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## GOD'S WILL AND MAN'S LAW

IN replying to the unjust charge against the "Mormons" that they are a lawless people, we have frequently proven that it is only in regard to one practice which obtains among them that this accusation can be made at all to apply; also that obedience to law is one of the requirements of their creed. The fact is that only a small portion of the community called Latter-day Saints or "Mormons," practice plural marriage, and therefore the whole body are not fairly to be charged with breaking the law against it, and those who may be accused of that *malum prohibitum* believe they are morally justified, because they view the act of Congress which constitutes it a crime as unconstitutional. The principle is that all constitutional laws are binding upon the Saints, for they have been commanded of God to uphold them.

Commenting upon an article in the *Deseret News* on this subject, the *Lamoni Herald*, organ of the "Josephites," says:

"This statement is a fact, and at this juncture in Utah affairs it is a fact of very great importance. If the News, in this connection, had stated the further facts bearing on this matter, namely, that God ordained and inspired the Constitution of our Nation, and that the said Constitution itself provides that only the Supreme Court has authority to say what is and what is not constitutional law, it then should go one step further and tell its readers that this tribunal has already decided that the laws prohibiting and punishing polygamy and the like were and are the constitutional law of the land."

In the same *Lamoni Herald* article, fragmentary quotations are made from the Doctrine and Covenants and the sayings of Joseph the Prophet, from which the *Herald* writer draws these conclusions:

"The Constitution provides that the Supreme Court and that only shall say what is constitutional law; and it therefore follows that its decisions are to be received as the end of controversy, and they must be honored and obeyed as the ordinance of God to the citizen, otherwise both the law of God and of the Nation are resisted. Of those who resist, St. Paul says, 'And they that resist shall receive to themselves damnation.'"

Again, he says, quoting some of the Prophet's words:

"According to this, any law passed by Congress is the 'supreme law of the land,' and should a State, city, church or individual 'refuse submission,' they are the 'law-breakers.'"

Now let us examine these statements and conclusions. In the first place we will remark that the News has many times stated the further fact that God ordained and inspired the Constitution, but we have not stated that the Constitution itself provides that only the Supreme Court has authority to say what is and what is not constitutional, because it doesn't say anything of the kind. We invite the editor of the "Josephite" *Herald* to cite the clause in the Constitution which says so. The quotations he has made do not bear out his statement, and if he will read that instrument carefully he will find that, like the authority he advocates, of the supreme and exclusive power of Congress over the Territories, it is not there.

But suppose this sole and only authority is vested by the Constitution in the Supreme Court, how does that harmonize with his assertion that "any law passed by Congress is the supreme law of the land," when the Constitution, which is the supreme law, restricts the power of Congress within defined limits, and if it transcends those bounds, that which it enacts is not only not the supreme law, but is not valid law at all? And if "any law passed by Congress is supreme," what is the use of a Supreme Court to test whether it is law or no law? Mr. Smith has got himself into a bad box in trying to make more out of the Constitution than is in it, and to put words in his father's mouth that the Prophet never uttered. For he has misquoted his father as he has added to the words of the Constitution. The Prophet Joseph did not say that "any law passed by Congress is the supreme law of the land." He knew better. He knew that Congress would pass laws that would not be valid. He predicted the displeasure and vengeance of God upon the nation because of a departure by the powers that be from constitutional principles. What he said was this:

"Congress has power to protect the nation against foreign invasion and internal broil, and whenever that body passes an act to maintain right with any power, or to restore right to any portion of her citizens, it is the supreme law of the land."

That is a very different matter. When Congress passes any law that is right, of course it is the supreme law because it is constitutional. But here Mr. Smith is in another dilemma. If only the Supreme Court is to say what is constitutional, what business had his father to declare what was and what was not constitutional? Does not his logic make his father a law-breaker? Did not the Prophet denounce the whole Government for refusing to redress the wrongs he and the Saints endured in Missouri, and was not the very document from which his degenerate son unfairly quotes, based on the ground of the right of citizens to point out the departure of any department of the Government from the principles of right and justice and constitutional law?

Congress has passed several laws which have been declared unconstitutional by the Supreme Court. But according to the editor of the *Josephite Herald*, all those laws, because they were passed by Congress, right or wrong, constitutional or unconstitutional, were "the supreme law of the land," and he wants to impose such stuff as that upon the people of Utah as the inspired teachings of his venerated father! Suppose Congress should pass a law forbidding circumcision, declaring there was no religion in it, but that it was a "relic of barbarism." Would that be the supreme law of the land? Suppose that body were to pass a law forbidding the dipping of people in cold water under the name of baptism, declaring that it was nothing but a custom injurious to the system, especially of invalids and feeble persons. Would that be the supreme law of the land? "Ah!" will be the reply, "but the Constitution forbids any interference with the free exercise of religion." Just so. But according to the logical and constitutional writer in the *Lamoni Herald*, "Any law passed by Congress is the supreme law of the land, and should a State, city, church or individual refuse submission they are the law-breakers."

But let us go a step further. Suppose the Supreme Court of the United States, on appeal of some Hebrew in one case and "Josephite" or Baptist in the other case, should decide that the law was constitutional, arguing, as in the polygamy case, that while Congress must not interfere in matters of faith it has the right to legislate against actions, and may prescribe regulations to protect individuals and society against injurious customs. Would Mr. Smith acquiesce and say, "no more baptisms for the 'Josephites,' for if we 'refuse submission' we are the law-breakers?" And does he think that the Lord would be pleased because people obeyed man rather than God? If he cannot see the application we are sorry for his mental blindness.

The doctrine of the *Josephite Herald* puts the Supreme Court before the Almighty and binds heaven by the enactments of Congress. It pre-supposes that both those earthly powers are infallible. "Any law of Congress is supreme." Also "a decision of the Supreme Court is supreme." When a supreme decision is adverse to a supreme law, what is the consequence? Is it not like an irresistible force coming against an immovable body? And is it not all supreme nonsense?

The Supreme Court of the United States has given three diverse decisions upon the legal tender Act. The last was a complete reversal of the first. Were those who would not abide by the first decision "law-breakers" and offenders against "the law of God and of the nation?" If so, what about those who, sustained by the first decision, refuse to abide by the last? Do they also become, by the new decision, resisters of "the law of God and of the nation?" Did the Lord change when the Supreme Court changed? Or was not the Court wrong in two out of the three decisions, at least, and those persons right who dissented from the mistaken rulings.

If the Constitution gives such extraordinary powers, as claimed, to the Supreme Court, making it a crime to resist its decisions, does the Constitution also confer authority on the Court to decide what is or what is not a man's religion? If so, what article or clause in that instrument conveys this right? Is not religion a matter between man and his Maker so long as he does not invade the rights of another? And where in any of the revelations of God through the Prophet Joseph, are we told to place a law of man or the decision of a court before a commandment of Him who alone is perfectly Supreme?

In the revelation given August 6th, 1833, imperfectly quoted in the *Lamoni Herald*, the Lord says:

"And now concerning the laws of the land, it is my will that my people should observe to do all things whatsoever I command them; and that law of the land which is constitutional, supporting that principle of freedom in maintaining rights and privileges, belongs to all mankind, and is justifiable before me; therefore I the Lord, justify you, and your brethren of my Church in befriending that law which is the constitutional law of the land; and as pertaining to law of man whatsoever is more or less than these cometh of evil."

What is the first injunction in this

commandment "concerning the laws of the land?" It is that before everything the Lord's people shall "observe to do all things whatsoever He commands them." And that is both reasonable and right. He is before all. He is above men and nations. He is superior to governments and courts. But he tells his Church to befriend the constitutional law of the land. If it is not constitutional He says it comes of evil. It must support the principle of freedom in maintaining rights and privileges; if not, it comes of evil. Who is the Lord directing? His Church. Whatever is contrary to the freedom guaranteed by the Constitution, which includes not mere belief but the "free exercise" of religion, he does not command His people to obey, but says they shall do His will. Further on He says in the same connection:

"And whoso layeth down his life in my cause and for my name's sake shall find it again, even life eternal: Therefore be not afraid of your enemies, for I have decreed in my heart, saith the Lord, that I will prove you in all things whether you will abide in my covenant, even unto death, that you may be found worthy."

Here is an intimation of what would be the consequence of obeying the Lord, in all things before all things. And that this trial would be in reference to something not then revealed is evident, for the Lord said:

"For he will give unto the faithful line upon line, precept upon precept, and I will try you and prove you herewith."

In the revelation given December 16th, 1833, also quoted from in the *Herald*, the Lord says He "established the Constitution of this land by the hands of wise men," "for this purpose." What purpose?

"For the rights and protection of all flesh, according to just and holy principles, that every man may act in doctrine and principle pertaining to futurity according to the moral agency which I have given to them, that every man may be accountable for his own sins in the day of judgment."

Does this give the Supreme Court or any secular authority power to determine questions of conscience or religious duty? Is not one of the revealed purposes of the Constitution to secure that freedom necessary for every man to exercise his own "moral agency?" When God commands and man believes, he is to obey the commandment, no matter what the law of man may say and even if it leads him to death. That is the Divine intimation. And that the whole Government in all its departments was expected to go astray and deny the Saints their constitutional rights, is foreshadowed in this very revelation, where the Lord required the Saints to importune for redress from the Judges up to the President, and told them that if these failed,

"Then will the Lord arise and come forth out of his hiding place and in his fury vex the nation, and in his hot displeasure, and in his fierce anger in His time will cut off those wicked, unfaithful and unjust stewards, and appoint them their portion among hypocrites and unbelievers."

The position taken by the *Lamoni Herald* only contemplates a Congress and a Supreme Court animated by strict justice, equity and the spirit and letter of the Constitution. But suppose they depart therefrom. Is no one to be left, able to tell whether a law is in accord with the Constitution or not? Cannot the people of God read and understand the plain language of that sacred instrument and know when it is violated? Should the Supreme Court rule in favor of a law of Congress that allowed private property to be taken for public uses without just compensation, would not the law be unconstitutional, inasmuch that the decision? When a people or a church have received a Divine command, and a law is enacted against it, do they not know whether that law is constitutional or not, seeing that Congress is prohibited by that sacred instrument from passing any law "respecting an establishment of religion?" And if the Supreme Court, yielding to popular clamor against an unorthodox body, rules that the unconstitutional law is constitutional, does that alter the stubborn, patent, inviolable fact that the law is a violation of the great guaranty of religious freedom?

Here is where the *Herald* in this instance makes its error: The decision of the Supreme Court is final in law. Right or wrong, it regulates the courts. But if it is morally wrong, religiously wrong, actually wrong, all the legal lore and national authority in the world cannot make it right. And the true servant of God will do what He has said concerning the laws of the land, namely, "It is my will that my people should observe to do all things whatsoever I command them." And if doing this leads him to prison or to death, he must "obey God rather than man" or he will be found "unworthy."

This has been the position of every true Saint of former or of latter days. It was the course taken by St. Paul, quoted from by the *Herald*. He died a cruel death because he resisted the law which required him to renounce Christ, and thus, on the logic of the *Herald*, secured to himself "damnation," instead of obtaining, as was the fact, the glorious crown of a valiant martyr. Any man who says that he really and firmly believes a certain law of God is binding on him, and who will not obey it in preference to a conflict-

ing law of man or a decision of a court, has either an unfeeling and a cowardly soul, or is a most contemptible hypocrite.

The Latter-day Saints are no law-breakers, in spirit or intent. Some of them have found themselves in the position foreshadowed in the revelations of God to this Church. A law has been specially framed against an establishment of their religion. The issue is obedience to God or submission to man, choice between a divine decree about which they have no doubt, and a human enactment that they firmly believe to be unconstitutional and void. It is a matter of conscience. The course of the faithful and the brave is so plain, that it needs no finger post to point the way, nor urgent voice to whisper "walk therein."

## SHAMEFUL PERSECUTION IN THE NAME OF LAW.

A FEELING of deep indignation is experienced in the community over the course pursued toward Francis A. Brown of Ogden City. It is not confined to the "Mormon" element, but is shared by many "Gentile" citizens. The object of vindictive judicial persecution is sixty-four years of age. He has suffered the full penalty of the law made especially against the "Mormons," although he was recommended to the mercy of the court by the jury that convicted him of living with his wives.

It is understood that he has no violated the Edmunds law since his term of imprisonment expired. But that does not suffice. The crusade is not really against the violation of law, either moral or statutory. It is against a religious institution. It has been demonstrated that men may live in the grossest immorality. They may break the law as often as they choose. They may cohabit with as many women as they like. If they will only repudiate those women as wives, their conduct will not be interfered with, and they will be counted as good citizens without stain and without reproach.

Francis A. Brown has been indicted for unlawful cohabitation with his two wives, although it cannot be shown that he has lived with them since he emerged from prison. There are four counts in the indictment, each for ten days. They run as follows: From May 1st, 1886, to May 10th; from May 11th to May 20th; from May 21st to May 30th; from May 31st to June 9th. There is nothing to regulate the number or periods of counts or indictments. It rests with the prosecuting attorney who runs the grand jury. The counts might with just as much reason have been eight, or sixteen, or thirty-two in number as four. Law, except in name, does not govern in this matter any more than justice, morality, honor or decency. The will of the attorney is in these matters the supreme law.

Some curiosity has been expressed as to the peculiar twist, or quirk or quibble on which the prosecution intends to proceed for the further persecution of F. A. Brown. As it is pretty well understood that the gentleman is not fairly within the provisions of the Edmunds law, not having cohabited with more than one woman, either inside or outside of the marriage relation, during the period covered by the indictment, people wonder what new scheme has been made up to entrap him. It is explained in this way: The prosecuting officer, so we learn from Ogden, holds that a man who has been living in a polygamous relation and has not publicly renounced that relation, must be guilty in the eyes of the law, because, if he has not availed himself of his opportunities, it is his own fault and not the fault of the law.

That is the kind of legal logic which is to be used in the persecution of "Mormons" who refuse to renounce their wives and become "like the rest of us." A lecherous creature who has been detected in vile debauchery was selected as the deputy to arrest a virtuous and honorable and worthy citizen, and the victim of this shameful prostitution of law is to be considered guilty, without any overt act, if he does not prove himself innocent. If he were steeped to the eyes in actual infraction of the Edmunds law, he could escape punishment by promising to repudiate his wives, violate his covenants with them and his God, and treat them as mistresses, after the pure fashion of so-called "American" society.

At the rate in which the persecutors of the "Mormons" are pouring in their unholy preparations, it will not take them long to fill up the cup of their iniquity. Let the Saints possess their souls in patience. A day of reckoning is not far off. Justice will have its own, and the miserable wretches who pervert law and stamp on equity, will call for the rocks to hide them and the mountains to cover them from the Divine vengeance which they have invoked upon their own heads.

## A JUDICIAL DECISION REVERSED.

THE Supreme Court of the Territory to-day reversed the decision of the First District Court in the case of the United States vs. Barnard White, of Ogden City, charged with unlawful cohabitation. Judge Powers delivered

the Opinion, reversing his own ruling the other members of the court concurring. It will be found in another column.

Let there should be some mistake as to its purport and effects, we will explain a little: Barnard White had two wives—Diana and Jane F. He married the latter about ten years ago. His first wife dying in January last, in April he re-married his plural wife, for the purpose of preventing her being called as a witness against him on the charge of unlawful cohabitation, the new ceremony being entered into that their marriage might be made indisputable in the courts. But as the Third District Court had ruled that the legal wife was a competent witness when a crime was committed against her, and that the taking of a plural wife is a crime against the legal wife, Mrs. White was declared a competent witness by the First District Court, she was required to testify, and her husband was convicted. The judgment is now set aside on appeal, and a new trial ordered, in which she cannot be made to testify.

Now, this does not affect the general question as to the legality of compelling legal wives to testify in cases under the Edmunds Act. Mrs. White was, at the time of the trial, the only wife and nothing alleged against her husband could be called a crime against her. And the plea that the parties had been married for the purpose of preventing her testimony does not avail, for this is allowable in law, as the Court admits. The decision will not affect the compelling of first wives to testify against their husbands. Their case will have to be passed upon on its merits before any change will be made in the present practice, which is an outrage on legal wives and a perversion of law and established principles which are essential to the wellbeing of society.

## "INDEPENDENCE DAY."

THE anniversary of American Independence will be celebrated this year on Monday, the 5th inst., to avoid as far as possible the desecration of the Sabbath. Not that there would be anything wrong in reading the Declaration of Independence, recounting the story of the nation's deliverance from bondage, singing songs of praise to the Eternal and of rejoicing in the blessings of liberty, on the Lord's day. But the celebration which fills the cup of satisfaction for a very large number of citizens, those in fact who make the greatest display of vociferous patriotism, is not complete to the brim without liquid inspiration and indulgences that frequently lead to tumult, disorder and everything but Sabbath observances. It is quite proper that the celebration should be postponed to the 5th of July.

Utah has cause for just as much mourning as rejoicing on this occasion. Her sons and daughters are not forgetful of the great victory over oppression and wrong achieved by the fathers of our country. Their souls thrill with the grand sentiments embodied in the document that will be read with emphasis in thousands of cities and towns of this magnificent country. They are grateful for the glorious Constitution which stands as a monument erected to liberty and a bulwark against tyranny and usurpation. They are proud of the institutions that have been built up on the principles laid down in that guide and guardian of the sovereign people. They appreciate the blessings which have flowed from the fountain of freedom opened on the glad day of the nation's independence.

But they cannot close their eyes to the fact that this great nation to-day is denying to them the very liberties to secure which to posterity the patriot fathers bled and died. In the course pursued towards the people who built Utah and redeemed this barren wilderness, converting it into a pleasant habitation for thousands, the principles that will be lauded to the skies and heralded with the cannon's boom and the exultant shouts of millions, are to-day discarded or ignored for the purpose of crushing a religious body of American citizens to gratify sectarian hate and pander to prejudices, born of ignorance and bigotry.

The rights of life, liberty and the pursuit of happiness are coming to be denied to the Latter-day Saints unless they use them as their enemies may determine. The principles that governments derive their just powers from the consent of the governed; that officers should not be imposed upon the people against their will and interests; that taxation without representation is tyranny; that local affairs should be left to local legislation; that trial by jury should be impartial; that local self-government is the foundation of republican liberty, have all been trampled upon in the treatment of the "Mormons," and they cannot but regard the enunciation of those principles in their ears as to them a practical sarcasm.

With their leaders in exile, some of their best men in prison and others driven from their homes, while innocent women and children are deprived of the society of their husbands and fathers; with spotters prying around their domiciles and intruding into their homes; with wives and mothers al-