

Dickson—Did you live in violation of the Edmunds law.

Mr. Smith—I decline to answer.

Mr. Dickson—If you did, do you say you had an affection for your country.

Mr. Smith continuing—Yes sir. I consider bigamy is the marrying of a second wife, deceiving either or both. It both have knowledge and consent, I do not consider it bigamy. If would be bigamy if a man married another wife contrary to his wife's consent. I believe the revelation on celestial marriage requires a woman to consent. I had my wife's consent. If a wife is converted that the principle is correct, she should consent; if not, no. If she refuses, he is at liberty to go ahead. I believe that is the will of God.

Mr. Dickson—If your wife had refused would you have rejected the will of God?

Mr. Moyle—I object to Mr. Smith being required to state his opinions; he has stated the law of the Church.

Court—Oh, I think it proper.

Mr. Smith—Men are left to their own judgment and discretion. This law extends through time and eternity, and I could abide my time to obey the law of God. If I felt to take a wife without her consent when she refused, I suppose I should have done. I became aware that the United States Supreme Court passed on the constitutionality of the law of 1862. I took my wife in 1876 or 1877. As a man of honor I could not abandon my family.

Mr. Dickson—Is it not true that after that law was held to be constitutional you lived in violation of it?

Mr. Smith—Not in this Territory.

Mr. Moyle—The constitutionality of the law against unlawful cohabitation has never been tested.

Mr. Dickson—I want to show that there is no affection for the laws of the United States.

Court—The question of the constitutionality of the law cuts no figure in this case.

Le Grand Young—Unlawful cohabitation was not made an offense till 1882. The prosecutors here tried to make polygamy a continuous offense, but the courts would not allow it. The living with two wives before 1882 was not made unlawful.

Witness, to Mr. Dickson—After the law of 1882 against unlawful cohabitation I did not live with my second wife in this Territory.

Court—He may decline to answer if he desires.

Witness, to Mr. Dickson—I have not violated the law. I decline to say whether I lived with one in one Territory and another in another. I was once arrested. My plural wife never was on the witness stand. She was with me in Europe several years. She afterwards left this Territory of her own volition. Josephine Groesbeck is her name. When the laws of the nation conflict with the law of God, it is not our duty to violate the law of the land. The law found us practicing plural marriage. I never performed a plural marriage. I only know of my own. I do not

believe that our Church has the right to pass on the constitutionality of any law. That is the business of the United States Supreme Court.

Dickson read from the Doctrine and Covenants references to the constitutional laws of the land.

Mr. Smith—The Supreme Court of the United States passes on the constitutionality of a law. The Constitution says Congress shall pass no law prohibiting the free exercise of religion, and I looked to it to protect me. I acted on that understanding. When the law of the land makes my religion a crime, I must take the consequences. I think the Constitution is an inspired document, and the United States Supreme Court the final arbiter. If a man breaks the law he must take the consequences. The laws of this land are supreme, and I acknowledge them as such. If I break a law because it infringes on my conscience, I must take the penalty. I believe with Wm. H. Seward that there is a higher law, but if the law of the land puts him in jeopardy he is relieved from obedience to the higher law. Were I a monogamist now, under the circumstances I would not take another wife in the United States. I decline to answer any questions regarding my present status. It is a part of the teachings of the Church that union should exist, and differences be reconciled; but the individuality of any man is not interfered with. I think some men have arrogated powers that they did not possess. If a man wants to obey the counsel of the Priesthood, that is all right. If they refuse, it is not a doctrine that they will be damned. I regard the President of the Church as the mouthpiece of God when he receives revelation. The Kingdom of God means that when Christ comes He will establish His kingdom. That kingdom is not now established. I have heard it taught that it is, but I do not believe it. We are building up the kingdom, but it cannot be established till the coming of the Savior. We do not believe in the destruction of all sects and nations. The principles you refer to were not understood by the people as you seek to interpret them. I have heard it taught that in all matters, temporal as well as spiritual, the people should obey the word of God, if they accept it. I have refused to obey the orders of the President of the Church. The only command Brigham Young ever gave me was to fit out a man for a mission to Arizona, and I declined to do so. John Taylor or Wilford Woodruff never gave me a command that I remember. They have asked me to do things, and some of them I did not do. Of course, I had and gave a reason for not doing so. The language used in prayer about avenging the blood of the Saints I do not know. I only know that people are instructed to pray to the Lord to avenge the blood of the Prophets, as is said in the verses I have quoted. I decline to state any ceremonies of the Endowment House.

Dickson—What penalties are to be inflicted for revealing those covenants?

Mr. Smith—I decline to answer any questions regarding the Endowment ceremonies. There was no penalty attached to apostasy. Apostasy is not punishable by the Church, except by excommunication.

To the Court—Oliver Cowdery, an associate with Joseph Smith, apostatized and was never harmed. David Whitmer, T. D. Brown and many others, inside and outside of Utah, have apostatized. Baskin has fought the Church bitterly, and I never wronged him nor has he wronged me. No apostate has ever been assassinated by instruction or approval of the Church. I know of no one ever having been assassinated. I don't believe there has been one, but I decline to state anything of the Endowment ceremonies.

Baskin—How long before you took your second wife did you marry your first wife?

LeGrand Young objected. Objection overruled.

Court—He may answer.

Mr. Smith—I cannot state exactly—several years.

Baskin—Did you not say in the ceremony of your marriage that you would keep to your first wife and none else?

Mr. Smith—I decline to answer as to the marriage or any other ceremony in the Endowment House.

Court—He need not answer unless he wants.

Baskin—Why do you decline to answer?

Mr. Smith—Upon the principle of honor.

Mr. Dickson—I think we can compel the witness to tell these ceremonies and penalties and do not waive that right.

Witness, to Baskin—I have not habitually taught the law of polygamy. I have taught obedience to the laws of God. I have heard plural marriage taught. I have not heard its practice enjoined upon the people that I now recall. They believe in that principle; I do not remember the last time I heard it preached.

Court took recess till 2 p.m.

JOHN CLARK

testified—I have been a member of the Church 44 years; have been through the Endowment House; never took any oath to avenge the blood of the Prophets on the United States; nothing of that kind was said; there was no oath, covenant or instruction to violate the laws of the land. I did not covenant to go into polygamy; have never been advised to break the laws of the land. There were no instructions, admonitions or agreements to avenge the blood of the Prophets or anybody on this nation or anyone else. I remember no covenant to obey the Priesthood. I am a merchant; have been in business 29 years. I am now president of the corporation of Clark, Eldredge & Co.; was formerly of the firm of Chislett & Clark. Mr. Chislett is now in California, I believe.