EVENING NEWS.

Published Daily, Sundays Excepted,
AT FOUR O'CLOCK.

PRINTED AND PUBLISHED BY THE
DESERET NEWS COMPANY.

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Saturday May 22, 1886

A TIMELY WARNING.

As the warm weather approaches and nature begins to put on her most charming attire, out-door exercise and trips into the mountains and the various resorts for recreation will become popular. This is proper and healthful, and under discreet regulations, to be encouraged in the community. But there is one feature of the excursion custom which we take the precaution of deprecating in advance. We refer to the desecration of the Sabbath day, which is becoming far more frequent than in the times of our peaceful simplicity, when the influences of religion held sway and the ways of the world had not been introduced.

"Sabbath is made for man and not man for the Sabbath," was the saying of Him "who spake as never man spake." But how was it made for man? Not as a day of carousing and worldly pleasure, of fishing and hunting, of romping and picnicing, of boisterous mirth and rollicking revelry. It is made for a day of rest, of cessation from labor both of man and beast. A day of devotion and worship, of reflection and peace. Business should be suspended, families should come together, the song of praise and the voice of prayer should ascend to heaven, and those who believe in God should assemble for His public worship.

The Latter-day Saints have special instructions on this subject. They are not of man nor by the power of man, but by revelation and commandment of the Most High God. They are told that this day is set apart that they may go to the Lord's holy house, and offer up their sacraments, and pay their vows to the Most High. And they are permitted to prepare their food "with singleness of heart," but to do "no other thing" by way of labor. Those who make no pretense of membership in the Church of Christ may not consider themselves under obligations to observe these rules. But how any one professing to be a Latter-day Saint can habitually violate them, we are at a loss to understand.

We take this opportunity of saying that these Sunday excursions and Sunday carousals are hostile to the spirit of the Gospel and the covenants made by the Saints with the Almighty. And if we desire to avoid His displeasure and to gain His aid in the trials that that have come upon Zion, we must, among other things, "remember the Sabbath day to keep it holy."

As to places which are kept open on that day to entice the people into sin, the law should take hold of them and see that the proprietors conform to its requirements. Sunday traffic in liquor should be vigorously opposed and suppressed. And if men professing to be Latter-day Saints continue to violate the law of God and of man, they should be dealt with as the rules of the Church prescribe.

We hope that those who are authorized to look after these things will be diligent in their duties, and that parents will exercise a wise supervision over their children, that the Sabbath may not be broken; and above all that they will set an example before the rising generation that will be potent for good and not an excuse for evil. Let the wise beware and sin not.

A POWERFUL AND CONVINCING ARGUMENT.

We present to our readers to-day the argument in full made by Franklin S. Richards before the Supreme Court of the United States, in the case of Lorenzo Snow. It needs no eulogy of ours; it will speak for itself to those who read it. As a close and conclusive argument it cannot be impeached. Coupled with the address of George Ticknor Curtis, which we have already given to the public, it presents an array of facts and legal principles which are thoroughly convincing, and could not have failed to obtain a reversal of the rulings of the lower courts, if the higher court had not taken advantage of the question of its own jurisdiction, which did not figure in the controversy.

Mr. Richards opens his argument by showing the insufficiency of the evidence against Apostle Snow. The body of the offence was absent. It was not shown that the defendant had lived or cohabited with more than one woman. There was no cohabitation with more than one either in fact or in law. Then the same evidence was adduced to convict the defendant of three separate offences. This, he proves, is contrary to well settled rules. A man cannot be lawfully convicted of one offence by showing that he committed another. The difference of the bearing of the sexual intercourse question in the Cannon case and upon the Snow cases, is pointed out, and the error of the lower court in applying it to the latter is demonstrated.

The errors wherein the court gave improper instructions to the jury and withheld others that were requested by the defence, are ably handled. Among them were the nonsensical notions that unlawful cohabitation could be assumed when a man "neither occupied the same bed, slept in the same room or dwelt under the same roof with the women named in the indictment or either of them," and that the offence is complete when a man merely "associates" with two or more women as wives. The right of a defendant is maintained, though living with one wife, to lawfully visit another and her children at reasonable times and for lawful purposes, and it is shown that to claim and introduce more than one woman as wives does not constitute a criminal offense.

The assertion by the lower court that "the Edmunds law says the relationship previously existing between polygamists must cease," is refuted and proven to be in conflict with the law and the ruling of the U. S. Supreme Court in the Murphy case. It is also shown that a polygamous defendant is not required by law to give public notice of any kind that he is abstaining from cohabiting with more than one woman. The refusal of the lower court to give instructions covering these points is vigorously treated in Mr. Richards' argument.

The segregation business, by which the lesser offense under the Edmunds law is made to bear far severer penalties than the greater, is effectually disposed of, so far as a legal argument can knock an error into uncollectable fragments. It is left without a particle of support in law or precedent. The nonsense involved in constructive cohabitation as well as its injustice, is ably exhibited, and the outrage of convicting a man of cohabiting with a woman when there is no proof that he had even seen her during the time mentioned in the indictment, is thoroughly exposed.

The defense of his people against the imputation of immorality, and the explanation of their adoption of plural marriage on religious principles apart from motives of lust, form an important part of Mr. Richards' eloquent plea for the maintenance of constitutional rights and the claims of "Mormon" morality, and were presented in a manner that was original to the court of last resort. Several of the judges learned things that had never come to their knowledge before, and the interest they displayed and the questions they propounded, showed that although these important questions had been involved in cases before the court, they had not become properly acquainted with the subject. After the explanations given by Mr. Richards they cannot in future plead ignorance on those points.

We feel assured that all who read this able argument will be satisfied with the labors of the attorney for the people, before the Court which has refused to give us justice. There was no failure on his part, but all that could be done was accomplished, and the presentation of the "Mormon" side of these questions before the country will be sure to bring about good results, in the dissemination of the truth and the correction of error. We advise all who wish to be posted on the legal aspects of the "Mormon" question to read the whole of the argument published to-day, which will stand as evidence of the justice of our cause and of the talent and fidelity of our able "Mormon" attorney.

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Mr. Richards. Yes, sir.

Mr. Justice Miller. And you pleaded that in bar of the others.

Mr. Richards. Yes, sir; and when two of the cases had been tried, we pleaded them both in bar of the third.

The Chief Justice. Your argument is to the effect that occasional cohabitations are liable to aggregate the punishment, while a continual cohabitation will curtail it?

Mr. Richards. I do not so understand it, sir. My position is this: The legislative power declares what shall constitute the offense and prescribes a penalty for committing it. Whenever the Government has information that the offence has been committed, it may prosecute, whether the cohabitation has continued a month or a year, but until it does prosecute there can be but one offence. After an indictment is found and the party has has notice, as the New York Court says, then if he repeat the offence he may be prosecuted again, and so on. But my contention is that the cohabitation being continuous, cannot be divided up and made to constitute several offences.

The Chief Justice: Does it appear on the record that this was a continued cohabitation?

Mr. Richards: It does. The indictments are all contained in the pleas of former conviction and, together, charge a continuous cohabitation covering every day between January 1st, 1883, and December 1st, 1885.

Referring again, your honors, to the authorities. In Mayor of New York v. Ordreman, (12 Jonus.) the doctrine we are here contending for is emphatically declared, and a decision by Lord Mansfield is quoted in support of it.

The Supreme Court of North Carolina in the case of State v. Commissioners, (2d Murphey,) denounced this procedure in the following terms: "Were such a doctrine tolerated, it is impossible to say where its consequences would end. * *

This notion of rendering crimes, like matter infinitely divisible, is repugnant to the spirit and policy of the law, and ought not to be countenanced."

The reasoning of the courts in these and other cases cited in our brief, would seem to place the matter beyond all controversy, were it not that in one single case, Commonwealth v. Connors, (116 Mass.,) the Supreme Court of Massachusetts held otherwise, and upon this case the counsel for government relies. Two indictments were found against the defendant on the same day for keeping a tenement for the illegal sale of liquors, and the court held that both indictments might stand, on the theory, as stated in Commonwealth vs. Robinson, (126 Mass.,) that the grand jury is vested with "a very large discretion in limiting the time within which a series of acts may be alleged as constituting a single offence."

It is difficult to understand by what process of reasoning the Court reached this conclusion, or to reconcile it with the elementary rules of law. That legislative power can only be exercised by competent legislative authority is well settled, and that no judicial or executive officer or body can usurp such functions, will not be denied; and yet, while the law should always be fixed and definite in its requirements, and never shifting or uncertain, it is contended that a grand jury may, at its pleasure, by making two or more presentments in a certain case, increase the penalty prescribed by law and so subvert the legislative will expressed in unmistakable terms. To adopt such a rule is to concede the power to a grand jury to make or modify the law in its most important and vital part. It cannot stand on principle, for, as the Supreme Court of Iowa says, in the case of State vs. Egglesh, (41 Iowa,) "he (the defendant) either committed one crime or he committed four. It is not competent for the State at its election, by the form of its indictment, to give to defendant's act the quality of one crime or of four at pleasure. The act partakes wholly of the one character or wholly of the other."

Now I most respectfully submit that this clear enunciation of a most important legal principle must be correct, and that the question involved is solely a question of law with which the grand jury can have nothing whatever to do.

When we come to consider the point as it has arisen in these cases, we see at once how utterly preposterous and unjust the theory of the prosecution is. Here the defendant was permitted, without any interference on the part of the Government, to keep up an alleged continuous cohabitation for nearly three years, and then he was indicted and convicted of three offences and sentenced to 18 months' imprisonment and to pay a fine of $900, when the law under which he was prosecuted fixed the maximum penalty for such an offence at six month's imprisonment and $300 fine. As I have shown, the division of time by years is merely arbitrary, and if the grand jury could legally find three indictments they could just as well have found thirty or 360. The adoption of this theory enables the prosecution to sit supinely by for a period of three years, without any effort to enforce the law, and then, with one fell swoop, come down upon an individual with prosecutions enough, for offences already committed, to render him liable to imprisonment for the remainder of his life, and to absorb in fines an immense fortune; because if a man can be indicted for each year he may be prosecuted for each month, or each week, or even for each day in the three years of limitation. If indicted for each month, the imprisonment would aggregate 18 years and the fines would amount to $10,800; while an indictment for each week would entail an imprisonment of 78 years and fines amounting to $46,800. When the calculation is extended into days the result is simply appalling, showing an imprisonment of 547 years and fines amounting to $328,500.

And this is by no means an idle speculation upon this point, for the very judge who tried these cases declared that there was no legal principle which would prevent this rule from being carried to the full extent which I have suggested.

Assistant District-Attorney Maury: Do the records disclose any such language as that?

Mr. Richards: No, sir, not in these cases; but it is a public historical fact to which I am entitled to refer.

I confidently submit that it is utterly impossible to believe that Congress ever intended to authorize, or permit, the perpetration of such an inhuman outrage in the name of justice.

In the second and third cases tried the Court charged the jury as follows:

"If you find beyond a reasonable doubt that the defendant had, during the year 1884, (in one case 1883,) a legal wife living in Brigham City, Box Elder County, Utah Territory, from whom he was undivorced, that he recognized her as his wife, held her out as such and contributed to her support as such wife, and that during the same year he lived in the same house with the woman Minnie, recognizing her as his wife, associated with her as such, and supported and held her out as a wife, then the offence of unlawful cohabitation is complete, and you will find the defendant guilty. The legal wife in this case is the woman whom the defendant first married."

In the case first tried, it appeared in evidence that Adeline and Charlotte (who is now dead) were married to the defendant at the same time and that they were his first wives, and that Sarah was next married to him. Upon this state of facts the Supreme Court of Utah, in its opinion delivered by Chief Justice Zane, declared that Sarah was the lawful wife.

In the second and third cases it only appeared that Adeline was the first one married, and she was treated as the lawful wife in these cases, and so referred to in the foregoing instruction. It was undisputed that the defendant lived with Minnie, the last one married. There was no evidence that he had even seen Adeline in 1883 or in 1884, and no proof was offered of visits or any kind of association between them, and the instruction required nothing of the kind.

It will be remembered that the question to be determined by the jury was not—as might be inferred from the argument of opposing counsel—"who was Mr. Snow's legal wife?" but the real question was, "Had he cohabited with more than one of his wives?" The Court by this instruction took the question entirely from the jury, as to cohabitation with one of the women, and told them, as a matter of law, that living in the same city with a legal wife and recognizing, holding out and supporting her as such, constituted cohabitation, without any proof that the accused had ever, during the period charged, seen his wife or been in her presence; and that too in the face of the wife's positive statement that he had not in any way lived with her during said period.

Mr. Justice Harlan: He admits that he claimed her as his wife?

Mr. Richards: Yes, sir.

Mr. Justice Harlan: And supported her as his wife?

Mr. Richards: Yes, sir.

Mr. Justice Harlan: Now, what additional fact is necessary to constitute cohabitation?

Mr. Richards. The fact that he lived with her.

Will it be contended that if Lorenzo Snow had lived in Brigham City during these three years and Adeline Snow had lived in Australia, and he had said "She is my wife, and I have claimed her as such all this time," that he would be guilty of cohabiting with her? If there is any difference in principle between such a case and that of my client I fail to see it.

In defining cohabitation, this Court has adopted the second definition of Worcester which is, in substance, the living together of a man and woman as husband and wife. The offence manifestly consists of the substantive act of living together, added to a status or relation of the parties, the result of a former act, which in the case of Adeline occurred over forty years ago. In respect to this status no new act is required. It may be maintained passively by merely not denying the marriage, or at most by an admission that the relation continues. Without the act of living together there is nothing to meet the substantial part of the defined offence. The Court, in this case, defined the offence to be living with one woman as a wife and having a legal wife living who was admitted to be a wife. The words of the law "cohabits with more than one woman" are wholly ignored. The status of one, and living with the other, are substituted for a living with both.

The act of Congress provides for three classes of cases. It prescribes punishment for contracting the polygamous relation; it punishes a maintenance of polygamous cohabitation where the relation has previously been contracted; and section 8 imposes disabilities for the maintenance of the relation or status. These three things are distinct. The instruction unites sections 3 and 8 to make an offence under section 3. It does not cover cohabitation with more than one woman, but cohabitation with one, and the existence of the status defined in section 8 with another; while section 3 requires not only the status, but the substantive act of cohabitation in that relation, "with more than one woman." The charge of the judge defines adultery or a living in adultery, while this Court has said that illicit sexual relations are not what is punishable under section 3, but that this section punishes the maintenance of two households or homes, and implies such an association as will constitute cohabitation. The words "as wives," or "under claim of a marriage relation," are held to be implied in section 3 in furtherance of the general purposes of the whole act. The instruction makes these implied words the substantive definition of the offence, and omits the word "cohabit" as part of the definition. The living with one, and being in a status defined by section 8 with the other, is thus by the charge made criminal under section 3.

This changes entirely the scope and effect of the law and makes it operate as if it read: "Any male person who cohabits with any other woman than his legal wife," whereas the statute now reads: "Any male person * * who cohabits with more than one woman." Under the plain letter of the law, no unlawful cohabitation can exist with one woman only. There must be an actual cohabitation "with more than one woman," to constitute the offence.

There is a further objection to the instruction. It makes the presumption of cohabitation with the lawful wife indisputable as a matter of law, and does not permit the jury to determine the fact, or permit the presumption to be rebutted by evidence. In these cases the whole evidence shows that the defendant had lived exclusively with his wife Minnie, and the repute shown was to the same effect. Under this statute it being incumbent on the prosecution to show a cohabitation with more than one woman, as a matter of fact, and the presumption of innocence being one directly in the issue, it must prevail over other and more remote presumptions. In a certain class of cases there may be a presumption of cohabitation with the lawful wife, as, for example, where the paternity of a child is in question and the circumstances are such as to admit of the husband's having had sexual intercourse with the wife, but even in those cases the presumption may be rebutted by showing that the husband did not have access to the wife. But in a criminal case like this there is no such presumption, and if there were it would be met and rebutted, in the absence of proof, by the presumption of innocence in the issue on the particular charge, and this presumption of law is stronger than more remote presumptions of fact.

The ignoring of this sacred right was one of the most glaring wrongs inflicted upon my client in the whole course of these extraordinary trials, so fruitful of judicial error. It was unprecedented that the court should wrest from the assailed man the shield created for him and given to him by the law.

Rufus Choate in speaking of the presumption of innocence said: "It is in the nature of evidence for the defendant. It is as irresistible as the heavens till overcome; it hovers over the prisoner as a guardian angel throughout the trial and it goes with every part and parcel of the evidence. It is equal to one witness."

I insist that there was no presumption of cohabitation in these cases, but if there was it could only be a presumption of fact, the weight of which was for the jury; and they should not have been told to convict as a matter of law, but instructed that they might draw the conclusion of fact if there was any evidence tending to show it. The conviction of Mr. Snow in the two last cases is wholly due to this instruction, for without it the jury never could have found him guilty under the evidence. It is impossible that any twelve sane men could be found in this broad land who would say that a man was guilty of criminal cohabitation with a woman whom he had never seen during the time charged. Such a monstrous absurdity could never emanate from the jury box. It belongs to that strange judicial creation known as "constructive cohabitation," and was even repudiated by Chief Justice Zane in his dissenting opinions in these cases. But the proposition, whatever its origin, is too preposterous to admit of serious argument.

A great deal has been said during this discussion about putting an end to the relationship existing between these parties, and opposing counsel has intimated that there are many ways in which this may be done; but as yet he has failed to point out any one of these ways, although pressed by the court upon this very point. Why was it that he refrained from telling, in clear unmistakable terms, how this relationship could be dissolved? Is it possible that he could not do so? Let us see. There is existing between Mr. Snow and his wives a marital relationship which they believe to be eternal and indissoluble in its character. Except as to the first or legal wife this relationship is not recognized by the law as being valid, but on the contrary all the subsequent marriages are legally void, hence there can be no divorce. Considered from a legal standpoint, these marriages never existed and therefore cannot be dissolved. No lawyer will dispute this proposition and, when it is conceded, we perceive at once the utter impossibility of legally terminating a relationship which never had a legal existence. I suppose it was for the purpose of avoiding this dilemma that counsel asserted here that the women named in these indictments made the pretense of being lawful wives. Doubtless he believed what he said to be true, but it is not. Such a claim is not made by any plural wife. Their claim of marriage is based entirely upon their religious belief, and not upon any recognition of the law, for they realize that they have no legal status as wives.

The Chief Justice: Now this is a point that is new to me. I never heard of that before, and it seems strange that it did not come up here before.

Mr. Richards: It has always been so. They never have claimed the legal status of wives. Their religious belief in the divinity of the revelation on celestial marriage teaches them that their marriages are sacred in the sight of God and extend through time and eternity, although not recognized by the law of the land. That is their position now on this point and it always has been their view of the subject; but of course there is a marked difference in many instances between their manner of living now and before the passage of this law.

Mr. Justice Bradley: Do you mean since the passage of the act of 1862?

Mr. Richards: I mean there has been a change in the manner of living since the passage of the "Edmunds law," but the status of the wives has always been as I have stated, both before and since 1862.

The Chief Justice: How are her children looked upon?

Mr. Richards: They are acknowledged and provided for.

The Chief Justice: Are they his heirs?

Mr. Richards: Yes sir. Under our statute illegitimate as well as legitimate children inherit when recognized and acknowledged by the father.

The Chief Justice: Are those illegitimate children recognized by the laws of Utah?

Mr. Richards: Only so far as to secure an inheritance in their fathers estate.

Mr. Justice Miller: I never heard of that before.

Mr. Richards: The question was never raised here before, and the legal aspect of it was so clear that I presume it was well understood by everybody, and so never had occasion to mention it. You will remember that Section 7 of the "Edmunds law" legitimates all the children of plural wives born prior to January 1, 1883. Those born thereafter will inherit under our statute equally with legitimate children, but plural wives do not inherit.

The Chief Justice: They have no rights under the law have they?

Mr. Richards: They can receive by will, and can acquire and hold all kinds of property in their own right.

Mr. Justice Bradley: In 1850 the Territory was constituted by Congress and the Legislature was given full power to enact all laws that they could rightfully enact. Was any legislation as early as that made in regard to the status of these wives and children?

Mr. Richards: I think the first territorial law on inheritance and the estates of deceased persons was passed in 1852, providing that illegitimate as well as legitimate children should inherit.

Mr. Justice Bradley: There had been a code of laws sometime before that, I suppose?

Mr. Richards: Yes, sir; the provisional government of the State of Deseret had enacted a code of laws which were re-enacted on the organization of the Territory.

Mr. Justice Bradley: The common law was not adopted in terms was it?

Mr. Richards: No, sir. And in none of these acts did the Legislature ever attempt to give the plural wife a legal status. It was and is altogether a matter of religion with them.

The Chief Justice: Do I understand you to say that where there are plural wives there is no legal wife recognized by the laws of Utah?

Mr. Richards: No, sir; I do not say that.

The Chief Justice: There is one legal wife, is there?

Mr. Richards: Yes, sir. There is no marriage law in the Territory, and the first wife is regarded as the legal wife.

The Chief Justice: Suppose there are two married at the same time?

Mr. Richards: That is a question that has never been raised, or decided by any of the courts until it came up in these cases.

The Chief Justice: Is there any difference in the marriage ceremonies?

Mr. Richards: None whatever; and I may add that all the marriages are regarded by the Mormons as being equally sacred, and the first wife recognizes all the other women to be wives.

When your Honors commenced to interrogate me upon this point, I was endeavoring to show some of the difficulties in the way of changing the relationship of these parties and had succeeded, I think, in demonstrating the utter impossibility of legally terminating an eternal marriage relation, which is not recognized as having any legal existence. I cannot but presume that it was the realization of this fact which induced silence on the part of opposing counsel as to how it should be done, and impelled him as a last resort to declare that a man might escape from the dilemma by saying of his plural wives: "I do not acknowledge these women to be my wives." But this does not help the matter any. When the man and his wives all believe the relation existing between them to be an eternal one how can he say the women are no longer his wives? He certainly cannot conscientiously and truthfully say it for he does not believe it, and to require such a declaration from him would not only be in direct violation of his conscience, but it would be a palpable infringement upon his constitutional right to believe as he pleases and to give free expression to that belief. And yet that is the only possible means by which Mr. Snow could have secured immunity from the penalty of this law. He had conformed his conduct to its requirements, and the renunciation of his wives was all that was lacking to satisfy his most exacting accusers. To seriously argue the question of his obligation to do this would be to insult the intelligence of this honorable court, and I forbear.

But counsel for the Government, while failing to offer a feasible method of settling this question, takes occasion to speak lightly of the devotion and sacred affection which continue to exist between the husband and wives, after he has separated himself from their beds and passed from under the roofs which shelter them. He questions the existence of a platonic love which could abide in perfect trust and satisfaction, fed only by the hope of eternal union beyond the grave. Though such an affection be too occult for the learned gentleman, still there may be men and women to whose exalted minds and pure hearts it would be no mystery. And if people do live upon this earth who are capable of giving loyal homage to this love, which looks trustingly to the future for its only recompense, those people are the practicers of plural marrige among the Latter day Saints. Men, strong of intellect and frame, who have been schooled to perform their duty at any cost; and women pure of heart and chaste of body, whose earthly love is but a part of their eternal religion.

Such a people, I believe, could maintain purely and justly, the passive, waiting relation held by my client with his wives. But it is in part against such quiescent status, with its attendant platonism, that government counsel asks for drastic measures. This is not an unfamiliar sound. No matter what inhumanity is sought to be executed against the people of Utah, no matter what solemn protest is offered, the cry is always the same: "Need no remonstrance, for drastic measures must be used." Have "drastic measures" no boundary line; no limit beyond which they may not go? Is our boast that the Constitution forbids oppression and affords ample protection to the citizen, an idle one? Is there no point where cruelty and unconstitutionality begin? If not, then why refrain from relieving counsel of his humane regret that my people had not long since been put to the sword? If it would have been better to have slaughtered them without remorse half a century since, might it not still be better to exterminate us now—men, women and babes alike? This latter plan would exactly suit the idea which some insatiable people entertain of a "drastic measure."

I thank your Honors for the patience with which you have listened, and the kindness with which you have assisted me, by your questions, to make plain the points of this mighty issue, some of which you have been pleased to say were even new to you. And it may be that the subject is not yet exhausted.

But your Honors, I cannot leave these cases without briefly alluding to a most unjust and cruel aspersion which has, during this discussion, been cast upon my client and upon the Mormon people—that their religion was being used as a cloak for lust. I would gladly pass it by in silence, because I can imagine from my own reluctance to speak, how unpleasant it must be for you to listen; but my duty demands that I should state the facts in regard to this matter, even at the risk of exhausting your patience and possibly provoking criticism. Duty to myself, duty to this honorable Court, duty to my client, and duty to an honest, Godfearing and virtuous people, all require that I should stamp upon this merciless charge the brand of falsehood. I say it is not true. Those Mormons who have taken a plurality of wives have entered into that order of celestial marriage with the purest of motives and from the strongest possible sense of religious duty. I challenge contradiction of this statement from any honest person who has observed and studied the lives of these people, with a view to ascertaining their real status and motives.

You have before you in these very cases one of the strongest possible evidences that the charge to which I have referred is nothing but a popular fallacy. Let us look for a moment at the history of the "Edmunds law," with its judicial constructions, and see if I am not warranted in making this assertion. The act itself declares that, "any male person who cohabits with more than one woman" shall be punished; and at the time of its enactment, the promoters of the measure urged its passage in the interest of morality and social purity: but when it came to be construed it was declared to apply only to cohabitation in the marriage relation, and not to "meretricious unmarital intercourse." It is a well known fact which cannot be disputed that a man may, under these constructions of the law, cohabit with two or ten women; and, although he flaunt the evil example of a lascivious cohabitation in its fullest sense, in the very face of the public, he will not offend against the law and can not be punished under it so long as he does not acknowledge the women as wives, and they do not recognize him as their husband.

No man knows this fact better than my client, Lorenzo Snow, and yet, though he has outlived his three score years and ten, he is to-day wasting his brief remaining lease of life in a loathsome prison, the companion of felons and murderers; not because he has lived with two women in the intimacy of husband and wives, nor because he has even dwelt with more than one of them, but, forsooth, because he has acknowledged the existence of a relationship between him and them which was created more than a generation since, and which he and they believe to be eternal in duration and incapable of being dissolved by any human power. How do these facts sustain the charge of licentiousness?

Your Honors have been told that the enlightened civilization of this great nation is imperilled by this "monstrous evil." Without comment upon the absurdity of the idea that a cherished institution of sixty millions of people can be imperilled by the practices of two thousand men in an isolated territory of this great Republic, I pass on with my argument.

One would almost think, in listening to the moral eloquence of Government counsel, that the Mormons must be utterly ignorant of the facilities afforded for the gratification of men's passions by the civilization of the age. But such is not the case. Mr. Snow and his compeers have been reminded of these things too often, by the suggestions and examples of their would-be reformers, to be ignorant of the true state of affairs. They are asked to renounce a so-called barbarism, which teaches men to assume the full responsibility of all their acts, to become the husbands of women with whom they associate, and the acknowledged fathers of their children—and to accept a higher civilization which provides wives (in every sense, but not in name) for the commercial travelers, of whom counsel has been speaking, in every town they visit; which denies to women the privilege of becoming honored wives and mothers and consigns thousands of them to lives of degradation, infamy, and shame; which tolerates a social evil that flourishes throughout Christendom and thrusts itself into the very capital of the nation. If my client were the selfish and sinful man that has been depicted here, how quickly he would have renounced his moral and religious obligations and, with popular approbation, have availed himself of these superior facilities and tempting allurements. But no, there is in him a religious conviction that is stronger than life itself, and which enables him to patiently endure, not only the contumely of the world, but even imprisonment, and if need be, death.

We have witnessed to-day a most startling illustration of the power of popular clamor. Does any one believe that the learned counsel for the Government could, in the discussion of any other subject, so far forget the dignity due to this honorable presence as to suggest that "it would have been better had these people been put to the sword in the first instance?" What an expression to fall from the lips of the legal representative of the greatest Government on earth, with reference to some of its most loyal citizens—and uttered too, in this temple of justice, where reason reigns, and where the clamor of the multitude must not enter. Such things have been spoken before, in the dark ages that are passed and gone forever, but never in this nineteenth century has a more cruel and inhuman thing than this been said. I need not answer it, because your Honors will not consider it. This nation needs no more chapters written in blood and tears.

It has often been written that constitutional limitations and safeguards are instituted for the protection of the weak and to restrain the oppressive power of the strong. Majorities can always take care of themselves; it is only the minority that needs the protecting shield of the Constitution. And when that minority is unpopular, and its numbers are few, there is then the greater moral obligation upon the Government and its representatives to see that their rights are not trampled upon nor their liberties abridged. We are here to-day asking the most exalted tribunal on earth to protect the liberty and preserve the constitutional rights of an American citizen; we ask that principles of law and rules of evidence, which are as old and as well established as our jurisprudence itself, be applied to these cases as you would apply them to any other case. This is all we ask and it is what we most confidently expect at your hands. This nation cannot afford to disregard the rights of the citizen, even though he be a Mormon, and history has demonstrated the fact that every departure from the fundamental law is at the peril of the Government itself; for when once a constitutional barrier is broken down, no one can tell when the breach will be repaired, nor what devastation and sorrow may follow.

When counsel tells us that "this thing must be stamped out," what does he mean? Certainly not polygamy, for there is no such charge in these cases. Nor can he mean living in the practice of polygamy, for the records in these cases show conclusively that there was no actual cohabitation with more than one woman. There remains, then, simply the religious belief of Mr. Snow and his wives that their marriage relations are eternal, and it must be that belief which is to be stamped out. Can it be possible that the lessons which history teaches upon this subject have been lost to us? Who ever heard of a man's convictions being legislated away, or his belief removed by persecution and oppression? The legislative power may control men's actions, but it cannot interfere with their belief, nor with the expression of that belief; and yet we all know that if Mr. Snow had denied the relationship existing between himself and his wives, if he had renounced them as wives, these prosecutions would never have been commenced.

In conclusion I can but ask your Honors for a reversal of the judgments in these cases, and for a just and humane construction of this statute in its application to them, that the people who are affected by the law may know its requirements and be able to avoid its penalties. The liberties of many people are involved, and with some even life itself is in the balance. Point out the line of conduct they must pursue, but place the seal of your condemnation upon all attempts to wrest from them a religious belief which can never be surrendered while life and being last. I now submit the cases, in the fervent hope that you will fully and mercifully answer the question, which has been so frequently propounded by the Court during this discussion, "What must these people do?"

MARRIAGES.

MACK—HANSEN—Last evening, at the house of the bride's parents, James M. Mack, of Smithfield, to Miss Fanny Hansen of the 17th Ward, of this city, Judge Elias A. Smith officiating.