

and upon the proper organization of the family.

Mr. President, the Constitution of the United States expressly declares that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

Webster, in his dictionary, defines religion as follows:

First, the recognition of God as an object of worship, love and obedience; right feelings towards God as rightly apprehended; piety. Second, any system of faith and worship, as the religion of the Turks, of Hindoos, of Christians; true and false religion.

Then, Mr. President, the Constitution of the United States guarantees to every citizen of the United States the free exercise of his religion, whether he be Christian, Turk, Hindoo or Mormon, and the Congress of the United States not only has no right by any act to restrict the free exercise of religion or of religious opinion, but such restriction is absolutely forbidden. But this free exercise of religion which is guaranteed by the Constitution of the United States does not authorize the practice of gross immorality under the cloak or in the name of religion.

According to the general opinion of the Christian world, and according to the statutes of the Congress of the United States, the practice of polygamy is grossly immoral, and is it not only prohibited by statute, but its practice is to be punished by penitentiary imprisonment. The Supreme Court of the United States has sustained this construction of the constitutional provision under consideration. It follows, therefore, that no Mormon or other person in a Territory of the United States can shield himself in any court when arraigned for the practice of polygamy by pleading his religious freedom as a justification. Then what follows? Those who commit polygamy in the Territories are subject to indictment, trial, and punishment in the courts of the United States. When convicted after a fair trial, it is the duty of the court to sentence the defendant to penitentiary imprisonment, just as it is the duty of the court upon trial and conviction to sentence any one who is found guilty of murder or any other felony.

The same rule which applies to the class of offenders known as polygamists applies in like manner to every other class of violators of the penal statutes of the United States; and the criminals of this class should be arraigned, tried, and convicted as are the criminals of other classes of violators of the penal code. I have repeatedly denounced polygamy on this floor. I consider it grossly immoral—in violation of the laws of God and man. Our law consigns polygamists to the same punishment, when convicted, to which it consigns any other like class of criminals. I admit, in the broadest sense of the term, that no Mormon or other citizen of a Territory can defend himself in court under an indictment for polygamy by pleading his right to the free exercise of religion.

But while this is true, I utterly deny that the Congress of the United States, or any department or officer of the Government of the United States, has any power to punish a Mormon or any other citizen of the Territory by imprisoning his person or confiscating his property, or depriving him of his right to vote or hold office, or of any other civil right, for bigamy or polygamy or any other crime without presentment or indictment of a grand jury and trial conviction by due course of law. And I utterly repudiate the right of the Government of the United States or any department or officer thereof to ascertain the guilt of any such offender by the application of a test-oath, or to deny to any one the exercise of any right of a citizen on account of his or her refusal to take such oath or to be interrogated under oath as to his or her guilt or innocence.

And while it is true that the Mormon who commits polygamy is subject to indictment, conviction, and punishment, as any other criminal, it is equally true that the 100,000 Mormons who, as the report of the Utah commissioners appointed by the President shows, do not practice polygamy are protected by the provisions of the Constitution already referred to in the free exercise of their religious opinions. And no Mormon can be convicted or punished, or his goods seized, or his property confiscated, or his right to vote or hold office abridged, on account of any opinion he may entertain on the subject of polygamy, if he does not engage in its practice. A church or sect whose religious faith is that the Old Testament practice of polygamy is right and the Christian practice of monogamy wrong has as much right to the free exercise of its opinions as any other church or sect in the United States.

One sect or class of religionists believes in the Old Testament scriptures and utterly repudiates the New; another believes in the present Christian Sabbath, while another repudiates Sunday as the Sabbath, and believes only in the Jewish Sabbath, or that Saturday is the true Sabbath.

Each of these is fully protected by the Constitution of the United States in the free exercise of his religious belief as long as the belief does not lead him into the actual practice of immorality. In other words, the Government has no right to punish any man, woman, or child within its broad limits for his or her religious belief, no matter what it may be, nor for the free exercise of that religious belief, as long as such exercise is not immoral, but the Government has the right to punish the

practice of immorality in any and every sect or denomination.

Mr. President, in the early period of this debate I had the honor to submit some remarks on the question of the constitutionality of the law in reference to Utah known as the Edmunds act, in which I attempted, I trust successfully, to show that the vital part of that law, as construed and administered, was unconstitutional, and therefore null and void.

At this stage of the discussion I desire to submit some remarks on the moral aspect of this case, and to compare the civilization of Utah with that of other parts of the Union. If reform is necessary, and I think it is, let it apply to all sections where the same evil exists.

At the creation, God made them male and female, and said they twain shall be one flesh.

Notwithstanding the identity of oneness of the couple at the time of the creation, nearly all the nations had departed from this rule in practice. And even Moses lays down the rule in this language:

When a man hath taken a wife and married her, and it come to pass that she find no favor in his eyes because he has found some uncleanness in her, then let him write a bill of divorce and give it in her hand and send her out of his house.

Under this law of Moses the Jews gave divorces and practiced polygamy without restraint. And at the coming of Christ probably every leading nation of the earth practiced it to a greater or less extent. If the Roman Empire was an exception in theory, its loose laws of divorce and its prostitution and concubinage were in practice the equivalent of polygamy. With the law of Moses standing in force, all the Jews considered it legal to put away their wives and marry others at pleasure.

If such were the law of Moses and the practice of the Israelites, what right have we at the present day to deny its validity or to arraign the people of Utah, or any other people, for the practice of divorce and polygamy? We should certainly have no such right if it were not for the law as laid down by Jesus Christ himself. He is the authority for the doctrine of monogamy. In Matthew xix, "He sayeth unto them, for this cause shall a man leave father and mother and shall cleave to his wife, and they twain shall be one flesh." This excludes the idea of more than one wife, as the two, husband and wife, are one flesh under the law of Christ. Therefore if the husband marries a second wife while he has a living wife it is illegal, because he and the first wife being one flesh there can be no room for the second. And upon this doctrine of Christ's rests the law of monogamy, or of but one wife, throughout the Christian world. I believe all Christian denominations have adopted as correct the one-wife system, or the law confining one husband to one wife, because it is the law laid down by the Savior himself. This doctrine of the Savior, as I understand it, leaves no room for the practice of the Mormon Church which recognizes the right of the husband to have more than one wife. But bear in mind the Christian world places the doctrine upon the authority of Christ. It is His law; He did not find it in practice when he came into the world, but he announced it as the rule, and no Christian has a right to deny His authority.

It is true the Mormons believe there was a later revelation to their prophet, Joseph Smith, which again authorized polygamy. As I can not accept this revelation, and do not, as they do, regard Joseph Smith as a true prophet, I must reject the doctrine of polygamy and be governed by the divine doctrine of monogamy.

But in this connection I beg to invite the attention of the Senate to another proposition. The doctrine of monogamy, or but one wife to one husband, rests upon the authority of Christ, and the Christian world accepts Him as a lawgiver and recognizes His authority and is controlled by His teachings. If His authority or His word is the law upon which monogamy rests and polygamy is condemned, then the Christian world which accepts His authority for the one-wife system must accept also the rule laid down by Him as to the manner of dissolving the marriage relation between the husband and wife.

When the Jews called the attention of the Savior to the fact that Moses commanded to give her a writing of divorce and to put her away, he replied: "Moses, because of the hardness of your hearts, suffered you to put away your wives; but from the beginning it was not so; and I say unto you whosoever shall put away his wife except it be for fornication, and shall marry another, committeth adultery; and whosoever marrieth her who is put away committeth adultery."

In Mark, chapter x, verses 11 and 12, he says: "Whosoever shall put away his wife and marry another committeth adultery against her; and if a woman shall put away her husband and be married to another she committeth adultery." And in Luke, chapter xvi, verse 18, he says: "Whosoever putteth away his wife and marrieth another committeth adultery; and whosoever marrieth her that is put away from her husband committeth adultery."

Then, Mr. President, the law laid down by Christ himself is that a husband shall have but one living wife, and a wife shall have but one living husband; and when the marriage relation is entered into by parties competent to contract, it continues during the joint lives of the parties, and it shall in no

case be dissolved, except for the cause of fornication. Two of the writers lay down the rule without any exception, that if a husband puts away the wife and marries another he commits adultery; and that if the wife who is put away marries another husband she commits adultery. But Matthew makes the exception distinctly, that it may be legally done for the cause of fornication, and for that alone.

Then, Mr. President, I feel fully authorized to assume the position as founded upon the rock of the authority of the Savior himself, and firmly imbedded in the doctrines of Christianity, that no husband shall put away his wife and no wife shall put away her husband except for the cause of fornication, and that if either puts away the other except for that cause and marries another, or they both marry others, they are guilty of adultery, and the second marriage, according to the divine law, is a nullity, and the parties are still husband and wife, refusing to discharge the duties of husband and wife toward each other, and living in adultery with other persons. Then there is no escape from the conclusion that according to the divine law every man who has divorced his wife except for fornication, and married another, or has married a second wife without divorce, is neglecting his legal wife and living in adultery with another woman. And every man who has married a woman who was illegally divorced from her husband is living in adultery with the wife of another man. And if the wife puts away the husband for like cause and marries another, she too has a living husband, and is living in adultery with another man. And each having a plurality of wives or husbands living at the same time is living in the practice of bigamy or polygamy or polyandry. I apprehend this position cannot be controverted by anyone who admits Christ to be the Son of God and the divine lawgiver. All who deny His divinity and authority may reach a different conclusion. But those who deny Christ's divinity have no other sufficient authority for monogamy.

It follows then, that a man, whether he lives in Massachusetts or Georgia, who has left his wife without a divorce, or has divorced his wife, except for fornication, and married another, and is now living with her, is a bigamist, and is living in a state of adultery as much so as is a Mormon in Salt Lake City who has married two wives, under their system, and lives and cohabits with both. The only difference being that the Mormon relation is condemned by a statute passed by the Congress of the United States, while the bigamy practiced by the citizen of Georgia or the citizen of Massachusetts is legalized, in the very teeth of the divine law by the authority of the State. They stand side by side alike condemned by the divine lawgiver of the universe. They are both bigamists, and they both live in a state of adultery; and the moral guilt of the husband in Utah who lives with two wives, one of whom he has no right to have, is no greater than the moral guilt of the husband who in Georgia or in Massachusetts has two wives and cohabits in a state of adultery with the one he has no right to have.

Now, if the doctrine of Christianity be true and Christ is the lawgiver and his precepts are the law, I would like to hear some one draw a tangible distinction between the moral guilt of the Utah adulterer and the adulterer in Georgia or Massachusetts. If Christ be a lawgiver, and the law as announced by Him be authoritative, of which I have no doubt, then they are alike both adulterers, both bigamists, both polygamists—the only difference being that in violation of one of the fundamental laws of the Christian religion, the State of Massachusetts or of Georgia, in the case supposed, has by human law declared legal that which the eternal lawgiver has declared to be illegal and adulterous.

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#### ESTRAY NOTICE.

##### I HAVE IN MY POSSESSION:

One small chestnut sorrel Stud, 3 or 4 years old, small white spot in face, no brands visible.

If not claimed and taken away within ten days will be sold to the highest responsible bidder at Judd's corral, Kanab on July 4th, 1884, at 4 o'clock p.m.

Z. K. JUDD, JR., District Poundkeeper.

\* Kanab, June 25, 1884.

#### ESTRAY NOTICE.

##### I HAVE IN MY POSSESSION:

One bay MARE, about 9 years old, branded B on left hip.

One brown MARE MULE, about 7 years old, collar marked, branded 6 on left hip, vented on shoulder, M on left shoulder, Spanish brand on left thigh resembling Y with a — across the top.

If not claimed and taken away within ten days from the date hereof, will be sold to the highest responsible bidder at the Brighton estray pound on Saturday, the 12th day of July, 1884, at 10 o'clock a.m.

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