

tivity. He is the man who understands American institutions. With such men there would be no German, no Italian, no Irish; all would be American. Compare him with Judge Morrison of the same Territory. One is the product of free institutions, free speech, free religion, the other is the product of penal laws, religious disability, political helotism, etc. You can guess which is which.

JUNIUS.

CHICAGO, June 13, 1890.

IS "MORMONISM" DISLOYAL.

The accusation of disloyalty, which is now being so strenuously urged against the "Mormon" people, is a very serious one which threatens to involve them in much suffering. It is the same charge which was made against Jesus and the early Christians, and which was made the pretext for most of the cruel persecutions they suffered.

Is this charge true? I deny it. Merely denial, however, by the whole people does not disprove it. But if it can be shown that loyalty to the fundamental principles of our Government is an integral part of what the world terms "Mormonism," then the unjust charge is disproved. There may be disloyal "Mormons" as there have been disloyal Methodists, Episcopalians or other sects; but I hold that no true Latter-day Saint can be disloyal to his country and faithful to his religion.

The three essential features of our form of government are, first a constitution, designed for the protection of minorities—majorities need no protection; second, a legislative body elected by a majority of the people; third, a supreme court, which shall be entirely independent, and ought to be non-partisan, which shall have the power to decide as to the constitutionality of any law enacted by the legislative and executive branches of the government. The decisions of this court, though they may not always be right, must of necessity be final. They may not always be in harmony with the views of the majority of the people, but the latter are bound to submit, otherwise there would be no safeguard or protection for minorities. On the other hand, while minorities cannot avoid submitting to its decisions they have the natural and legal right to protest against such as they deem to be unjust and to point out, if they can, the fallacies that have led thereto. More than once has experience proved the conclusions of the Supreme Court of the United States to be erroneous. Sometimes it has reversed its own decisions; while it is extremely seldom that a unanimous decision is rendered, thus proving that its own members do not regard it as infallible. But there must be in all popular governments, a final court of appeal to which all citizens must submit, otherwise we should drift into anarchy or despotism.

Now the Latter-day Saints believe that the Constitution of the United States was framed and its government established by men who were

inspired by the Almighty for that special purpose. How, then, can they be loyal to God and disloyal to the fundamental institutions of their country? They believe, and have taught for over fifty years, that the time is coming when they and those who will rally round them will be the only ones loyal to the Constitution and the principles upon which our government is based, and that they will rally to its defense and sustain it against all its foes. This may be egotistical but it is not disloyal. The experience through which the Latter-day Saints are passing is calculated to make them the staunchest supporters and defenders of civil and religious liberty the world has ever known. Such is their destiny. But civil and religious liberty cannot exist without constitutional law. And even if the Latter-day Saints were today in the majority, it would be as much their duty to submit to a decision of the Supreme Court until they could get it reversed as it is now a necessity to do so. Either so, or, if conscience forbade obedience to any particular law, take the consequences as philosophically as possible. But, no matter how great the cost either to individuals or the community, it is essential that the welfare, liberty and progress of the world that the basic principles of our government should be maintained. I speak as a firm believer in the principles of what is termed "Mormonism." And, no matter how many unwise things may have been said or done in the past, the religion of the Latter-day Saints requires them not only to be pure in heart and righteous in life, but to be loyal to the institutions of our country.

It is possible that the government may become so corrupted and changed as to bear no resemblance to that originally established by its inspired founders. It may become an oppressive despotism instead of a government based upon the consent of the governed. Should this ever be the case, should the country become the prey of an oligarchy, or despotism attempt to supplant and overthrow the liberties of the people, when there is a standard raised by God himself—the standard of Constitutional liberty—which will claim the allegiance of every man, be he Mormon or Methodist, Jew or Gentile, Saint or sinner, and for the preservation of which loyalty to God and humanity will demand the most heroic sacrifices. W. H. S.

THE DISSENTING OPINION.

FOLLOWING is the full text of the dissenting opinion of Chief Justice Fuller, with whom Justices Field and Lamar concurred, in the Church case:

SUPREME COURT OF THE UNITED STATES.

Nos. 1031 and 1054.—October Term, 1889.

The late Corporation of the Church of Jesus Christ of Latter-day Saints et al., Appellants, vs. the United States. George Romney, Henry Dinwoodey,

James Watson and John Clark, Appellants, vs. the United States.

Appeals from the Supreme Court of the Territory of Utah.

[May 19, 1890.]

Mr. Chief Justice Fuller, with whom concurred Mr. Justice Field and Mr. Justice Lamar, dissenting:

I am constrained to dissent from the opinion and judgment just announced. Congress possesses such authority over the Territories as the Constitution expressly or by clear implication delegates. Doubtless territory may be acquired by the direct action of Congress, as in the annexation of Texas; by treaty, as in the case of Louisiana; or, as in the case of California, by conquest and afterwards by treaty; but the power of Congress to legislate over the Territories is granted in so many words by the Constitution. Art. 4, sec. 3, clause 2.

And it is further therein provided that "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or office thereof."

In my opinion, Congress is restrained, not merely by the limitations expressed in the Constitution, but also by the absence of any grant of power, express or implied, in that instrument. And no such power as that involved in the act of Congress under consideration is conferred by the Constitution, nor is any clause pointed out as its legitimate source. I regard it of vital consequence, that absolute power should never be conceded as belonging under our system of government to any one of its departments. The legislative power of Congress is delegated and not inherent, and is therefore limited. I agree that the power to make needful rules and regulations for the Territories necessarily comprehends the power to suppress crime, and it is immaterial even though that crime assumes the form of a religious belief or creed. Congress has the power to extirpate polygamy in any of the Territories, by the enactment of a criminal code directed to that end; but it is not authorized under the cover of that power to seize and confiscate the property of persons, individuals, or corporations without office found, because they may have been guilty of criminal practices.

The doctrine of *cy-pres* is one of construction, and not of administration. By it a fund devoted to a particular charity is applied to a cognate purpose, and if the purpose for which this property was accumulated was such as has been depicted, it cannot be brought within the rule of application to a purpose as nearly as possible resembling that denounced. Nor is there here any counterpart in Congressional power to the exercise of the royal prerogative in the disposition of a charity. If this property was accumulated for purposes declared illegal, that does not justify its arbitrary disposition by judicial legislation. In my judgment, its diversion under this act of Congress is in contravention of specific limitations in the Constitution; unauthorized, expressly or by implication, by any of its provisions; and in disregard of the fundamental principle that the legislative power of the United States as exercised by the agents of the people of this republic is delegated and not inherent.

PARIS, June 21.—A dispatch from Berlin announces that Von Moltke is seriously ill.