

time entered into a bigamous or polygamous relation, by a marriage with a second or third wife, while the first was living, he *still maintains it*, and has not dissolved it, although for the time being he *restricts actual cohabitation* to but one. He might in fact abstain from actual cohabitation with all, and be still as much as ever a bigamist or a polygamist. He can only cease to be such when he *has finally and fully dissolved* in some effective manner, which we are not called on here to point out, the very relation of husband to several wives, which constitutes the forbidden status he has previously assumed." \* \* \*

"The crime of bigamy or polygamy consists in entering into a bigamous or polygamous marriage, and is complete when the relation begins. That of actual cohabitation with more than one woman is defined and the punishment prescribed in the third section. The disfranchisement operates upon the *existing status and condition* of the person and not upon a past offense. It is, therefore, not retrospective. He alone is deprived of his vote who, when he offers to register, is then in the *state and condition* of a *bigamist* or a *polygamist*, or is then *actually cohabiting* with more than one woman." \* \* \*

"Continuing to live in that state afterwards is not an offense, although cohabitation with more than one woman is. But as one may be living in a bigamous or polygamous state without cohabitation with more than one woman, he is in that sense a bigamist or polygamist, and yet guilty of no criminal offense."

The point that the court seemed to have its attention more particularly directed to was as to whether cohabitation with more than one woman was essential to the justification of the registration officer in refusing registration on the ground that the applicant was a polygamist, and the definition given here seems to be with respect to that point. The court says: "He can only cease to be such, that is, a polygamist, when he *has finally and fully dissolved* in some *effective manner*, which we are not called on here to point out, the very relation of husband to several wives, which constitutes the forbidden status he has previously assumed." The court held that the polygamous relation may exist, though the polygamous marriages may have been contracted before the law took effect, and it may exist though the parties do not actually cohabit together. The question is, what is necessary to constitute the relation? Because it is a relation. It is the relation which a polygamist bears to his wives, where there is no cohabitation existing; what, therefore, is necessary to constitute a polygamous relation where there is no cohabitation? The court says: "He still maintains that relation to a plurality of wives." And further: "If he still maintains the relation he is a bigamist or polygamist." What is the meaning of this term maintain as here used? Does it simply mean the relation that may exist after the parties have

in good faith agreed to be husband and wife no longer and ceased to recognize each other as such, and refuse by physical or mental act to maintain the polygamous relation; does it mean simply the relation existing by reason of the former unlawful marriage and cohabitation? To maintain, in its ordinary sense, means to continue by act or intent. It includes some consent—some act of the mind. There may not be any outward act, but some act of the mind, consenting to the continuance of the relation, consenting to recognize the woman as his wife, consenting to maintain the relation is necessary.

The Court further says: "He has a plurality of wives, more than one woman whom he recognizes as a wife, of whose children he was the acknowledged father." There the necessity of recognition is stated—that he recognize her in some way; and there is no way of recognizing except by some act of the mind admitting the relation as existing. The question is, whether a man recognizes a woman as his wife, when both agree that she shall not be his wife, when they have in good faith said that they will not live together, and when they refuse to continue the relation and to recognize the relation. Is that a recognition? The court says further: "recognizes a wife of whose children he is the acknowledged father, and whom, with their children, he maintains as a family of which he is the head." There the Court undertakes to give a description of what constitutes the relation. I confess it is a very imperfect one: "He has a plurality of wives, more than one woman whom he recognizes as a wife, of whose children he is the acknowledged father, and whom, with their children, he maintains as a family of which he is the head." The Court speaks of the polygamous relation as a status; a state or condition is here referred to—a status which the law recognizes as unlawful. The law may recognize things as lawful or unlawful; when unlawful it is condemned. "And this status as to several wives may well continue to exist," the court says, "as a practical relation, although for a period he may not in fact cohabit with more than one. For that is quite consistent with the constant recognition of the same relation to many, accompanied with a possible intention to renew cohabitation with one or more of the others when it may be convenient." It is spoken of as a practical relation. "Although for a period he may not in fact cohabit with more than one woman, for that is quite consistent with constant recognition." So that the Court holds to the idea that there must be recognition to constitute the polygamous relation. The idea is held all through the opinion that there must be recognition of the relation—there must be a recognition that the woman is his wife. The Court refused to say in terms how the relationship could be terminated. It says: "He can only cease to be such when he has finally and fully dissolved the relation in some effective manner."

The most effectual manner of dissolving the polygamous relation is for the man and his polygamous wife to agree in good faith to terminate and dissolve the polygamous relation, to cease to recognize each other as man and wife, and to refuse to maintain the relation longer. A divorce would not of itself terminate unlawful cohabitation, and pardon and amnesty would not terminate the polygamous relation if the parties should continue to recognize each other as husband and wife. Such a construction as given above encourages polygamists to abandon unlawful cohabitation and the polygamous relation, and in that respect to obey the law and become good citizens. The dissolution would be effective if the parties, before other persons, agree in good faith to separate and afterwards continue to disregard the polygamous relation and abandon it, and refuse to recognize each other as husband and wife. Of course it is for the jury to determine whether the dissolution is in good faith and whether the parties are keeping it.

Pardon and amnesty are not intended as a means of terminating a polygamous relation. Pardon is the remission of the consequences of an offense after the parties have been convicted. Amnesty is the remission of the consequences of a crime, and may be after or before a conviction. Though pardoned, the defendant might be guilty of maintaining and recognizing the polygamous relation. It is for the jury to determine whether the parties in good faith have terminated the polygamous relation in this case, and the evidence on that point that is competent is admissible. The only question left is whether the answer to question tends to prove the dissolution of the polygamous relation, and tends to prove that the parties in good faith are keeping the dissolution—whether they consider the marriage as dissolved, and in good faith are keeping their agreement.

#### HOW LITTLE WE KNOW.

In certain moments of self-congratulation we are apt to fear that we are too rapidly approaching perfection—the perfection of knowledge especially—and to entertain a doubt whether it is not dangerous to be so immensely clever. We say we have improved so very wonderfully; we have obtained such transcendent victories in science and philosophy; we are so very superior to our predecessors; we have solved so many mysteries and chained so many forces, that we begin to draw ourselves up and calculate that the "little" difference between the angels and ourselves has been pretty successfully bridged over. We may come down from our pedestal for a time, but there are still two or three things we do not know.

For instance, we do not know how many of our kind there are on this globe, which we speckle like fly-blows on a bladder. It is somewhere in the neighborhood of six or seven