

DESERET NEWS.

WEEKLY.

TRUTH AND LIBERTY.

WEDNESDAY, - SEPT. 10, 1879.

THE WAY OF THE WORLD.

THE Washington Capital, discoursing on the unsavory Conkling-Sprague scandal, thus touches on the condition of modern society:

"In our advanced stage of civilization society takes less and less note of the scandals vulgarly called 'women scrapes.' The fact is they have come to be so common they have lost the piquancy that novelty gave them, and while through all time men have escaped the consequences of discovery, we have reached a point where the poor woman, if possessed of intellect and any force of character, can enjoy the same immunity. Time was when the fascinating novels of George Sanda were denounced, not that they were immoral—for they are not—but for that the great genius had children without husbands. But to-day George Eliot, who broke through matrimonial entanglements, has her brilliant works in the library of every well-regulated family; and Sara Bernhardt, who claims the right to select the fathers of her children, is entertained in the palaces of royalty itself in most chaste England."

The truth of the foregoing is too plain for denial. And yet the same people who virtually sustain, or to say the least wink at, the unrestrained indulgence of animal appetites so long as it is surrounded with the glamor of rank or genius, roar and howl like wild beasts at regulated and restricted plural marriage, and while they make the air ring with their plaudits of men and women who set at defiance the rules of society and the laws of heaven, call for the dungeon and the chain, or the sword and the rifle, to bind or destroy those who in all sincerity of faith and purity of intent, follow the marital example of the holy men of old who communed with Jehovah. This is an eminently evil and adulterous generation, but its most conspicuous sin is its consummate hypocrisy.

THE "TIMES," THE TERRITORIES AND POLYGAMY.

In another place we publish the article on the circular letter from the London Times, a portion of which has been received by telegram and has appeared in most of the public journals in this country. It will be seen that all the information the Times had on which to base its remarks was the same report as the telegraph furnished to American newspapers. The alleged circular has not yet made its appearance.

There is not much in the remarks of the Times which calls for comment from us. The absurdity of such proceedings as are charged to Secretary Evarts is clearly pointed out, and the impossibility of carrying into effect the scheme proposed is argued unanswerably. But there are one or two sentences in the Times article to which we direct attention and about which we wish to say something:

"Each State in the Union has supreme and exclusive control over its own marriage laws, and, though the question could never practically arise, it is at least open to debate whether a law in an existing State sanctioning polygamy within its limits would not be constitutionally valid."

We think this question is above debate. Congress derives its powers from the Constitution. That instrument confers upon that body no authority in relation to marriage. Each State is the regulator of its own domestic and social affairs. There is no uniform marriage system established by general laws. If one State chooses to be monogamic and another State polygamic, there is nothing in the statutes of the United States nor the Supreme law of the land to prevent it. This is beyond controversy. It is not an open question. But says the Times:

"Utah is, however, a Territory, which has never been organized as a State, and Congress assumes supreme power of legislating in respect of the Territories of the Federation."

Just so. Congress has assumed a great deal. In the first place it conferred upon the Territory of Utah power to enact its own laws. The Organic Act, which has never been repealed, endows the Legislature of Utah with original authority on all rightful subjects of legislation, naming only three exceptions relating to the disposal of the soil and improper taxation. Having granted this charter, which is the constitution of the Territory, Congress next assumes to pass a law obnoxious to the people of the Territory, inimical to their domestic interests, and intentionally aimed against a tenet of their creed, an establishment or institution of their religion. This assumption was founded upon a violent distortion of a clause in the Constitution, the plain meaning of which is manifest in the context:

"The Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States."

If this gives the Congress supreme power to make laws without the consent of the people in an incipient State, it also gives that body power to sell or "dispose" of those people as well as the land. It must be plain to every fair mind that it is "property" not persons which is here referred to, and the word territory relates not to the anti-republican and self-like anomaly called a Territorial Government, but to the soil and other property owned by and subject to the United States. But supposing Congress can legitimately claim the right to make the needful rules and regulations for an organization unadmitted into the Union, called a Territory, that duty was fulfilled in granting the charter defining its powers, and bestowing authority upon it to enact laws within a certain prescribed limit. In making laws, then, contrary to the wishes of the people in this Territory, Congress assumed to invade our vested rights and arbitrarily, despotically, and illegitimately perform something that belonged to the legislative body elected by the votes of the people.

The United States are under constitutional obligations to "guarantee to every State in the Union a republican form of government." If this is required in regard to States over which the Government has but limited control, how much more is it an obligation in reference to a Territory over which it assumes supreme control? Yet a Territory is in a worse political condition than a province of a monarchy, and the system under which it is governed is the very opposite of a republican form. Without a voice in the election of national officers who appoint the chief local officers, without a vote in Congress, without the power to make a law that cannot be arbitrarily set aside or superseded by authority entirely irresponsible to it, a Territory is a perfectly subject dependency, and its citizens are a body of political serfs. It is a satrapy ruled over by a pretended republican, but really autocratic and despotic power. Well may the Times say that "Congress assumes supreme power over the Territories," for it is without warrant in the instrument from which Congress derives its authority, and is contrary and violently hostile to the spirit of American republicanism.

The Times says further:

"If the feeling in the community is sufficiently strong to maintain spiritual unions without demanding for their sanction any appeal to the form or force of municipal law, the unions could be maintained without becoming obnoxious to a law against polygamy, since none of them would claim the character of a Gentile marriage."

This is the position that the "Mormons" have occupied throughout the whole controversy. We have not claimed for our plural marriages the sanction of human law. The relation between a man and his plural wife is established under direction of what all the parties firmly believe to be a divine law. It is a matter of religion. The ceremony performed in their union is in the nature of a sacra-

ment. It is based on a direct modern revelation. It is solemnized by a divinely appointed ecclesiast. It does not seek to become validated by national or local legislation, or recognition from any legal regulation or functionary. It is simply and purely a religious union, and in that sense, as the Times intimates, is not essentially obnoxious to a civil law against polygamy. And for this reason we have all along contended that it is a matter over which Congress has no legitimate control, being an establishment of religion and not of secular law. It does not "claim the character of a Gentile marriage" but is a feature of a higher, holier and more enduring union called celestial marriage.

There are other points in the Times article worthy of some attention, but we must postpone consideration of them to another day.

AN IMPORTANT OPPORTUNITY.

ON Monday, Sept. 8th, an important Commission will arrive in this city. It is composed of the following well known gentlemen: Gen. J. A. Williamson, commissioner of the land office; Clarence King, director of the United States geological survey; Major J. W. Powell; Mr. T. A. Britton, a celebrated Washington lawyer; Hon. Thomas Donaldson, of Philadelphia, and Captain C. E. Dutton. Hon. Geo. E. Converse, chairman of the House committee on public lands, is in company with the Commission.

The object in view is an inquiry into the operation of the land laws in the West. The conditions being very different here to those in the East, it is desirable that legislation should be had adapted to the requirements of the people and the situation of affairs in the different sections of the country. The Commission will, therefore, having spent some time in Colorado, visit Utah, take in Idaho, Montana and Arizona, and, proceeding to the Pacific Coast, pursue their investigations as far as California and Oregon.

It is important to the people of this Territory that all the information possible be placed within the reach of the Commission, respecting the difficulties attending the acquisition of titles to agricultural, mineral and timber lands. It is expected that a new law on the public lands will be enacted at the next sitting of Congress, in which important changes will be made on existing legislation, and this commission, after close inquiry into the matter in the various localities they visit, will make such suggestions to Congress as they consider likely to be conducive to the public interest. The peculiar condition of our timber lands and the oppressive nature of the present laws and regulations relating thereto should be plainly presented to the commission. Also the hardships attending the reclamation of the soil in this arid region where land is of little value without irrigation.

At the last session of the Legislative Assembly, a Memorial to Congress was adopted asking for an amendment to the land laws, so that in places where irrigating canals and ditches are constructed, for the purpose of watering portions of the public domain which would be worthless without such irrigation, the value of the labor on such canals be applied the same as purchase money on pre-emptions entered by the constructors of such canals, subject to such rules in the land office as may be necessary. We have not heard of any disposition of this Memorial, favorable or unfavorable, and now suggest that our friends in districts where such a change in the law would be of the greatest benefit, take the proper steps to place the necessary information in regard to this subject before the Commission as soon as possible.

The new and cumbersome regulations in regard to proving up, and other obstructions in the way of settlers on the public lands should also be ventilated, and all who are interested in land affairs ought to make their business, while the Commission remains in Utah, to furnish facts and suggestions which may prove of great benefit to the whole community.

OUTBREAK IN AFGHANISTAN

STARTLING news comes over the wires to-day from India. A serious outbreak has occurred in Afghanistan. The populace and the troops have combined in a rebellion against the Ameer and the British Embassy has been attacked. There is nothing in this revolt which shows the hand of any outside Power, but it will be strange if it is not attributed to Russian designs and Muscovite duplicity and treachery.

Sufficient has not yet been disclosed concerning the outbreak to warrant any conclusions as to its extent and probable consequences, but occurrences of this character will pave the way for Great Britain ultimately to assume control of Afghanistan, and its annexation to the Indian Empire is but a question of time, diplomacy and successful resistance to the schemes of the Czar.

THE RULING ON THE TAX CASE.

OUR readers will find in this issue, the decision of Judge Hunter in the Sutherland tax case. He sustains the validity of the Revenue Law, but rules that the uncollected taxes assessed under the old law must be collected under section 28 of the new law, and therefore cannot be collected by distraint. This is virtually a decision against the Assessor. His Honor is clear on most of the points in his decision, but does not establish definitely his ruling on the necessity of procedure under the 28th section. If taxes not collected under the old law must be collected under the provisions of the new, why does not section 19, which provides for distraint, apply to those delinquent taxes? The seizure was made December 3rd, and the Collector is not required to settle until December 31st. Distraint is the method of collection between October 31st and December 31st, after which, as the Collector will have then paid up the full amount of the taxes, the uncollected amounts become his own private property, and he must enforce collection by suit and not by seizure. We have no further space at our command for comment to-day.

WHAT SHALL THE "MORMON" CHURCH DO?

WE recently noticed at some length an article in the Omaha Herald requesting the "Mormons" to put polygamy in abeyance. The Herald, referring to our reply, has the following in its issue of September 3rd:

"The people of Utah know how sincere and kind, and how entirely uninfluenced the Omaha Herald has always been by popular clamor against them in the past, and we are glad to perceive that the DESERET NEWS discusses our appeals to them with a full appreciation of our continued good will towards them."

There is one point made by the NEWS that calls for prompt and emphatic answer, which is strongly put in the following:

"And we would like to ask the Herald what men are expected to do who have married two or more wives by mutual consent, under the sanction of Church covenants, which all the parties hold sacred, who have lived with them in love and is the father of their children, who retains their affection and esteem, and is held as their provider and protector. Shall he put from him all but one wife, brand the others with a vile name, and admit that their children are bastards?"

The answer is, ten thousand times no, with a big N. The Omaha Herald would have no polygamist in Utah who is the head of polygamous families do any such thing. Nor is there any need of such cruelty either upon the innocent or conscientiously guilty. Let the Mormon people renounce all future polygamous marriages by an open and honest declaration, and there are not a baker's dozen of decent people in America who would ask that any such a brand as is mentioned by the NEWS should be put upon the women and children. Let it once be understood that the Mormon Church had solemnly renounced plural marriage as a part of its teaching and practice in the future, and there is not a doubt in our minds that the people of this

country would tolerate the existing order in Utah among the few, if they could feel sure that the institution of polygamy had been put in the way of early extinction by a solemn act and decree on the part of the church authorities and people of Utah.

We fully appreciate the kindly feelings of the Herald and the intentions of its talented editors towards the people who have made this Territory. But we ask them all seriousness, how the Church of Jesus Christ of Latter-day Saints can consistently take such a position as they request? In the year 1843, Joseph Smith received revelation on celestial marriage, which has become one of the sacred records of our Church and the doctrines and commandments in which have been generally accepted by its members as a vine. In 1852 those doctrines were publicly announced to the world and one of our leading Apostles went to Washington and produced them at the very seat of government. It was not until ten years after that the Congress of the United States, incited by fanatics urged on by adventurers desirous of making capital out of difficulties that might involve us, passed a law framed against this establishment of our religion. Since that time there has been a controversy between the Government and the "Mormons" on this point of faith. We have raised our voice with the Government, but it has been all the dispute on this matter originated with the latter.

We have been repeatedly asked what the Church proposes to do about it. We have no answer to make. As we have shown in previous articles, this is an *indivisible* affair. God has given the Latter-day Saints a law; Congress says we shall not obey it, or that if we do we shall be punished with certain pains and penalties. It is for each Latter-day Saint to act on his own responsibility and risk the consequences of respect or disrespect to the law of God, or submission or disregard to the law of man.

If the Church were to follow the suggestion of the Herald and other friends who, we believe, speak from excellent motives, would stultify itself completely. If the authorities of the Church were to take any such stand as our friends suppose possible, their enunciations would in all probability be repudiated by the people. It is not the opinion of men, however experienced in clothed with authority, which guides and governs this Church. Nothing less than the voice of God, which the whole body has the right and power to recognize and understand, is accepted as the binding law of the Church.

All things in this Church are done by "common consent" according to revealed and ancient Church covenants. The words of the Lord and the will of the people are both recognized in its government. It combines the democratic and theocratic qualities. It is not a despotism. It is not all head and no body, but a perfect system of parts of which must be in harmony and neither the greater nor the lesser can say to the other, "We have no need of thee."

We are of the opinion that our friends who are anxious for the extinction of plural marriage in the Church, as a body, to make a motion looking to such an end will be greatly disappointed. It would be the very height of inconsistency and inconsistency for the Church to take such a course. It is the human power that enacted the law, and intentionally made against an integral part of our religion, to enforce its own decrees. That is all there is of the matter, far as human law is concerned. The Lord is able to vindicate himself and sustain his own plans and purposes; the result is in His own hand.

The position defined by the paper has been alluded to as a "concession." We do not so regard it, neither do we consider that we have advanced anything new in relation to it. The doctrine of the Church is well known. It has not been changed in consequence of persecution or persecution. For a time the constitutionality of the law against polygamy was an open legal question. It has been decided by the highest tribunal of this country. In law, therefore, it is beyond controversy, though it is not so in polemics.