

DESERET NEWS:

WEEKLY.

TRUTH AND LIBERTY.

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IS IT "MALUM IN SE"?

THE argument of Senator Jones, of Florida, which we published and made some comments upon in the EVENING NEWS of Saturday, contained other errors besides those which we then pointed out. The most important of them was the assertion that polygamy is *malum in se*, that is, a crime in and of itself, which requires "no legislative prohibition or denunciation to fix its character." This is contrary to the generally admitted theory, which classes polygamy among *mala prohibita*, or those offences which are made to be criminal by statute.

We claim that until the Congressional Act of 1862 was passed, there was no law, affecting the people of Utah, constituting plural marriage a crime. It was then and is now part of the religious system commonly known as "Mormonism." Mr. Jones, desiring to make it appear that plural marriage in any form cannot be viewed as part of a religion, ventured the assertion that polygamy is crime in and of itself, to be classed with murder, piracy and other offences, which would be criminal if no statutory law were enacted for their punishment.

It is strange that any gentleman with pretensions to legal learning would place himself on record as uttering such a fallacy. When a man in a community in which no law exists against it, marries two wives with the consent of all persons affected by the marriage, he commits no overt act against either of them or against the society in which he lives. Murder and robbery are crimes in themselves because they are infringements upon human rights. They are wrong in the very nature of things. They are evils independent of any law.

The rights to life, liberty and the pursuit of happiness are natural, inherent in each individual. Anything which interferes with the free enjoyment of those rights or either of them is naturally criminal. And by the same rule anything that does not interfere with the rights of man is not of the essence of crime. It may be made criminal however by statute, enacted under properly constituted authority. Take, for instance, the selling of any kind of merchandise, including intoxicants. If there is no law forbidding or regulating that traffic the mere business itself is not criminal. But a law may be enacted requiring those engaged therein to pay a certain license fee and constituting the sale of certain articles without a license a punishable offence. The act which is not criminal in itself is then made criminal by law. It is the same with many offences for which people committing them may be made to suffer penalties; without a legal enactment they would be inoffensive.

The plural marriage of the Latter-day Saints is of this nature. We will not stop to show that marriage is a matter of religion, whether it be monogamic or polygamic, or that it is not Mr. Jones' prerogative to define what may be or may not be the religion of any man if in practicing it he does not interfere with human rights, but will proceed to examine the only argument which the Senator advanced in support of his assertion, that polygamy is *malum in se*. It was that, "by the common consent of the Christian world it was stamped as in antagonism with social order." Well, by the same rule Sabbath-breaking must be classed with essential crimes. The common consent of the Christian world requires abstinence from secular business on Sunday, and regards the infraction of this rule as in antagonism with social order. Laws have been enacted to enforce this common opinion, and, particularly in times past, they have been carried out with vigor. Even now they exist, and the recognized best minds of the age are in favor of Sabbath observance.

Will Senator Jones therefore declare that Sabbath-breaking is *malum in se*? Is not its criminality derived from the law rather than from the act itself? And yet the common consent of the Christian world brands it as in antagonism to social order. Then by his rule in regard to polygamy Sabbath-breaking must be *malum in se*.

But plural marriage is less of the nature of *malum in se* even than Sabbath-breaking. For while the latter can be shown to be conducive to harm because rest is required by all people at least one day out of seven, and that deity established the rule for its observance, the former is not against the welfare of the parties, when properly understood, and it cannot be shown that God has even declared, on general principles, that it is wrong for a man to have more than one wife. If reference is made to the Book of Mormon on this point, we will remark that the Divine injunction was directed to a special case and under special circumstances, not against the principle or practice on its own merits; and further, that our opponents have to fly to our sacred records which they do not believe, to assail a doctrine which they do not understand, and which the scriptures they profess to accept not only fail to oppose, but actually sustain and enjoin.

Senator Jones, then, was as much at sea on the question of the essential criminality of polygamy as he was in regard to the absolute power of Congress over the Territories, and his logic was equally peculiar in reference to both subjects. But as his efforts brought forth nothing in the way of inimical legislation, we can afford to let them pass without further comment, except that in assailing this great latter-day work of the Almighty, great men are fulfilling the words of the prophets concerning them: "The wisdom of their wise men shall perish and the understanding of their prudent men shall be hid."

LIGHT IN THE MIDST OF DARKNESS.

THE following letter to Elder L. John Nuttall will be interesting to all who are tracing the progress of the Latter-day work in the republic of Mexico:

We are all well and in good spirits at present. Brother Pratt came in from Ixtabauca on the 7th. He has been at the latter place ever since our arrival studying the language. I do not think he will return as there seems to be little opening for the introduction of the Gospel in that direction at present. We have a multitude of difficulties to contend with, and at times the prospect has looked a little dark, but we have never felt discouraged, and of late the Lord has opened up the way before us. Since my arrival I have labored principally in the vicinity of Ozumba, a Mexican town about 60 miles southeast from this city. On the 7th of January, I baptized five persons there, on the 12th, two at Cuauhtitlan, and last Sunday five others at Chimal, a village near Ozumba. These people are all Indians, or men in whom the Indian blood largely predominates. They are intelligent men, some of them, having received a common school education. One of the men whom I baptized on the 7th of January has been for years pastor of a congregation of Independent Protestants and is laboring earnestly to bring his flock into the fold of Christ.

The spirit of the Lord is manifestly working among the Lamanites in fulfillment of the promises made to their fathers, and we feel that notwithstanding the power of the great and abominable Church (whose power in the land is almost supreme) if we are diligent in our labors the Lord will yet give us an abundant harvest in this land.

With prayers for your welfare and gratitude to the Lord and His servants for the succor we have received, I remain, your brother,
A. W. IVINS.

MORE FALSEHOOD BY TELEGRAPH.

THE Salt Lake press dispatcher has been at it again. The following telegram appeared several days ago in the Coast papers and we have been keeping it till we could spare space for it in the News:

"The Supreme Court of the Territory, composed of John A. Hunter, Philip H. Emerson, and Stephen P. Twiss, signed a memorial to Congress, asking that a law be passed giving the Governor of Utah power to appoint territorial and county officers to fill vacancies occasioned by the lapsing of the August election, and thus prevent anarchy. Through their recommendation the Hoar amendment to the Edmunds law was passed and power to appoint was conferred upon the Governor. In October last the Governor made his appointments and the Mormons resented. The cases came up in the several districts presided over by the Judges, who affirmed the law, till finally they reached the Supreme Court, and yesterday the force ended by permitting an appeal to the Supreme Court of the United States. As the term for which the officers were appointed expires in August, the law is virtually nullified and the Mormon Church again triumphs over the Government."

This dispatch is of the same nature as others the untruthfulness of which has been proven in our columns. It is misleading in intent and false in statement. In the first place the judges named did not in their memorial to Congress ask that "a law be passed giving the Governor of Utah power to appoint territorial and county officers." They did not intimate any such thing. They represented that in consequence of the probable lapse of the approaching August election all the county offices and those of Territorial Auditor and Treasurer would become vacant, and said:

"We therefore ask that Congress shall take such measures as will provide for legal successors to all the present incumbents of office whose successors would have been chosen at the August election, and thereby secure the continuance of good order and the regular and undisputed support of organized government which would otherwise be seriously jeopardized."

They were mistaken in two important things: All the county officers were not to be filled at the August election, as some of the county officers hold their positions for four years and others for two years; then the provision of law making their terms continue "until their successors are elected and qualified," prevented any vacancy and left no room for the disorder and jeopardy to organized government which the memorial anticipated. And one potent proof that their portents were groundless, is the fact that organized government has continued without hindrance and no disorder has occurred, although the August election lapsed and no successors have been legally appointed. The old officers have simply held over according to law, and there has been no anarchy or confusion.

But the judges did not ask for any such special and extraordinary powers to be conferred upon the Governor, as stated in the press dispatch; they did not indicate any particular line of policy to the Senate of the United States, but simply pointed out a probable danger, and asked for something to be done to avoid it.

The Senators who undertook to take hold of this matter exhibited astonishing ignorance of the subject, but the Hoar Amendment which was passed did not confer any power upon the Governor, except to make appointments to fill such vacancies as might occur through the failure to elect. But the failure of the election did not make the vacancies expected, through the hold-over provision to which we have referred. Yet the Governor attempted to fill them, vacancy or no vacancy, and all the resistance offered was this: The incumbents, who had taken an oath of office and held the Governor's commission to continue until their successors were elected and qualified, simply declined giving up their positions until the status of the case could be judicially decided.

There has been no force in the conduct of the test case before the courts. Some of the best legal talent in this region of country has been engaged upon it. The result is an appeal to the Supreme Court of the United States, and this settles affairs locally, for the incumbents continue to perform the duties of their respective offices to which they were elected by the people, and there is no dispute as to the validity of their official acts.

The term of such offices as the Governor was authorized to fill was limited to eight months. This dating from August last would terminate them in April next, leaving a

period of four months without any local officers, and thus creating the anarchy which the Hoar Amendment was designed to avoid, if the theory of the Governor's power to make all these appointments be correct.

Thus the "nullification," if any, was in the law itself, and the "Mormon Church" had nothing to do with it. There was no conflict of the "Mormon Church" with the Government or anyone else, involved in this affair. It was a dispute between a common sense view of a law of Congress and a strained and forced construction thereof, the former sustaining the people's elected officers in the discharge of their sworn duties, and the latter aiming at the support of an arbitrary one-man-power, seeking to impose upon the people illegally appointed officers, in most cases totally unfit for the positions assigned to them.

The attempt to make it appear as a conflict between the "Mormon Church" and the Government is villainous. There is no dispute on the part of anyone with the Government. The Government is not a party to it. The statement at the tail end of the dispatch is a malicious fabrication, and it gives further evidence that the press dispatcher from Salt Lake to western journals is totally unfit to be entrusted with the duty of transmitting messages designed for news. For, his animus against the majority of the people here is so great that it colors everything he has the chance of tipping with hues antagonistic to the "Mormons" and when he does not wilfully lie, he so garbles and perverts the facts that the public are liable to be misled continually in regard to Utah affairs.

GOOD ADVICE.

Bishop Huntington, of Syracuse, New York, has been giving some practical advice to professing Christians, which is good for anyone to follow. He discerns the evils which are countenanced in modern society, and is opposed to them. The evil leaven working in the world finds its way even into our mountain social affairs, and we commend the Bishop's remarks to the consideration of all who desire the maintenance of purity and the encroachments of insidious vice. He says:

"Make your own personal religion a fact that none can gainsay. Make it a healing force that every one about you will feel. Cultivate positive convictions and practice uncompromising morals. Wherever defaulters, public thefts, godless divorces, drunkards, libertines, dubious fashions in dress and dance which only evade the condemnation of indecency by getting the patronage of decent people, may come from, see that they do not come out of the Church, which is the Body and Bride of Christ. Social manners need purification, and it is your express business, under our vows, to purge them. Usages, diversions, styles of dress and undress have crept into reputable society which owe their fascination to the stimulus they subtly supply to the lower and more dangerous appetites. Why should you allow to your sons and daughters at an evening party what would shock and alarm you if you saw it anywhere else? Does immodesty become modesty by simply going into company?"

NO DEATH IN IT.

THE Cincinnati Times-Star refers to Judge Black's argument on the constitutional rights of Utah, and says, "Mormonism dies hard. In fact, it does not yet appear that the process of dissolution has begun."

The constitutional rights of Utah ought not to be confounded with "Mormonism," unless the equal rights of the believers in "Mormonism" with those of believers in any other religious system are considered. Judge Black's manly stand for the rights of the people of the Territories affects all citizens of the United States on the public domain outside of State boundaries, and is in that respect as much for the people of Montana or any other Territory as for Utah.

But the remark about "Mormonism" is singularly silly. It is described as "dying hard" and yet giving no appearance that dissolution has begun. We can inform those who

are waiting to see "Mormonism" die that they may just as well turn their attention to something probable now as at any time. "Mormonism" is the only really vital religious system in Christendom, and it cannot be destroyed. It has proved itself as impervious to physical force as to milder means, and all attacks upon it only increase its vigor. Those who assail it will all die themselves before it will give up the ghost, and the signs of dissolution do appear in their worn out and man-made systems. "Mormonism," although that is not its proper name, is the religion of the future, and it will never die.

SITUATION AT PANGUITCH.

NECESSARY QUARANTINE PRECAUTIONS RESISTED.

Our Panguitch, Garfield County, correspondent, writes as follows under date of March 2d:

The smallpox is still confined to the two Henry families who reside on the most southern block of the town. Only four persons are down up to date. None of those exposed in town have yet any symptoms of the disease. President Crosby, as well as Dr. King, were desirous for those afflicted, to be moved out of town, to a convenient place, but this seems to not meet the good will of the heads of those families, who declined or rather refused to have any member of their families removed from their homes. The Compiled Laws of Utah, 182 and 193, Sec. 1 and 2, authorize the Probate Court to locate quarantine grounds, and to make such quarantine regulations, as they may deem proper for the prevention of the spread of the disease, but it so happened that the husband and father of one of the afflicted families is the Probate Judge, and consequently it seems that nothing could be done from that source. I am told, however, that the Selectmen from the different parts of the County are to meet here at an early day; and perhaps some measure will be taken in the matter.

It is interesting to notice the singular change the appearance of this town has made. Half of the formerly busy inhabitants have fled, some to their farms, others to their hayland, some to visit friends and relatives far and near. Others have gone to enjoy themselves on the yet icy lake, some to the Canyons. The busy appearance the town had a few weeks ago has departed. The blacksmith shops are closed and no one can get his agricultural implements repaired for spring work; the carpenter's hammer has ceased to sound from the roofs of the many new dwellings, barns and other buildings recently under erection. There are none to buy the furniture which our cabinet makers manufacture; the painter has cleaned his brushes and closed his shop, like he was preparing for a journey. The boarding house is closed and the proprietor with his family has left for other quarters. The lumber is lying in the yards, without anybody to buy or sell.

What few apostates we had among us were seized with an extraordinarily quick movement or fear, for as soon as the news reached their ears about the disease, very urgent business called them to other quarters. What citizens are left take it very coolly. We are doing the best we know how, to take precaution against the further spread of the malady. A great many have moved from their homes in the southern part of town, and as plenty of houses are empty in the northern part, many have availed themselves of the opportunity to move as far off as possible.

I understand it is the intention of our leading men to move all the new cases down to the Henry block, providing those new cases act wiser than the old ones, by not refusing to be moved, or in other words not trying to defy the whole community.

LOCAL AND OTHER MATTERS.

FROM FRIDAY'S DAILY, MAR. 9.

United.—Yesterday Brother C. E. Angell, and Miss Imogene Cummings were united in marriage. The groom is the son of Brother Truman O. Angell, the Church architect, and the bride the daughter of Elder B. F. Cummings, Sr. They are an estimable young couple, and have the good wishes of a host of friends, including our own.