

received a testimony from Him, that I should obey that Gospel—that it was the only plan of salvation. This is the testimony that has rested upon the Latter-day Saints. Some, by transgression, suffer that light and testimony to depart from them. The light would not dwell in unholy temples, and when those who had received it turned unto sinfulness, it was withdrawn from them. How great is the darkness of such persons!

In our experience we are called upon to taste of the bitter, that we may appreciate the sweet; to feel the need of mercy, that we may be merciful. This is to teach us, in the only method that we can be taught, the eternal laws by which we are necessarily governed. Today we are living in an eventful period. The time of the end is approaching when the prediction made by the angels when the Lord ascended to heaven will receive fulfillment. Are we looking for the coming of our Lord and Savior? The ancients eagerly looked for that time, but it was not given to them all to know when that event would come. It was sufficient for them to know what was necessary for their guidance. We have the promise that all this generation will not pass away before the Savior comes. The Spirit that causes the Saints to gather is the Spirit that is preparing a people for the coming of the Lord. We may shut our eyes to the fact if we choose, but it is nevertheless true.

It is a blessed hope that we entertain. The glorious knowledge we have is worth all the trials we are called upon to pass through. It is a blessed assurance to know that we are the people of God, to whom will be given the glory and dominion of the kingdom under the whole heaven. Christ our Lord will come and reign as Lord of lords and King of kings. The Gospel is being preached to all the world. It is consistent that this should be done in this day, just prior to the second coming of our Lord. The plan, the organization, all is the same as in the days when Christ Himself was on the earth. It is the everlasting Gospel. He placed in the Church certain officers for certain purposes, until all should come to the unity of the faith, to the full stature of men in Christ Jesus. These officers were not for temporary periods, but were to continue to the full accomplishment of the labors connected with their offices.

The religion of the Latter-day Saints is calculated to make mankind pure and perfect. I know I would be a much better man if I lived up to its principles. I thank God that I am numbered with the Saints. There is nothing that gives me, or can give us, greater satisfaction than to know that God has spoken to His children in this age, and to partake of that knowledge and to realize that we are pressing forward in obedience to His will.

I rejoice in the signs of the times. Let no one suppose that God is not with His people. His work is pressing forward. Let us bear in mind that observance of His will alone

will enable us to receive of the blessings of the faithful. May we purify ourselves and put away from us those things that come of evil, that we may continually be fed with the bread of life.

The choir sang the anthem:

O, be joyful in the Lord.

Benediction by Elder Robert Marshall.

THE NEILSEN CASE.

Following is the argument of Hon. F. S. Richards in the Neilsen *habeas corpus* case:

Before the Supreme Court of the United States April 22, 1889.

May it please the court: On the 27th day of September, 1888, the grand jury of the First Judicial District of the Territory of Utah investigated the charge of unlawful cohabitation against the petitioner, Hans Neilsen; four witnesses were examined on one oath and one examination as to the alleged offense and the conduct of the accused, during the period from October 15, 1885, to September 27, 1888. It appeared that the petitioner had, during the entire time, continuously, and "without intermission," cohabited with Anna Liviha Neilsen and Caroline Neilsen, the women named in the indictment, as his wives, and that during the continuance of said cohabitation, to wit, on the 14th day of May, 1888, he had sexual intercourse with Caroline. Instead of indicting the petitioner for a continuous cohabitation from the 15th day of October, 1885, till the 27th day of September 1888, the jury presented an indictment for unlawful cohabitation during the time prior to the 14th day of May, 1888, and, at the same time, presented an indictment for adultery, alleged to have been committed with Caroline on the said 14th day of May, 1888.

Under the decision of this court in the Snow case, there could be but one indictment found for the offense of unlawful cohabitation committed prior to the finding of the indictment. Knowing this, the prosecutor and the grand jury sought to avoid the effect of the decision of this court, based upon the constitutional provision that a person shall not be twice put in jeopardy for the same offense, by indicting him for one of the acts embraced in the cohabitation and calling the supposed offense by another name, to wit, adultery. The reason the grand jury could not find more than one indictment for unlawful cohabitation was, because the offense was a continuous one, and all the acts of which it was composed were embraced or involved in the transaction, and together constituted the one offense.

It was in the discretion of the prosecutor and grand jury to charge the cohabitation as having continued during the whole period from October, 1885, till September, 1888, or, in the language of the authorities, "to carve as large an offense" out of the transaction as they could, but having once carved they "could not cut again." This being the law,

could the grand jury, by charging the cohabitation as extending only to the 18th day of May, take an act which occurred on the day following but formed a part of that cohabitation and make it the subject of another prosecution? In other words: When it was impossible for the grand jury to make a second offense out of all the acts of the defendant which constituted the cohabitation after the 18th of May, 1888, because it had already carved an offense out of the transaction, could it select one of those acts, and, by calling the offense adultery instead of unlawful cohabitation, find another valid indictment? This is the exact question involved in the case. We have a manifest attempt, by changing the name of the alleged offense, to do what this court has said cannot be done—make more than one offense out of a continuous cohabitation. Such procedure is repugnant to the fundamental principles of law and justice.

The authorities are uniform upon the point that the same transaction may present two or more indictable aspects or phases, under different names. For instance, by the same continuous act a man may commit robbery and burglary, or arson and murder, or swindling and uttering a forged instrument, or an assault with intent to murder and aggravated riot, or riot and disturbing a religious meeting, or fornication and seduction, or running a horse and betting on a horse race. But, in the language of the Supreme Court of Alabama, in the case of *Moore v. State*, "If the state elects, through its authorized officers, to prosecute a crime in one of its phases or aspects, it cannot afterwards prosecute the same criminal act under another name."

I repeat that, after hearing the evidence, it was in the discretion of the grand jury to either indict the petitioner for cohabitation during the entire time from October 15th, 1885, to September 27th, 1888, or for any part of that time, or to indict him for adultery; but when an indictment was found for either of these offenses, no matter what period of time it covered, nor the name given to the offense in the indictment, a conviction on that charge became a bar to any other prosecution, under any name, for any act or series of acts growing out of that transaction. This doctrine is abundantly sustained by the great weight of authority and, as was said by the Supreme Court of Georgia, in the case of *Holt v. State*, if it were not so, the provision of the Constitution which declares that no person shall be twice put in jeopardy, would be "a mere shadow and delusion."

The following cases referred to in our brief, illustrate the principle we invoke, and clearly establish the proposition that only one conviction can be had and one penalty imposed for a single transaction; which has been defined by Mr. Stevens, in his work on evidence, to be "a group of facts so connected together as to be referred to by a single legal name." In this case unlawful co-