

profound.—(2 Kent's Com., §1, note c.) An exceptional colony of polygamists under an exceptional leadership may sometimes exist for a time without appearing to disturb the social condition of the people who surround it; but there cannot be a doubt that, unless restricted by some form of constitution, it is within the legitimate scope of the power of every civil government to determine whether polygamy or monogamy shall be the law of social life under its dominion.

In our opinion the statute immediately under consideration is within the legislative power of Congress. It is constitutional and valid as prescribing a rule of action for all those residing in the territories and in places over which the United States have exclusive control. This being so, the only question which remains is, whether those who make polygamy a part of their religion are excepted from the operation of the statute. If they are, then those who do not make polygamy a part of their religious belief may be found guilty and punished, while those who do must be acquitted and go free. This would be introducing a new element in criminal law. Laws are made for the government of actions, and, while they cannot interfere with mere religious belief and opinions, they may with practices. Suppose one believed that human sacrifices were a necessary part of religious worship; would it be seriously contended that the civil government under which he lived could not interfere to prevent a sacrifice? Or if a wife religiously believed it was her duty to burn herself upon the funeral pile of her dead husband, would it be beyond the power of the civil government to prevent her carrying her belief into practice?

So here, as a law of the organization of society under the exclusive dominion of the United States, it is provided that plural marriages shall not be allowed. Can a man excuse his practices to the contrary because of his religious belief? To permit this would be to make the professed doctrines of religious belief superior to the law of the land, and in effect to permit every citizen to become a law unto himself. Government could exist only in name under such circumstances.

A criminal intent is generally an element of crime, but every man is presumed to intend the necessary and legitimate consequences of what he knowingly does. Here the accused knew he had been once married, and that his first wife was living. He also knew that his second marriage was forbidden by law. When, therefore, he married the second time, he is presumed to have intended to break the law. And the breaking of the law is the crime. Every act necessary to constitute the crime was knowingly done, and the crime was, therefore, knowingly committed. Ignorance of a fact may sometimes be taken as evidence of a want of criminal intent, but not ignorance of the law. The only excuse of the accused in this case is his belief that the law ought not to have been enacted. It matters not that his belief was a part of his professed religion, it was still belief and belief only.

In *Regina vs. Wagstaff*, (10 Cox Crim. Cases, 531), the parents of a sick child who omitted to call in medical attendance because of their religious belief that what they did for its cure would be effective, were held not to be guilty of manslaughter, while it is said the contrary would have been the result if the child had actually been starved to death by the parents, under the notion that it was their duty to abstain from giving it food. But when the offense consists of a positive act which is knowingly done, it would be dangerous to hold that the offender might escape punishment because he religiously believed the law which he had broken ought never to have been made. No case, we believe, can be found that has gone so far.

6. As to that part of the charge which directed the attention of the jury to the consequences of polygamy.

The passage complained of is as follows: "I think it not improper, in the discharge of your duties in this case, that you should consider what are to be the consequences to the innocent victims of this delusion. As this contest goes on they multiply, and there are pure-minded women and there are innocent children—innocent in a sense even beyond the degree of the innocence of childhood itself. These are to be the sufferers; and as jurors fail to do their duty, and as these cases come up in the Territory of Utah, just so do these victims multiply and spread themselves over the land."

While every appeal by the court to the passions or the prejudices of a jury should be promptly rebuffed, and while it is the imperative duty of a reviewing court to take care that wrong is not done in this way, we see no just cause for complaint in this case. Congress in 1862 (12 Stat., 501), saw fit to make bigamy a crime in the territories. This was done because of the evil consequences that were supposed to flow from plural marriages. All the court did was to call the attention of the jury to the peculiar character of the crime for which the accused was on trial, and to remind them of the duty they had to perform. There was no appeal to the passions, no instigation of prejudice. Upon the showing made by the accused himself he was guilty of a violation of the law under which he had been indicted, and the effort of the court seems to have been not to withdraw the minds of the jury from the issue to be tried, but to bring them to it; not to make them partial, but to keep them impartial.

Upon a careful consideration of the whole case we are satisfied that no error was committed by the court below, and the judgment is consequently affirmed.

FIELD, J.—I concur with the majority of the court on the several points decided except one—that which relates to the admission of the testimony of Amelia Jane Schofield given on a former trial upon a different indictment. I do not think that a sufficient foundation was laid for its introduction. The authorities cited by the Chief Justice to sustain its admissibility seem to me to establish conclusively the exact reverse.

D. W. MIDDLETON,
C. S. C. U. S.

BY TELEGRAPH.

AMERICAN.

NEW YORK, 25.—A memorial will soon be presented to Congress, signed by several state governors and other prominent citizens, urging the creation of an industrial bureau to collect and distribute industrial statistics in the states of

the whole country, including mining, manufacturing, building, carrying and all branches of labor, classifying them and comparing the production with the consumption; also, showing the precise numbers of employed and unemployed. The memorialists further ask that the census shall include statistics showing the number of persons over 16 years old, and separately all under 16 years that may be employed on a given day; also the average time of employment during the preceding year; the nature of employment and the amount of wages received; also showing the amount of production and consumption of all products, stated in quantities and values. The Senate census committee has already privately agreed to provide for the recording of the number of persons employed on the day of enumeration and the extent of employment for the year, but seem to consider as inquisitorial, the questions of the amount of salary or wages received. The memorialists also ask as a preliminary the immediate appointment of a special commission to ascertain to what extent labor saving machines and processes have entered in production and distribution to the displacement of muscle, as a basis to determine what legislation is required to create employment for the muscle now idle.

WASHINGTON, 25.—The Potter committee continued, to-day, the examination of St. Martin. The witness referred for testimony to his good character and social standing to Governor Nicholls, the attorney general, district judge and sheriff. Weber told him there was no such document in existence as the "Sherman letter," and also that if he found he could make nothing by testifying to the non-existence of the letter he would go over to the other side, and swear that he witnessed its destruction. Weber endeavored to persuade witness to testify to the destruction of the document, but he would not do so.

Bragg, of Wisconsin made a strong and favorable stroke for the democratic party by his speech in Congress, radically and effectively opposing southern war claims and notifying the southern democrats that their advocacy was destroying the democratic party. The press of the States enthusiastically applauded the sentiment and utterer. The *Sun* compares the few ultra-partisan sheets who demand to what they consider this family disturbance, to the negro deacon who, when a powerful preacher was pointing out that robbing henroosts was incompatible with true religion, twitched the preacher's coat-tail, saying, "Hold on dar brudder, you is throwin' a coldness over de meeting."

James McCarroll claims to have discovered the mysteries of the gyroscope, and demonstrates a new law of motion. He avers that all bodies moving in right lines change their distance from the centre of gravity, and consequently their weight of every movement, and that when moving in curves, whether concentric with the circles of the earth or otherwise, the tangential force antagonizing with that of gravity, serves to change their weight also. Hence he lays it down as a fourth law of motion that a body is of uniform weight when at rest only.

Director Linderman's condition is growing worse so rapidly that his death is expected almost any hour. It is practically settled that Postmaster Snowden, of Philadelphia, formerly superintendent of the mint in that city, will be offered the appointment as Dr. Linderman's successor, and he will doubtless accept it.

The recent uprising in Venezuela in favor of Guzman Blanco is understood to have been a counter movement against the efforts of General Cedeño to seize the government upon the failure of the assembly to elect him president, after the death of Alcantara Pacifica.

CHEYENNE, 25.—A Fort Robinson dispatch says: Private Sprowl, ambulance driver, who started this afternoon to drive to the old camp, one mile distant, was found to-night lying on the road with his skull fractured. It is not known whether it was caused by a gun shot or by falling from the ambulance. His condition is critical. The wound cannot be examined to-night.

On Wednesday night a trumpeter arrived from the old camp and reported being fired at by a party concealed in the ravine, believed

to be either Indians or bad men in the bluffs.

Companies A, B, D, F, I and M, Fifth Cavalry, under Captain Ferris, arrived here to-day and leave in the morning for the Sand Hills, where Little Wolf and his band of 200 Cheyennes are reported to be.

Companies A, F, E and L, Third Cavalry, leave here for their respective stations early next month, leaving but two companies at this post.

CHICAGO, 25.—In the Reno inquiry, to-day, Captain Moylan testified that he believed it was a wise move for Reno to leave the timber, and necessary for the preservation of the command. In picking up the dead bodies of Custer's men, after the massacre, evidences appeared of desperate fighting. He saw nothing cowardly in Major Reno's conduct. Had he charged on the Indians or remained in the timber he would have been annihilated. Adjourned.

ST. JOSEPH, Mo., 25.—The lunatic asylum, adjacent to this city, was discovered on fire at one o'clock this afternoon, and was totally destroyed. No adequate means have ever been provided to extinguish fire, and but little resistance could be made to the spreading of the flames. The fire originated in the laundry, and some of the employees were slightly scorched in attempting to arrest it. The patients, about 250 in number, were safely removed and now occupy the Court House in the city. Everything is being done for their comfort, but they have suffered some from exposure. The building was erected four years ago at a cost of \$190,000. Eighteen months ago there was \$100,000 insurance, but the State refused an appropriation to continue the same, therefore the loss is total.

TULLEXTOWN, N. J., 25.—A collision between freight trains on the Central road resulted in the death of Byron Wright, conductor, and David Jones, fireman, and the smashing of four cars, locomotive and tender.

WHEELING, 27.—An alarm of fire last night developed the fact that the books in the gas office had been saturated with petroleum and set on fire, but were saved in a damaged condition. Crookedness in the gas business has been alleged recently. The public mind is greatly excited.

NEW YORK, 27.—In view of the late publications, the *Tribune* sees fit to say prominently that the information of the *Tribune* was derived from direct sources.

"Oofy Gooft" still lies in a dangerous condition, with small hope of recovery.

Letters from American sharpshooters in the Russian service, mention repeated decorations won for gallantry during the Turkish war. Jack Ketch, of Galveston, received the cross of St. Stanislaus. Their term of service expires in July.

CHEYENNE, Wyoming, 27.—A party of stock men leave Sidney, Nebraska, to-day, for Ogallala; from thence to Major North's rancho on the Dismal River. Additions to the party will be made en route. It is expected it will number 75 men. At North's, the party will be joined by a detachment of soldiers and proceed to the Sand Hill country, south of Snake River, in search of stolen ponies, of which there are believed to be several hundred in possession of the Indians. The party is supplied with 20 day's rations.

SAN FRANCISCO, 27.—A Portland dispatch says: Joseph Carmen, an Italian, while intoxicated, set his house on fire, trying to kindle a fire with kerosene, and perished in the flames.

A Boise City dispatch says: The two wings of the lower house of the legislature have come together. The democratic organization has been declared illegal. There was forty-eight ballots for the speakership without a choice. A compromise is looked for to-morrow.

A Silver City dispatch says: A small force of cavalry, from Camp McDermitt, is going to the forks of the Owyhee to look after a band of Indians who recently escaped from Camp Harney, and who have stolen a large number of horses.

FOREIGN.

CONSTANTINOPLE, 25.—The Russian and Turkish governments agree to the clause of the definitive treaty of peace stipulating that the Russians should evacuate Turkey within 35 days of the signature.

LONDON, 27.—The *Standard's* Philadelphia special says: The Austrian, English, French, and Turkish members of the Eastern Roumelian commission have adopted a motion calling the attention of their cabinets to the obstacles raised by Russia to the financial administration of the province.

The *Post's* Berlin special says: It is understood that Bismarck expressed himself in favor of a transit duty on foreign goods passing through German territory.

The *Post's* Berlin special telegraphs that it is announced, in diplomatic circles, that England agrees to definitely purchase Cyprus to avoid complications arising from the nominal contrivance of the sovereignty of the Sultan. A million pound sterling is offered, which the sultan will probably accept.

A Berlin dispatch says: Rumors are current that some secret information relative to the German army has been treasonably sold to a foreign government.

Three hundred hands of Horrocks & Jackson's and of another large firm, at Preston, have agreed to resume work at a full reduction, but receive advantages which will enable them to almost attain, by extra work, their old wages.

Horrocks, Miller & Co., the largest firm in Preston, have given notice of a 10 per cent reduction in the spinners, and seven a half per cent. in the weavers' wages.

The *Times's* Constantinople says: The idea of a mixed occupation of Roumelia seems entirely abandoned in consequence of the objections of France and the Porte.

The *Times's* Berlin special says: A telegram from Rome reports that the Pope has received threatening letters from socialists in connection with his recent encyclical letter, and intends to call the attention of the powers thereto.

Russia charges that the Austrian and German measures to prevent the spread of the plague are unnecessary and threaten to cripple Russian commerce.

THE MORMON QUESTION IN CONGRESS.

UNDER the above heading the *New York Graphic* of the 21st inst. has an article in which we make the following extracts:

"Petitions are, it appears, pouring in upon the judiciary committee of both Houses of Congress, asking them to mature bills to enforce immediately and rigidly enforce in Utah Territory, the Anti-Polygamy law, the constitutionality of which has just been affirmed by the Supreme Court of the United States. Such petitions are being circulated for signatures in many, if not all of the Evangelical Protestant churches, and in this way thousands of signatures, more especially of elderly females, are obtained, that could not be obtained in any other way."

After referring to the plea of the lady delegates from Utah and their introduction to the Senate Judiciary Committee by Mrs. Spencer, the *Graphic* says:

"Now we see the question of putting down polygamy is not a simple question of putting down a crime. A whole society is based upon this custom, which has existed for more than a generation. Endeavor to root it out with fire and sword and you break the bonds of society, you make paupers of industrious, wealthy and self-supporting persons; you declare thousands of women who are innocent of any intentional wrong to be common harlots and you condemn innocent children to bear the infamous brand of illegitimacy. Granting that polygamy is now and has been a crime, is not this too great a price to pay for its suppression?"

Governments cannot deal with questions of absolute right and wrong. It must tolerate a great deal that enlightened Governors know to be wrong. It must trust to time to remove abuses, even in the administration of the law. The English Government tolerates all kinds of religions in India and customs that would not be permitted in England. Even when it rooted out Sati or widow burning, it did not decree that the same punishment should be visited on past offences that was denounced against future offences. This would have been an *ex-post facto* law against which our own fathers thundered. If Congress now proceeds to enforce

the pains and penalties against the Mormon polygamists, it is really, though not technically, enforcing a law retrospectively. As long as no attempt was made to enforce the polygamy law the Mormons, though not justified in so doing, might be pardoned for regarding it as a dead letter. How then should Mormon polygamy be treated?

Past offences should be condoned on consideration that future offences should not be committed, and for this the strictest guarantees should be taken. For the future all polygamous marriages should be absolutely forbidden. Such marriages should in the future be not only wholly void but should be criminal in parties of both sexes knowingly entering into them. But the polygamous marriages that now exist should be permitted to stand and absolute freedom secured to every person now living in such connections to sever it under the proper restrictions with regard to the offspring. The peculiar institution has been sentenced to death. It cannot exist. Is it to die in twenty years and without a shock to the peace and prosperity of the Utah community, or is it to die next year and in dying disrupt the bonds of society and impoverish the innocent along with the guilty? Let our Congressmen regard this question as statesmen anxious to obtain the best possible results and not as doctrinaires, who will ruin in ruling.

JUAB STAKE CONFERENCE.

The quarterly conference of the Juab County Stake of Zion was held on Saturday and Sunday, January 18th and 19th, 1879.

Sunday, 10 a.m.

Present on the stand, Counselor Joel Grover, Patriarch Jacob G. Bigler, Senr., the Bishops of the several wards, members of the High Council, and other brethren of the priesthood.

Apostle Daniel M. Wells and Elder Milton Musser arrived from Salt Lake City at 2 p.m.

A good spirit prevailed during the conference and much good instruction was given. The general and local authorities of the Church were presented and unanimously sustained. The Bishops gave favorable reports of their wards, and reports from the Sunday schools, Ladies' Mutual Improvement Associations showed a good attendance and good works, the said associations having supplied the poor people with wood for the season.

Brothers Wells and Musser occupied the most of the time in teaching the saints. Showed us the advantages of unity, home industry and many other good principles, too numerous to mention in this short report.

President Teasdale is away from home at present, on a short mission among the saints, and his counselor Brother K. H. Brown, is unwell, which accounts for their names not appearing in attendance.

WM. A. C. BRYAN, Clerk.

According to the Bulletin of the Public Health, issued January 15, under the provisions of the National Quarantine Act, the annual average death rate in 16 cities named, with an aggregate population of 712,800, was 23 for each 1,000 inhabitants. Salt Lake City is included in the list, its average being 20 per 1,000. This calculation was based on the deaths for December, which were 44 in number. In 20 large towns in England the average annual ratio was 32.3 for last year, against 24.4 for 1877.

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