating batteries and Krupp guns of almost incredible dimensions and power, so that the situation is now practically reversed. Realizing the helpless condition of the nation in regard to coast defense, various plans have been suggested to meet the emergency, among the rest the planting of torpedoes, the construction of submarine torpedo boats, etc. The latest suggestion that comes to hand on this subject is one that is proposed by Major General Sir Andrew Clarke, inspector general of fortifications, of the British army. It has been proposed to spend $135,000,000 on United States coast fortifications, but General Clarke thinks this amount altogether uncalled for. He makes the somewhat startling statement that fortifications are entirely unnecessary; that the country can be defended better without than with fortifications. He declares that he would simply dig pits in each of which a heavy gun should it placed, where it could be loaded and then raised by machinery above the surface and fired. The machinery could be set in motion by electricity, and by the same means trained and fired, the person in charge being, if necessary, a mile distant. Except when the gun was being fired the enemy would have nothing to shoot at but a hole in the ground. The General claims from experience in similar warfare, that the suggestion is entirely practicable. However this may be it certainly has the merit of novelty.

A MASTERLY SPEECH.

We publish in full to-day, from the *Congressional Record* of January 13, the speech of Hon. John T. Caine, Delegate from Utah in the House of Representatives, against the passage of the Tucker-Edmunds bill. No one can read it carefully without feeling its truth and recognizing the force of its reasoning. It is at once a plea for a maligned and oppressed people, a refutation of many calumnies against them, a constitutional and legal disquisition, an arraignment of the chief champion of the bill as proceeding against his own expressed opinions and published sentiments, an expose of the self-contradictions of the Supreme Court of the United States in regard to disfranchising legislation, a denunciation of test-oath injustice, a vindication of "Mormon" industry, morality and loyalty, an argument against various provisions of the bill, and a protest against the flagrant wrongs sought to be inflicted upon a peaceable community.

The whole speech is worthy of perusal and close examination. It is sound, consistent in all its parts, convincing, pathetic and irrefutable. It is worthy of his theme and of his constituents. It was effective upon the vast body of his hearers. That it did not prevent the passage of the iniquitous measure it opposed, counts nothing against the argument. The bill was not passed in the House on the basis of argument, but as a foregone conclusion and in spite of reason, justice and the good sense of numerous members, who thought more of popular opinion than of honor and of right.

We congratulate the Delegate on his excellent speech, and commend it to the attention of all who are willing to listen to reason and to consider a matter before taking action against it. Of such are not the members of the lower House of Congress on this subject, for they put a gag upon the lips of all who wished to amend or offer practical objections to the bill, and, shutting their eyes to facts and their ears to reason, they shouted the measure through like a mob and, in the fashion of Lynch law, condemned a whole people to political death first and considered the case of the victims afterwards.

The speech of Mr. Caine goes upon the record of the nation as a manly, logical and eloquent protest against a piece of legislative infamy unparalleled in the history of the United States.

THAT OGDEN HISTORY.

We have made no comments on the dispute over Tullidge's history of Ogden City while the case has been pending in the District Court, but the subject is worthy of public attention. Edward W. Tullidge has achieved a substantial and deserved reputation as a local historian. His literary abilities are generally acknowledged, his industry is remarkable, and his means of acquiring reliable data of the kind in question are unsurpassed by any public writer. What he has done shows what he is able to do, and his past successes are guaranties of future productions. We do not know that any one questions his ability to write a history of Ogden C that would be reliable, accurate, readable, artistic and in every way worthy of the theme.

The City Council of Ogden authorized the appropriation of one thousand dollars from the city treasury towards the compilation and publication of an impartial, non-sectarian and unpartizan history of the city, embracing a period of thirty-five years. The whole to occupy two hundred pages of a book containing historical matter relating to Weber County and other parts of Northern Utah. Conditions were exacted and accepted which would ensure the fulfilment of a contract on these terms, and a committee of three was appointed, one of whom was a respectable non-"Mormon" of standing and repute among the so-called "Liberal" party, to act as a board of revision and see that the terms of the agreement were complied with.

On the complaint of a virulent anti-"Mormon," an injunction was obtained from the First District Court, to prevent this expenditure of public money. A demurrer was interposed by the city authorities through counsel, and that demurrer has been overruled by the Court. Judge Henderson takes the grouud that the City Council has no authority in the charter to expend money for any such purpose. That virtually settles the matter from a legal point of view. It will be useless probably for the City to carry the controversy further. With the present constitution of the courts it is not likely that the laws will be so construed as to give any leeway to a City Council composed of members of the People's Party.

It is not denied by any one that the publication of the history will be a commendable work, and that the city would be benefited by it in a business sense, to say nothing of its literary effects and its value as a work of reference in all future time. The objections on which the application for the injunction was based, prove on examination to be groundless, and to have emanated from that spirit of spite and obstruction that sours the average anti-"Mormon" heart. The work was not designed to be "Mormon" in any sense of the word, unless it is in the fact that it would be true, reliable and profitable to the public and to future generations.

But Ogden ought to be public-spirited enough to carry out its own designs in spite of the factious opposition of a few malignants. Private enterprise can do that for which public means may not be used. The work is for the public benefit and ought to be aided by public funds. But never mind. Ogden wants that history and ought to have it. There is grit enough and liberality enough to easily double that one thousand dollars, we should think, among the wealthier business men of the City, and the expenditure, in our opinion, would be wisely and profitably employed.

The small sum which the City Council is prevented from appropriating to this important work was not supposed to be anything like a full remuneration for the labor. It was only designed as help in that direction. We hope to hear that the live men who favored the proposition have moved forward in the matter, and that Ogden is to have its history and the author to have more than the amount that niggards and obstructionists have denied him.

JUDICIAL PERFIDY.

We direct attention to the charge of Judge Jacob S. Boreman to the jury in the case of Wm. Thompson, which will be found in full in another column. Those of our readers who have had enough of this matter and are not particularly interested in the important questions, involving the right to take human life, that enter into it, need not examine the charge nor proceed further in this article. But men and women who desire to know their rights and to understand the extent of the wrongs sought to be inflicted on this community, should thoroughly investigate the whole subject.

The charge is a sort of patchwork. It was partly written and partly oral. Some of it the opinion of the Judge, part of it is the interpolation of the so-called "prosecuting attorney" who really pleaded for the defense, and the rest of it the suggestions of the defendant's counsel. It is a lame and halting speech, and being evidently intended to clear the assassin of the legal consequences of his crime, needed the crutches supplied by the lawyers on either side, both engaged in the same cause.

Judge Boreman confined his instructions to the jury to renderings of the territorial statutes relating to the offence charged. He ignored entirely the waste of words by which Mr. Varian endeavored to show that the territorial statutes cut no figure in the case. But he adopted the vicious, monstrous and murderous doctrine of the pretended prosecution, justifying a bloodthirsty deputy in shooting to death a person for whom he has a warrant under the laws of the United States, no matter how simple may be the offence charged.

Mr. Varian's claim was this: "I say here, it cannot be supposed that the Territorial Act in relation to the justification of an officer is to control and bind the court, in a case where a United States officer is engaged in serving a process and in enforcing the laws of the United States." But the Judge ruled entirely under the Territorial Act notwithstanding. And why? Because there is no law of the United States that, by any possibility of legal twisting or judicial jugglery, could be construed in justification of the defendant. There is nothing in the United States statutes that authorizes an officer to take human life in executing civil process. The common law, which Mr. Varian in one breath said was outgrown and abolished so far as it relates to criminal offences in the United States, and in another endeavored to make apply in this case, also affords no justification to an officer in the circumstances admitted in the case at bar. Therefore the territorial statutes, that Mr. Varian is sworn to honor but endeavored to trample upon, were the only resource and we shall see how they were perverted to screen the defendant.

In the Penal Code crimes are divided into two classes; namely, felonies and misdemeanors. Mr. Varian attempted, in a long string of sophistical assertions and citations, to show that under the laws of the United States no distinction exists between the two classes of crimes, and yet admitted that under those laws some crimes are distinctly defined to be felonies, while others are classed as misdemeanors, thus disproving his own argument. But the territorial statutes, like those of other Territories and the States, draw a sharp distinction between the two classes of crimes. A misdemeanor is not a felony, either under the common law, the laws of the United States or the laws of Utah. There is no getting round this plain proposition, and all the pettifogging in the world, whether from the bar or the bench, cannot confuse this in a mind that keeps the distinction in view.

Judge Boreman perceived this, and also the position in which it would place him if he, sworn to adjudicate upon the laws of the Territory equally with those of the United States, attempted, like Mr. Varian, to make them of no effect upon a deputy-marshal. By doing this he would set up the plainly fallacious notion that a deputy-marshal is above the jurisdiction of the Territorial laws. A vile enough doctrine to be enunciated by a prosecuting attorney, but still more vicious and shameful if sustained by a Judge. Therefore he endeavored to give a meaning to the territorial statute not only unwarranted by its language but totally at variance with its provisions.

The law justifies an officer in taking life if necessary to the arrest of a felon, or one against whom the officer holds a warrant for felony, if escaping from arrest. The whole question of law was whether Dalton was under indictment for a felony. The question whether the shooting was necessary, was one for the jury to determine. The court was simply expounding the law. What was the simple and direct way of determining the legal question? Was it not examination of the law defining the offence of which Dalton was accused? If that alleged offence was felony, the officer might, under given circumstances, in case of necessity, shoot the accused to ensure his arrest. But if it was not felony he was not justified by the law. Dalton was accused of unlawful cohabitation. The law creating the offence says distinctly that it is a misdemeanor. Does not that legally settle the question? And therefore is it not clear that the shooting was unjustifiable?

But here comes in the judicial quibble advanced by Mr. Varian and adopted by Judge Boreman. The Territorial statute says:

"Crimes are divided into: "First—felonies; and second—misdemeanors.

"A felony is a crime which is, or may be punishable with death, or by imprisonment in the penitentiary. Every other crime is a misdemeanor."

"Except in cases where a different punishment is prescribed by this code, every offense declared to be a felony is punishable by imprisonment in the penitentiary not exceeding five years.

"Except in cases where a different punishment is prescribed by this code, every offense declared to be a misdemeanor is punishable by imprisonment in a county jail not exceeding six months; or by a fine not exceeding three hundred dollars or both."

That is the law. Now hear the ruling of the Judge:

"The punishment of unlawful cohabitation under the laws of this Territory could be by imprisonment in the penitentiary. A felony is a crime which is made punishable by death or imprisonment in the penitentiary. In contemplation of the territorial statutes, therefore, this was a penitentiary offence."

This we have no hesitation in pronouncing a shameful and palpable FALSEHOOD! Under the laws of the Territory the offence called "unlawful cohabitation" is not and cannot be punished at all. It is neither a felony nor a misdemeanor. It is not at crime of any character. It is not a penitentiary offence nor even a county jail offence. It is not to be found in the Penal Code nor in any other existing territorial statute. This is beyond dispute. The books are the unimpeachable witnesses. To find out anything about that offense we must go to the United States law that created it. The third section of the Edmunds Act defines it a misdemeanor, and fixes the maximum punishment at six months imprisonment and a fine of three hundred dollars. That ought to settle the question.

But coming back to the territorial statute, partly quoted and falsely rendered by Judge Boreman, the provision is that "every offense declared to be a misdemeanor is punishable by imprisonment *in the county jail* not exceeding six months or by a fine not exceeding three hundred dollars or by both." Unlawful cohabitation is specially "declared to be a misdemeanor" by Act of Congress. Thus there is no law, either of the United States or of this Territory, making unlawful cohabitation a *penitentiary* offence or constituting it a felony in any way. Therefore the Judge's charge to the contrary was untrue, misleading and calculated to deceive the public and justify assassins taking shelter under the name of deputy marshals.

We cannot think that either the prosecuting attorney who made the pernicious plea, or the Judge who adopted the murderous doctrine, and thus aided in turning the manslayer loose without punishment, was so ignorant as not to know that this position was unsound. But the specious fallacy was allowed to prevail that the end justifies the means; that the capture of a "Mormon" accused of infraction of the Edmunds law is more important than the protection of human life; and that murder may be made innocent to enforce a congressional statute.

This charge of the Judge was the excuse of the jury. An essential crime was justified by a legal tribunal. A cowardly assassin who laid in wait with a rifle, borrowed and loaded for the purpose, and, waiting till his victim was not likely to see his assailant, cried "halt" and shot him through the back to death, was voted free from blame. And the law framed to punish such hellish deeds of blood and horror, is made the instrument of shielding and applauding the sneak and murderer and as encouragement to further capital crime. That is how justice is administered in the courts of Utah.

THE EUROPEAN WAR PROSPECT.

Many of the public journals of this country and Europe are discussing the prospect of the early breaking out of a European war. Our opinion on the subject has been recently asked. We believe the prospect is decidedly in favor of the affirmative side of the question. The basis for such a belief can be briefly stated. The desire of the French people to avenge the humiliation of the defeat suffered in the late Franco-German war need not be dwelt upon. They have paid their government an immense amount of money for the purpose of putting the French armaments in a position to gratify this national sentiment. The French people expect the war of vengeance to open sometime during the coming spring or summer. If they should be disappointed the populace will probably rise against the government, the latter being therefore confronted with a choice between a war with Germany and an internal revolution. It is not improbable that the choice will fall upon the former.

The recent action of Bismarck, together with his utterances and those of Von Moltke, shows that this is the Premier's conviction. The great German statesman, with this idea firmly impressed upon his mind, has been asking for aid from the country to increase military facilities. He has apparently been defeated, but he will yet doubtless gain his point. He has also been coquetting with Russia, knowing that in the event of the breaking out of the anticipated war, peace must be secured with that country at any price, as Germany's position would be frightful if assailed simultaneously on two frontiers.

This possible contingency would be Russia's opportunity to make a dash for Constantinople, one of the most important strategic points in the world. In that event England would have to meet her eastern issue alone, or nearly so, her natural ally, France, having as much, or may be more, than she will be able to get along with in her struggle with her Teutonic neighbor. England might find a half-hearted and by no means stalwart ally in Italy, while Austria would as usual, look on a while and then go in on the side of the upper dog in the fight.

Events are in such a shape that, as war in Europe is inevitable, it is not unreasonable to expect the outbreak this year, and not very late in it either. The voice of revelation has said, without giving a definite date, beyond the fact that it will transpire in this generation, that "war will be poured out upon all nations." The fulfillment is merely a question of time, and necessarily brief.

Suppose these probabilities should become realities, what would be the local effect, bringing the matter closely home? One result is beyond question. Breadstuffs all over the world would take an upward jump in price. It is not necessary to here discuss why this should be. The wise foresee the evil day and provide against it. A hint to that class is sufficient.

WHY WE LIKE HIM.

Governor Zulick of Arizona performed a manly and consistent act in procuring the repeal of a most shameful law passed by a former Legislature. It made criminal that which is the right of every man in the Union. Membership in a religious society, no matter how false or absurd its tenets may seem to others, is not and cannot be made a crime. So long as the belief or membership does not "break out into overt acts against peace and good order," it is sacred to the individual holding it, and is under the protection of the supreme law of the land as interpreted by the Supreme Court of the land. The Act of the Arizona Legislature infringed upon that right and thus invaded the domain of personal liberty which is guaranteed to every citizen.