DESERET NEWS:

WEEKLY.

TRUTH AND LIBERTY.

PRINTED AND PUBLISHED BY THE

DESERET NEWS COMPANY.

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WEDNESDAY - DEC. 15, 1886

PUNISHMENT FOR "APPEARANCES."

THE latest judicial definition of the term unlawful cohabitation that we have heard of was given by Associate Justice Henderson, in pronouncing sentence upon Mr. George Chandler at Ogden. The defendant pleaded guilty to one count of the indictment against him, but denied the charge in the other counts. The Court, in a very kind and considerate manner, questioned the defendant in regard to his intentions for the future. This led to an interrogation from Mr. Chandler as to the meaning of the term which has been construed in so many different ways. Judge Henderson replied that, although there had been some difference in the way the courts had considered the law, he thought it had now a settled meaning. The Supreme Court of this Territory and also of the United States had passed upon it, and "it seems now to mean that those who have entered into a polygamous relation in the past must not only abstain from cohabiting with their wives, but from the appearance of it—that they will not set such an example hereafter."

We frequently hear of the decision of the Supreme Court of the United States on this still unsettled but important question. It appears to us that it is scarcely fair to make such a reference. The Supreme Court of the United States formally withdrew the only opinion it gave on this matter. It was in the case of Angus M. Cannon and did not reach the main question. It only related to the case before the court, which was that of a defendant who had lived in the same house with more wives than one, and who offered to prove that intimate marital relations had ceased since the passage of the Edmunds law. The court did not rule that a polygamist must cease from "*the appearance*" of cohabitation, except as it might be inferred from what it called "flaunting before the world the opportunities of a polygamous household." The court did not pass on any case in which the wives lived in separate establishments, nor on any case in which the defendant dwelt with one wife only. And whatever the court said on the case before it was subsequently withdrawn, and cannot therefore be properly cited as a judicial decision.

The Supreme Court of the Territory has passed upon the question, and Judge Henderson says that under the ruling of that court, a polygamist must not only cease from actual cohabitation with his wives but from the appearance of it. If that is his understanding of the construction given by that court, of course he is bound to abide by it as the law, until a change comes. He is not to be blamed for the wrong or the absurdity of the ruling. Defendants will have to suffer the consequence of the trash in the name of law, until a rational definition is given either by competent legislation or by judicial authority.

Judge Henderson is careful to say that this definition "seems" to be now the "settled meaning" of the law. This is wise in view of the probability of a further change when the features of a new case appear different from others. Half a dozen or more "settled meanings" have been given to the law, and there is no encouragement to think other than that as many more "settled meanings" may be given in the future, to the confusion of the public mind and the betrayal of victims to previous judicial errors. The present construction, of course, stands for the time being.

But the nonsense and injustice of it must be perceptible to every sane mind. To make a defendant responsible for what people may think or may gossip about him, to send a man to prison because of a mere appearance without a proof of wrong, is supremely ridiculous. And that it is without warrant of law is evident from reading the law. The language is very simple. It says nothing about "appearances." It makes cohabiting with more than one woman criminal. Appearing to cohabit is not a crime, either actual or statutory. It is not the appearance of a thing but the thing itself that is the object of legislation.

We venture to say that so absurd a requirement was never made before since the world began by any civilized court on earth, nor in relation to any other offense whether real or made criminal by law. Apply it to anything else and its folly and wrong are at once made manifest. Condemn a man for larceny, not because it has been proved that he has stolen, but from the appearance of it. Imprison a person for arson, not because there is evidence that he fired a building, but because he is reputed to be a firebug. Hang a defendant charged with murder, not because anybody has been killed, or, if a homicide has been committed, not from proof that he did the awful deed, but because the neighbors believe from appearances that he is an assassin.

There are men now serving out protracted sentences in the penitentiary, who have been deceived by the varied and contradictory renderings of courts of the term unlawful cohabitation. They conformed their lives to the law as previously construed by the courts, and were caught on a new twist of the legal pinhook. Many of them could not have been convicted if the law had been followed as it stands on the statute book, instead of the nonsensical, strained and unjust interpretations manufactured by courts for the several occasions.

If a defendant who has honestly tried to live by the law is required, as a condition of liberty, to promise to live so that no one can say he shows any *appearance* of violating its provisions, it is not likely that honest men will pledge themselves as desired. And any requirement of the kind, under the circumstances existing, is not only a burlesque on law, but is an outrage on every individual so placed in jeopardy. We know of nothing that is so much calculated to bring judicial authority into disrespect and derision, as the multifarious rulings upon the third section of the Edmunds Act.

THE GOVERNOR GONE TO WASHINGTON.

THE departure of Governor West for Washington gives rise to various comments. It is known that the gentleman desires to free the Territory from the financial bondage under which it has been laboring in consequence of the oolhardy course of the previous Executive. Money is needed for different public purposes, and the treasury is locked by Murray's veto of the appropriation bill. Relief can only come rom Congress, and it is believed that the present Governor intends to press for that relief, and thus open the way by which the territorial funds may be used for territorial purposes.

Understanding that it was the Governor's purpose to proceed to the national capital with this object in view, the plotters who have made a grand stake on securing the passage of the Tucker-Edmunds bill, thought it would be a big thing to commit the Governor to their nefarious project. They fear that the two hired B's will not have sufficient force to accomplish the work for which the *Half Dollar* League has engaged them, and therefore count on the prestige of the Governor's position to act as a make-weight. So a petition was quietly carried around by some of the bitterest and meanest of the jaundiced Leaguers, one of whom, we understand, denied any knowledge of the petition which he had been passing round for signatures, begging the Governor to assist in the business for which Baskin and Bennett had been hired.

It is now claimed that the Governor has gone to Washington in response to this petition. We cannot credit the rumor. The request, in our opinion, was an insult to the Executive, sworn to see that the laws are enforced and necessarily supposed to keep aloof from any and every cabal, intrigue and conspiracy, and every movement against the peace and welfare of the great majority of the citizens whose Governor he is appointed to be.

The Governor of a Territory lobbying in Congress to deprive his people of the franchise, and secure to himself power to appoint local officers who should of right be selected by the citizens, would be a strange and humiliating spectacle, even in these peculiar times. It would be sufficient to degrade any such official below all respect, and proclaim him alike unfit for office and for the regard of decent men. The intimation that this is Governor West's mission to the seat of government is as much of an insult to him as the petition carried round by the soreheads.

We hope the Governor will be as successful in loosing the purse-strings of this Territory, tied up by the one-man-power with which Utah has been cursed, and that his course in Washington will give no color to the reflection upon his dignity and democracy, which has been cast upon it by the malignants who are playing a desperate game and trying to use him for a tool as they did his predecessor. We expect to be able to post our readers on all important movements and measures relating to Utah at the national capital.

EFFICIENT SERVICES RECOGNIZED.

IF industry, efficiency and thorough familiarity resulting from experience with the duties of an office entitle a man to its honors and emoluments, Secretary Arthur L. Thomas has been rightly promoted to the position of a member of the Utah Commission. It is well understood here that the chief labors of that body have devolved upon its active Secretary, and generally believed that many of its anti-"Mormon" measures have been prompted by his suggestions. The appointment is a recognition of his services, and, we are informed, was made on the recommendation of three of the Commissioners.

Mr. Paddock is in the race for the Nebraska Senatorship and is likely to give Mr. Van Wyck, his personal opponent, a close run for the goal. His resignation of the office of Commissioner is supposed to have been with a view to engaging wholly in this campaign. He has served his State in the United States Senate already, and stands a very good chance of defeating his antagonist, whom he regards with little favor on other than grounds political.

As far as the work of the Utah Commission is concerned, Mr. Thomas might just as well be entrusted with it all. The board is really a useless body, and with the corps of clerks employed when its chief business is transacted, one live man like the new Commissioner could easily manage the whole of it, and with less trouble than under the present costly and cumbersome arrangement.

A vacancy, of course, occurs in the Secretaryship of the Territory, occasioned by the appointment of Mr. Thomas, and a Democrat will no doubt be selected for the post. Mr. Thomas is a Republican. There are three Democrats on the Commission, and the law requires that only three members shall be of the same political party. Mr. W. C. Hall, a resident attorney, and a personal friend of the Governor's, is talked of more than any other man for the position of Secretary of the Territory, and *ex-officio*, Secretary of the Utah Commission.

UNLAWFUL "HARD LABOR."

A FEW days ago the press of this city published, without comment, an account of an accident to a prisoner in the penitentiary while engaged in digging or boring a well at that establishment. This brings forward a question that deserves serious consideration. We have learned that other prisoners, sent up for different offences, have been put to hard labor, against their respectful protest and that with no gentle language when the right to do so has been mildly questioned.

A Federal Judge once sentenced a defendant convicted of violation of the Edmunds law to the penalty prescribed and added, "with hard labor." He was soon convinced of his error, however, and reluctantly but promptly expunged the unauthorized words from the sentence. This illustrates what we have to say on this matter. It shows that no prisoner can lawfully be forced to perform hard labor unless that is part of the penalty attached by law to his offence.

The Edmunds Act makes no provision of this kind. The imprisonment prescribed for both polygamy and unlawful cohabitation is placed at certain limits and is imprisonment, simply and without other indignity. If a Judge cannot add "hard labor" to those penalties, it does not look likely or reasonable that a jailor can. If the law is exceeded by those whose duty it is to enforce it, respect for the law is not very likely to be secured, and it seems to us that it is not very advisable for those who are using power in this unauthorized fashion to cause the question to be sprung before the courts. A suit for damages by a prisoner injured while forced to do that which the law does not require, might be taken up to a tribunal which would do justice in the premises. Everything cannot be kept within the narrow circle of local jurisprudence.

It is argued, we understand, that prisoners must be subject to the rules of the prison wherein they may be confined. Very good. We believe that those who have had the custody of "Mormon" prisoners have not had occasion to complain of insubordination on that score. It is admitted that the conduct of the men incarcerated under the Edmunds law has been exemplary and productive of good among other prisoners. We hope it will continue to deserve the encomiums which it has extorted even from enemies. But by what lawful authority can the officers who regulate a prison add to the punishment which the law and the sentence affix to a given offence?

A jailor has as much right to add to the term of an imprisonment as to add to its character. Simple imprisonment does not signify, "with hard labor." That is understood in every civilized country as an additional punishment. It is tacked on to the term of imprisonment in aggravated cases. And if a judge may not attach it when the law does not give him that latitude or discretion, it seems clear that it cannot be imposed without warrant of law by a regulation invented by an executive officer. The latter certainly has no more legislative power than the former.

On behalf of men imposed upon in this manner we protest, and trust that our remarks will have the desired effect without further action. We do not wish to be over technical, nor to interfere in any manner with the proper conduct of the penitentiary, to throw any obstacles in the way of officials who honestly endeavor to do their duty, or to find fault without a cause. We think some employment for prisoners is likely to be beneficial to them and only reasonable on the part of the power that enforces the law. But we object to having men forced to perform hard labor against their will and in violation of statutory provisions, and while we believe that our friends who are serving out terms in the penitentiary, for refusing to violate their religious obligations, will be, and should be willing to conform to any proper rule, and aid in any reasonable way to promote improvement and perform necessary service, we do not believe they ought to be nor can be legally compelled to work in the manner that is understood by the term "hard labor." We trust this protest will be sufficient.

A SOUND JUDICIAL DECISION.

A VERY important decision was rendered by the Supreme Court of the United States on Monday. It was in regard to extradition; that is, the delivering over, by one nation to another, of fugitives from justice. The case was that of an officer of an American vessel brought from Great Britain on a charge of murder, and then tried for cruel and unusual punishment of a seaman, the man he was first accused of murdering. The question was, whether a person extradited under one criminal charge can be tried for another and different offence.

It would seem that this is an easy question to decide. If a fugitive can be seized in a foreign country and brought here for trial, under the false pretence that he has committed a crime which comes under the extradition treaty, and then, when his person is secured, be tried for an offence which is not covered by the extradition laws, the limitations of extradition are simply a sham and a snare and a breach of good faith with the government surrendering the fugitive. The agreement that only persons accused of the graver crimes shall be given up by either nation to the other, is rendered void, and a piece of deception is practised which is most despicable on the part of the government that resorts to it, and a flagrant insult to the government that is thus played upon.

And yet it has been an open question of international law for years. It has engaged the attention of famous representatives of the governments of Great Britain and the United States, has been discussed in the English Parliament, and until now has never been brought to a judicial settlement.

The opinion of the Supreme Court of the United States is in accord with common sense and sound morality. It was given by Justice Miller, and was only dissented from by Chief Justice Waite. It is to the effect that a person who has been brought within the jurisdiction of the court by virtue of proceedings under an extradition treaty, can only be tried for one of the offences described in the treaty; and further, that he can only be tried for the offence for which he was extradited, until reasonable time and opportunity have been given him to return to the asylum from which he was brought on the previous charge.

The dissent of the Chief Justice was based on the technicality, that there is nothing in the text of the treaty which forbids the trial of a prisoner for an offense other than that for which he was extradited. The court evidently went beyond this strict and narrow construction, and took broader and more consistent ground, in consonance with equity and moral right as well as legal principles that are indisputable.

On what moral or lawful plea could a man, wanted for some minor offence, who had gone to a foreign country, be arrested on a charge of murder or other grave crime and forced back into the United States, when no provision of law authorized such a subterfuge? If it is desirable that fugitive criminals of a lower grade than those now amenable to extradition shall be subject to its provisions, the treaties which provide for it should be amended so as to cover as broad a calendar as wanted. To impose upon a friendly foreign Power as well as the fugitive from justice by any such dodges and tricks as that resorted to in the case reviewed by the court, might be looked upon as sharp work for a detective but is no proper proceeding for an enlightened government or any civilized nation.

A NOVEL SUFFRAGE QUESTION

THERE are various views in regard to the right of suffrage. Some think it is only a privilege conferred by statute, others that it is an inherent right of manhood as much as the right to life or property, as it is an essential to true liberty. There are many who think a property qualification should be added to it, and others who spurn this proposition and claim that the qualification should be only educational. Woman suffrage has a majority of opponents, though no logical argument against it, in a government like that of the United States, has ever been advanced. But the latest proposition for a change in the regulation method is something of a novelty. It comes from Hon. James R. Doolittle, of Racine, Wisconsin. He calls it the "True Home Rule." Here is the plan that he proposed, in his own language, in a speech at Chicago:

"For more than ten years I have maintained that all citizens who are householders and heads of families, and who for such time as shall be fixed—say one or two years—shall have lived with and supported their families in the town where they vote, shall have two votes—one to represent their manhood in common with all other men, and one to represent the household, including women and children. The term household—or head of family—in the great majority of cases will, of course, mean married men, but not in all cases. As, for instance, if a man be the head of a family and a householder whose widowed mother or sister keeps house for him. The reasons why a head of family should have a double vote when men without families have but one, may be stated briefly as follows:

1. Because the man without family represents but one human being, while the head of a family represents always two, and generally more.

2. Because a man without family has not more than one-half as much at stake in good government as the head of a family.

3. Because, other things equal, the man without family is only half as well educated in all that concerns the good of society as the head of a family, living with them and supporting them by his own exertions.

4. Because the man without family has had little, if any, experience in governing in human society; whereas the head of a family, by the laws of God and man, is trained to govern. In the family the man is king, and the woman is queen. It is a little nation by itself. Within its government all human beings are reared, trained and governed for twenty-one years—half, and more than half, of the average years of human life—those years, too, during which character is formed, and children are molded into men and women."

We do not think that Mr. Doolittle's plan will be adopted. There are far more reasons why a woman should have a vote than that a married man should have two votes. And if a man with one family should have twice as much political power because of his position and experience, a man with two families should have three votes, and so on in proportion to his family extension and the experience it develops. We think it will be considered that Mr. Doolittle attempts in his plan of suffrage reform to accomplish too much.

THE PRESIDENT'S CASE.

DURING the late political campaign President Cleveland suspended two U. S. District Attorneys—Benton and Stone, the former a Democrat of Missouri and the latter a Republican of Pennsylvania—on the ground of "offensive partizanship" in taking part in the canvass going on in their respective States by making speeches at political meetings, etc. Shortly after the removal Benton sent to the President a complete statement of his connection with the proceedings, showing that he had not neglected his official duty but had, on the contrary, attended to it promptly to the exclusion of all things else, and that the speeches were made when there was nothing to do in court or his office, and when he could properly consider himself as "only a citizen and nothing more." Upon this showing, the executive action taken in his case was rescinded and Benton restored to the place from which he was excluded because of alleged violation of the civil service law.

Then came the other offender, Stone, nerved no doubt by the example of his Missouri coadjutor and its fortunate outcome, and explained to his chief that he was in the same boat (commonly speaking) with Benton, and asking that he be also reinstated. Mr. Cleveland did not send him a personal reply over his own autograph, as in the Missouri case; he made his reply to the Attorney General, with a direction that its purport be conveyed to the ex-official of the Keystone State, and it was one of the most pointed, pungent and logical documents that has yet emanated from the Presidential pen. The analogy which Stone pictures as the basis of his request for restoration is not only not visible to the phlegmatic gentleman of the White House, but the specious and fictitious schoolboyism, by means of which Stone would crawl back into his forfeited place, is depicted in trenchant and incisive terms, and the prayer of the petitioner was conclusively denied. This drew from Stone, a few days ago, a general denial of the charges constituting offensive conduct toward the administration, but he did not and could not deny that he actively entered the canvass in the interest of the party opposed to the one in power, and in that capacity could not avoid praising the one and arraigning the other, at least indirectly, and that was enough.

The President was right. He and the party which elected him are responsible to this country for its welfare during his incumbency. With this burden of responsibility comes the right of choosing whom he will have to assist him, and he has good enough sense to select those who are most likely to see things