

### "HAVE MORMONS ANY RIGHTS?"

The NEWS of Salt Lake City remarks in relation to the recent trial of Hawkins, the Mormon polygamist, that "the verdict was rendered by a jury that does not represent the community, but one generally believed to be chosen with the special view of securing verdicts of guilty in a certain class of cases." Of the truth of this there can be no doubt. The NEWS adds: "Hence we maintain that Mr. Hawkins was not tried by a jury of his peers, but by a jury of his enemies, and that really the verdict was in accordance neither with the spirit, the interest, nor the letter of the law."

To this the Salt Lake —, an anti-Mormon journal replies: "The court needed an American not a Mormon jury, and a verdict to represent the views of the American people on marriage and adultery, and not one to represent the views of the Latter-day Saints."

In other words, the court needed a packed jury, and they got it. The Methodists, who are *bossing* this new Mormon persecution, needed a Methodist judge for their purposes, and they got one in the person of Judge McKean, who, as we learn from the —, is the son of a clergyman and the brother of one.

The — seems to entertain rather original views on the subject of law. If the "views of the American people" are to be taken as the court's standard of laws, it will be interesting to know who is to be the authorized compiler and expounder of those "views." It will also be interesting to learn under what authority Mormons are to be excluded from the name and the rights of American citizens any more than Shakers, Swedenborgians, Unitarians, or Spiritualists. "Hawkins was not tried by a jury of his peers; that is to say," remarks the —, "not by a jury of Mormons, but if he will accept American citizens as his peers, then was he tried by his peers."

How long will it be before, under such arrogant ruling as this, every man who is not a Methodist will be denied the name and the rights of an American citizen? We fear that our Methodist brethren have become unduly inflated by their success in hunting down one poor Mormon nonconformist and subjecting him to a three year's imprisonment.

It was truly stated by Mr. Fitch for the defence, that *such cases as the one at the bar could be made a crime by statute laws only.*

Now there is no law of Congress on the subject of adultery, and this was fully admitted by Judge McKean in his charge. There is a law of Utah against adultery, but none against polygamy, or on the subject of marriage—and this was also fully admitted by the prosecution.

Whence then does the court derive its authority in the Hawkins' case? The whole secret is let out by Mr. Maxwell, the prosecuting attorney, who says: "The common law of nations on marriage, must govern Utah."

But is this so? In unorganized territories, and in places away from all jurisdiction, the common law may be, in the absence of statute law, a proper guide in dealing with crimes against property and life. And so lynch law may, in certain cases, be justifiable. But to say that in a territory where statute law exists, and where the whole community who framed that law are implicated in a custom which, though contrary to the common law of certain nations, is not in conflict with the criminal law of the territory, with the rights of individuals, or with any part of the Constitution of the United States, or with the laws of Congress—to say that under such circumstances, the common law of certain nations may be used to crush out and imprison nine-tenths of the inhabitants of the territory because of their polygamy is a mere lawyers' fiction, wholly without foundation in reason or in law. There is no authority for such a pretence, except the *ipse dixit* of a third-rate judge working in the interests of the Methodists.

Under our free system, a Territory or State may pass or omit to pass, what constitutional laws it pleases on the subject of marriage, and the plea that the people of Utah must be bound by the common law of England, or of Massachusetts, or of any other outside State, in respect to marriage, is utterly unwarrantable and untrue, because we cannot point to any authority for it, except the usage of certain States and the assumptions of certain lawyers.

Where is the warrant for any such pretence? It is not in the constitution

of the United States, nor in the laws of Congress, nor in the laws of Utah. Where then, except in a lawyer's brain? The practice and the will of the people of an American State or Territory are, in the absence of any statute law against polygamy, a higher authority on the subject, so far as that people are concerned, than the common law of England or New England, or even the rules of the Methodist Church. So long as a republican form of government is preserved in Utah, and life and property are protected, no United States judge has a right to say that the common law of England shall supersede the marriage customs of the people, or to stigmatize open polygamy as adultery.

We recur to this subject because there are few other presses to raise a voice against the gross violations of law that are going on in Utah. Cry out that one word "Polygamy!" and everybody seems ready to join in the hunt against the Mormons. The very men who want to license brothels, and to make sexual impurity easy and safe to the many, hold up their hands in holy horror at the idea of supposing that polygamists can have any rights which a white man is bound to respect. To judge from the way things are going on under Methodist rule, there is but one crime of any account, and that is polygamy.

There is nothing in the state of morals among the Mormons to justify this sudden persecution on the part of the Methodists and our Methodist President. From all the testimony we can get, the evils of intemperance and licentiousness are almost unknown in Salt Lake City wherever the Mormons have control. The Mormon children are as healthy, as bright and intelligent as those of any other people; and the women, if unhappy, have a wonderful faculty of concealing their wretchedness. Indeed, they petition for its continuance. Houses of prostitution have been wholly unknown in Utah except so far as they have been recently introduced by the anti-Mormon "carpet-baggers." In spite of all reports to the contrary, time has confirmed the extraordinary fact that a more moral and blameless community than the Mormons of Salt Lake City does not exist.

We do not accept this fact as a proof that polygamy is a good thing. We do not believe in it. The influence and example, and the theocratic authority of Brigham Young have undoubtedly done much to keep his people in order. But we would say to government, *take no illegal step to arrest the great experiment now going on in Utah.* The experiment may not be new, but the conditions are new, and let it be tried accordingly. If it is, in the nature of things, false to morality, to physiology, to spiritual progress, and to divine truth, let us have no fear but it will fall of its own weight and rottenness. God Almighty does not need the help of the Methodists to bring about the consequences which much attach to a violation of natural and divine laws.

But if the experiment can throw any light upon the great social questions now beginning to be agitated—the questions of female suffrage, of marriage, the laws of generation, the moral and physical improvement of the race—it may be worth our while to see it fairly tried. These great questions must occupy a large part of the public attention for the rest of this century; and let us get all the help we can from facts. Nothing can be more unjust than the attempt of *Harper's Weekly* and other journals to confound Mormon polygamy with such criminal offences as theft and murder. "A jury," says *Harper's Weekly*, "would hardly refuse to convict a man who picked a pocket, upon his plea that his religious faith enjoined a community of goods."

A moment's reflection would have shown the writer that his parallel does not hold good. Polygamy is not defended on the ground that the Mormon religion approves it, but on the simple ground that a territorial community who choose to practice it, whether for religious, or physiological or any other reason, have a perfect right to do so. The attempt to make it a crime, like theft, is false both to the Jewish and Christian Scriptures; false to history, to physiology, to science and to common sense.

Bigamy, under our State laws, has the essence of a crime solely because it is supposed to involve criminal deception. A man obtains a wife under a false pretence; under the pretence, namely, that he is not already married. Let two women voluntarily accept him as their husband, and the offence would be morally, if not technically, changed.

It is only through great social trials

and experiments that the absolute truth which we all desire can be attained. But this attempt to stigmatize polygamy as a crime like theft, or burglary, or the obtaining a wife under false pretences, is wholly unworthy the intelligence and fairness of a liberal scholar and thinker like Mr. Curtis. It looks too much like truckling to the popular fury of the hour at the expense of justice, at the expense of truth.—*Banner of Light.*

THE following is a portion of the report of an interview with James McKnight, Esq., of this city, from the *Kansas City Times* of Nov. 23—

Q.—Do you not think that he (President Young) quails at the contemplation of the prosecutions now commenced against him and his associates?

A.—Brigham Young is not the man to falter in defense of his principles. Notwithstanding the repeated losses himself and people have sustained in Ohio, Missouri and Illinois, I believe he entertains unshaken confidence in the integrity of the American people. His strong declaration is, "Posterity will do us justice." In the present issue I speak advisedly when I assure you, gentlemen, that Mr. Young has unqualifiedly avowed his determination to meet the great questions now to be adjudicated squarely on their merits in the courts, whatever the cost or whatever may be the consequences.

Q.—Do you not believe some amicable compromise could be made, such, for example, as the prompt suppression of polygamy in the future, conditioned with general amnesty, or something of that import, for that of the past?

A.—A momentous consideration, I concede. The situation, however, is anomalous. No man better than Mr. Young knows his utter impotency in determining a proposition of that character. I cannot believe he would have the temerity to entertain it for a moment. Why, sir, Brigham Young and the entire Mormon Church have a most definite knowledge—no sentient belief or assurance—that their polygamy is ordained of God! Brigham Young had no more agency in its introduction than Judge McKean, before whom he is to be prosecuted for it! The same is intrinsically true of Joseph Smith. He was but the passive agent, or medium, if you please, through whom the Great God chose to command it; and hence, cannot in anywise be responsible for it. There is not a Mormon on the earth who would presume to take one jot or tittle from the law of patriarchal marriage, as communicated to the church through Joseph Smith. The fact, solemn as eternity, stands indisputable, and is well understood by all who have made themselves conversant with the Mormon doctrines, that when the Mormons renounce polygamy they will renounce Mormonism; and this from the very exigency of the case. Observe the Mohammedan devotees of the crescent; the Hindoo, self-sacrificing beneath the wheels of Juggernaut; the devout Indian mother, conciliating her idol gods by the service of her child to the rapacious crocodile. These, ay, all these you may convict of error, and, by life-long, unwearied, humble, God-like exhortation, delineate to them the way to heaven, to God; but the Mormons, gentlemen, are not heathen. They have been reared under the benign teachings of Christianity. Their principal men first saw the light upon soil consecrated by the blood and sufferings of our Pilgrim sires. Be assured, they are no serfs; they are no dupes of crafty leaders. It is urged that the church is composed largely of foreign element. Be this all true. If to-day any considerable number remain alien, it is due to the inquisitorial character of the naturalization tests set up in the U.S. courts in Utah. No people are more loyal; none more love the Constitution; none more detest open or private immorality; none cherish a purer standard of public policy; none have made comparatively greater sacrifices for the integrity of our common country; none have proved themselves more willing to suffer wrong and less disposed to do wrong; and none more ready to consecrate their all in defense of our liberties and constitutional rights. They ask, in return, a decent respect for their religion. Is this too much to ask? Will not the wresting of a vast desert from sterility; will not the institution of order, peace, temperance, brotherhood; will not the planting a nucleus for the settlement of our great interior domain; will not the supply of skilled labor and abundant necessities at moderate rates to develop

her untold mineral wealth; will not her hardy race of mountaineers; will not her flocks of children rearing for the defence of the Republic? Will not her common schools and seminaries of learning? Will not her thousands of miles of irrigating canals? Will not her majestic public edifices and her private homes? Will not her thousand flourishing settlements, founded in a desert, whence no white face had ever turned a wistful eye, and which this day, but for the ungenerous rivalry which sold us from the presence of our brethren, would have remained as barren as the famine years of Egypt? Will not the corn and the wheat, and the fine flour, and all the rich products of a land redeemed, by Heaven, through our toil, from which we have fed our famishing brethren by thousands—compensate our magnanimous brethren for the existence of so small a moiety as polygamy? Does their personal comfort depend upon its suppression, or are any human being's rights infringed by it? If so, wherein? If not, then why is it not worth all it will cost the nation to let the patriarchal experiment of the nineteenth century work out its problem? Peradventure America and the world might profit thereby.

Q.—Have the moral and social effects of polygamy in Utah been hitherto positively salutary?

A.—Confessedly so. I have yet to meet the intelligent gentleman or lady who has visited Salt Lake who refused to accord that, in point of social purity, freedom from vice and licentiousness, she stands, among the cities of Christendom, without reproach.

Q.—Should the influx of outside element increase, would not polygamy gradually decay?

A.—If there were in the principle the elements of its own decadence, we might reasonably have looked for such symptoms long ere this; for we have always had a liberal representation of "outside element" among us. The ratio now is not much greater than during the earlier years of our history. With the greater influx of outsiders we have a corresponding greater number of church members.

Q.—What effects are apparent in Utah from the present attitude of the courts?

A.—General disquietude and reluctance on the part of capitalists to invest in the development of the mines, which are believed by competent judges to be unequalled on the continent in wealth and permanence. It is estimated that, since the present persecutions began, not less than nine millions of dollars have been diverted from the mining interests of the country.

Q.—Who are the principal losers from this diversion?

A.—Our outside friends, emphatically, as they all are very conscious; for it takes money to get out the ore, and but few of the Mormon community have either the money or the disposition to invest much in mines. Brigham Young frequently remarks in public: "Brethren, attend to your farms and your mechanism. I will promise those who do so that they will be able to buy up those who go to mining."

Q.—And why is Mr. Young so much opposed to the development of mining interests?

A.—Only apparently so. Had he encouraged mining instead of agriculture in earlier years, both his own and the people seeking overland homes on the Pacific must have perished outright. Agriculture was synonymous with self-preservation; mining, with failure and decimation. Now, Mr. Young's advice to the hosts of experienced Welch and English miners is, "Work for the capitalist and furnish him supplies and whatever you have at fair figures."

Q.—What would the Mormons do if they should be admitted into the Union?

A.—Erect upon the ashes of Territorial tutelage one of the greatest, noblest, freest, purest sovereign States over which floats the proud emblem of our glorious nationality.

That, we thought, capped the climax of Mormon aspiration; and we involuntarily exclaimed, Then let us have a true Mormon State; and let polygamy, like any other problem of questionable import, be solved by the irrepressible mutations of Time!

SUMMONSES.—We are now prepared to supply Justices of the Peace with Blank forms of Summonses. Other Blank forms also for sale at this Office. d58,1014w-11f

COAL AND WOOD!—The cold season is approaching, and now is the time for subscribers to the NEWS to bring in their Wood and Coal, supplies of which are needed at this Office. Bring along the fuel.