

When further reminded that the Supreme Court of the United States, the tribunal of final appeal provided by the Constitution of the United States had repeatedly affirmed the statute against polygamy and unlawful cohabitation to be valid and binding upon every person within their jurisdiction, he answered that he had said from his childhood, in the language of Solomon, "to fear God and keep His commandments is the whole duty of man," that he reserved the right to determine for himself the constitutionality and the validity of the law in question.

A certified copy of the trial and conviction of the respondent and a copy of the questions by the Court, and the answers of the attorney, transcribed by the official reporter, were filed in the court and constitute the accusation. The record shows the conviction of the accused, and in view of the questions put to the defendant, and of the circumstances under which they were made, his evasive answers authorized the inference that he did not intend to obey in the future the law that he had violated in the past. Under the circumstances the Court entered a rule against the accused, and cited him to appear on a day named, and show cause why his name should not be stricken from the roll of attorneys and counselors of the Court. On the day named he appeared in person and by counsel, but made no answer other than by oral argument. Counsel also appeared at the instance and in behalf of the Bar Association of Salt Lake City, and insisted on the accusation and on the disbarment of the accused.

The statutes of the Territory of Utah relating to the matter in hand so far as it is necessary to refer to them, are as follows: The first subdivision of Section 154, page 180, Laws of 1884, provides that "an attorney and counselor-at-law may be removed and suspended by the Supreme Court and by the District Court, 1st, upon his conviction of felony or misdemeanor involving moral turpitude, in which case the record of conviction is conclusive evidence;" 2d, upon "any violation of the oath taken by him or of his duties as such attorney and counselor." The first clause in Section 141, page 179, *Ibid*, provides: "It is the duty of an attorney and counselor, 1st, To support the Constitution and the laws of the United States, and of this Territory;" Section 156, page 181, *Ibid*, is as follows: "The proceedings to remove or suspend an attorney and counselor under the first subdivision of Section 154 must be taken by the court on the receipt of a certified copy of the record of conviction. The proceedings under the second subdivision of the last named section may be taken by the court for matters within its knowledge, or may be taken upon the information of another."

In view of the facts and the law, the question arises, Should the name of the accused be stricken from the roll of attorneys and counselors of this court? If the crime of unlawful cohabitation involves moral turpitude, his conviction of itself is sufficient cause. This presents the further question, Is the conduct which constitutes the crime immoral? If a man lives with two or more women in the habit and repute of marriage, such conduct constitutes the crime of unlawful cohabitation. The effects of this crime upon society are essentially the same as those of polygamy. A man who has a lawful wife living commits the latter offense when he formally marries another woman, and he commits the former offense when he associates with two or more women as their husband, or apparently as their husband. Both crimes usually exist together in this Territory, although prosecution for polygamy is often barred by the statute of limitations. Assuming, then, that both crimes are essentially the same from the standpoint of morals, inasmuch as the definition of polygamy is more simple and better understood, I will consider that crime from a moral point of view.

First.—I assert that the moral sense of the civilized world has condemned polygamy as wrongful and immoral.

Second. I assert that polygamy violates well settled moral principles.

Knowing that the various ethical schools may differ in some respects, and that individuals may differ as to the extent of moral turpitude involved in this crime, I will point out certain well-settled moral rules or tests, which this crime violates, and which show that it is greatly immoral. While moral philosophers differ with respect to the source of ethical rules, they do not disagree as to their existence, or as to their application to and binding effect upon human conduct. While one school of ethics asserts that moral truths are expressions of the Divine Will revealed in sacred writings or in the human conscience, and another school makes state enactments the source of right and wrong, and a third believes that man is endowed with an innate sense by which to determine right and wrong, and a fourth affirms that rightfulness or wrongfulness of conduct is determined from its effects, nevertheless, it is believed that all schools concede that conduct which, in all its consequences, immediate and mediate, aggregates human happiness over human pain, is right; and conduct which in all its effects, immediate and mediate, causes more human misery than happiness, is wrong, even if in determining the moral quality of conduct we take into view its effect, not only in this life, but in the life to come, still it is the belief of civilized men, who have faith in a

future life, that happiness in the future state is consistent with happiness in this—that the common good with respect to this world is consistent with the welfare in the world to come.

Assuming, then, that such actions and institutions as promote human welfare are morally right, and that such actions as produce pain and distress are wrong; and assuming, also, that justice (which is equalness) is right, I will endeavor to test by these rules the morality of the monogamic marriage (the marriage of one man to one woman) and the polygamic marriage (the marriage of one man to two or more women).

Whether we consider marriage in law simply as a contract, or as more than a contract—a status—a state or condition, it should fix the rights and duties of the parties with respect to each other. They are mutually bound to love, respect and cherish each other. Each has a right to the affection, the society and the support of the other. It is a union for life or until severed according to law. All the duties of the husband which belong to the relation are due to the wife, and the duties which the wife owes that relation are due to the husband. If the husband may neglect such duties and deprive his wife of the benefits and happiness which their discharge would bring; if he may divide his society, his attention and his support with other women; if he may thus neglect his wife and her children for the benefit of other women and their children, and the wife still be held to discharge all the duties which belong to the relation, then marriage is for the wife an unequal and an unjust contract. And if the wife may refuse to discharge her obligations also, then this holy union of matrimony has no binding effect, and free love or promiscuity must follow. With the overthrow of the institution of marriage will come the destruction of the family and of the home, and that refuge of chastity, of purity and of virtue—that fountain of devotion, of love and of happiness, the institution which furnishes so largely the incentives to industry, to self-respect, to fidelity and to patriotism—the sure foundation of social order, of propriety and progress, and the corner-stone upon which civilized government reposes, will inevitably be destroyed.

The great number of divorces obtained in the District and Probate Courts of this Territory, and the illegal divorces heretofore granted by the "Mormon" Church, show that the institution of marriage is regarded lightly where polygamy prevails. Under the statutes of this Territory divorces may be obtained for such trivial causes and have been so frequently granted, that the "Utah divorce" is a proverbial term of derision and contempt, and it must be so, since the tendency of polygamy is to make marriage a means of gratification of passion and bestial lust.

Again, polygamy is based upon the idea that woman is man's inferior, not upon the idea that she is his equal; it disregards her womanhood, her rights and her claims. The laws of the Territory abundantly illustrate this proposition. These laws with respect to the rights of married women to property, like the institution whose influence probably enacted them, probably belong to a by-gone age; they are unworthy of this. Polygamy brings woman into contempt and must result in her degradation; it tends to make her an object of low and grovelling desires. Its tendency is backwards and downwards to the barbarism, where the monogamic marriage found her, with the yoke of oppression and injustice upon her, in the chains of slavery. Monogamy broke the yoke and loosed her chains and led her up the shining way of progress to the high plane of equality, justice and liberty. Her exaltation has ever attended human progress, and human welfare demands that she shall be regarded as the equal of man. In the darkness of barbarism and in the valis of superstition woman is a slave—in the light of intelligence and truth and on the hilltops of progress and civilization she is crowned with respect and love. She is man's equal before man and before God, and she is free.

The family composed of one husband and one wife, and the children of that union are more likely to agree and cooperate than the family composed of one husband and many wives, and the children of such relations. The mother will be impartial and just between her own children, but she will not be so between her own and the children of other living wives, because she has not the same feelings and affections towards them. All the children of the monogamic marriages bear the same relation to both parents and to each other. The family is held by a common tie; all its members have equal feelings and affections, common hopes and aspirations, and good will, harmony and happiness are likely to prevail; but rivalries, animosities, dissensions, ill-will, discord and unhappiness are likely to grow up and exist in a family composed of one husband and numerous wives and the children of such wives. Such a family includes all the elements of domestic discord. Superstition and fear may keep it down, but it will then become a smothered fire consuming the peace of the soul.

The happiness and welfare of society demand that children when growing up shall have the care, attention, support, counsel, advice, and example of the father as well as of the mother. The great mass of men are hardly able to provide for, and bring up well one

family of children. If a man attempt more, there will surely be neglect somewhere. While the Christian world believes that the New Testament condemns polygamy, it also believes that infinite wisdom and goodness are manifested in nature; that the disposition of men and women to associate together and to form the relationship termed marriage is an expression in natural law of the will of the Great Author. And the relative proportion of males to females is also believed to be an intimation in nature upon the subject of marriage from the same Infinite Source. If polygamy were such an expression upon the subject of marriage, it is reasonable to assume that it would have been so ordered that several females for each male would appear on the stage of human existence. And assuming the Great Author to be infinitely wise and infinitely good, why has woman been given in her highest state of development—in her best estate—a fond desire to be the only wife? Why has she that secret dread and inward horror of being one of many? Why has she a nature which abhors polygamy? Why is it that monogamy tends to produce harmony and happiness, and polygamy discord and pain? While instances of unhappiness and distress may attend the monogamic marriage, yet in all its effects, immediate and mediate, near and remote, it aggregates human happiness over unhappiness; it is a friend to humanity, and it is therefore morally right. And while some instances of happiness may attend polygamy, yet in all its effects, immediate and mediate, near and remote, it aggregates pain and distress. It is an enemy to humanity—it is morally wrong.

While immorality consists alone of wrong thoughts, beliefs, purposes and intentions, municipal law cannot reach it, but when those beliefs and intentions cause and attend actions and conduct injurious to society, if of sufficient importance, such conduct may be defined as crime, prohibited and punished. When the conduct and the intention both are immoral, the crime involves moral turpitude. The law does not notice trifles, and therefore does not expressly forbid conduct slightly wrong and immoral. Conduct may be injurious to society, but the injury may be so slight that the law will not notice it. And the immorality of some misdemeanors is so slight that the offense does not, in a legal sense, involve moral turpitude. This cannot be said of polygamy and of unlawful cohabitation. The injurious effects upon society of the conduct which constitutes these crimes, are so wide-spread and far-reaching and so destructive of human happiness and of human welfare, that they cannot be characterized otherwise than as grossly immoral. They involve moral turpitude in a high degree.

A second cause for striking the name of the accused from the roll of attorneys is his failure and refusal to support the Constitution and the laws of the United States. Any violation of the oath of an attorney or any violation of his duties as such attorney is cause for his disbarment. Among the duties expressly enjoined upon an attorney is that of supporting the Constitution and laws of the United States. The accused was convicted of a violation of the laws of the United States in the commission of the crime of unlawful cohabitation, and when asked by the Court before sentence if he had anything further to say, why sentence should not be pronounced, and also with respect to his intentions to obey the law which he had violated, and as to his intention with respect to advising others to violate it, he answered among other things that he differed from the Courts in respect to the validity of the law against polygamy and unlawful cohabitation and that he reserved to himself the right to determine for himself the validity of that law. In delivering the opinion in the case of *ex parte* Wall, 107 United States S. C. Repts., the Court say: "Of all classes and professions the lawyer is most sacredly bound to uphold the laws. He is their sworn servant and for him of all men in the world, to repudiate and override the laws, to trample them under foot and ignore the very bands of society argues recreancy to his position and office and sets a pernicious example to the insubordinate and dangerous elements of the body politic. It manifests a want of fidelity to the system of lawful government, which he has sworn to uphold and preserve."

Here is an officer of the Court who does not acknowledge its right to determine questions of law when submitted to it according to the forms of law. This man is licensed by the Court to expound the law and to advise others with respect to it—recommended and endorsed as having a good moral character and as competent, reliable and worthy as an attorney and counselor-at-law; and yet he claims the right to determine a law invalid which the tribunal of last resort has pronounced valid; he appeals from all earthly tribunals to a higher—he invokes a higher law. Having been convicted of a crime he defies the law, and denies the power of Congress to pass laws, and the rights of the courts to determine what the law is. He claims to be a law unto himself.

The Court find that Aurelius Miner, an attorney and counselor-at-law of this Court, has been convicted of a misdemeanor involving moral turpitude, and that he has violated his legal duty as such attorney and counselor in failing and refusing to support the Constitution and the laws of the United States.

The judgment of the Court is that the name of the accused be stricken from the roll of attorneys and counselors-at-law of this Court, and that he be deprived of the right to practice therein.

CHARLES S. ZANE, Judge.

November 14, 1885.

"DROPPED DEAD."

THE FATE THAT OVERCAME "LITTLE MAC" AND FIVE OTHER GOVERNORS.

Apropos of the sudden death of Gen. Geo. B. McClellan, we note that the New York *Sun*, points out the singular fact that Governor De Witt Clinton, Governor Silas Wright, Governor William L. Marcy, Governor and Chief Justice Sanford E. Church, and Governor R. E. Fenton, all of New York State, dropped dead of heart disease, and under quite identical circumstances—each of them dying while reading a letter except Marcy, who was perusing Cowper's poems!

Hold your hand against the ribs on your left side, front,—the regular, steady beating, run by a unknown and mysterious Engineer, is awful in its impressiveness!

Few persons like to count their own pulsebeats, and fewer persons still enjoy making the "thub-thub" of their own heart.

"What if it should skip a beat?" As a matter of fact the heart is the least susceptible to primary disease of any of our vital organs. It is, however, very much injured by certain long continued congestions of the vital organs, like the kidneys, liver and stomach. Moreover, blood filled with uric acid produces a rheumatic tendency, and is very injurious to healthful heart action,—it often proves fatal, and, of course, the uric acid comes from impaired kidney action.

Roberts, the great English authority, says that heart disease is chiefly secondary to some more fatal malady in the blood or other vital organs. That is, it is not the principal source of the fatal malady.

The work of the heart is to force blood into every part of the system. If the organs are sound it is an easy task. If they are at all diseased, it is a very, very hard task. Take as an illustration: The kidneys are very subject to congestion and yet, being deficient in the nerves of sensation, this condition is not indicated by pain. It may exist for years, unknown even to physicians, and if it does not result in complete destruction of the kidneys, the extra work which is forced upon the heart weakens it every year, and—a "mysterious" sudden death claims another victim!

This is the true history of "heart disease,"—so-called, which in reality is chiefly a secondary effect of Bright's disease of the kidneys, and indicates the universal need of that renowned specific Warner's safe cure.

B. F. Larrabee, Esq., of Boston, who was by it so wonderfully cured of Bright's disease, in 1879, says that with its disappearance went the distressing heart disorder, which he then discovered was only secondary to the real trouble.

There is a general impression that the medical profession is not at fault if it frankly admits that heart disease is the cause of death. In other words, a cure of heart disease is not expected of them!

There may be no help for a broken down, worn out, apoplectic heart, but there is a help for the kidney disorder which in most cases is responsible for the heart trouble, and if its use put money and fame into the treasury of the profession instead of into the hands of an independent investigator, every graduated doctor in the world would exclaim of it, as one, nobler and less prejudiced than his fellows, once exclaimed: "It is a God-send to humanity!"

What therefore must be the public estimate of that bigotry and want of frankness which forbids in such cases (because forsooth it is a proprietary article), the use of the one effective remedial agency of the age?

"Heart disease," indeed! Why not call such things by their right names? Why not?

"Dead without a moment's warning." This is likewise a untruth! Warnings are given by the thousand. Physicians are "not surprised." They "expected it!" They know what the end will be, but the victim?—"Oh no, he mustn't be told, you know, it would only frighten him, for there is no help, you know, for it!"

The fate that attended "Little Mac" and the five governors is not a royal and exclusive one—it threatens every one who fails to heed the warnings of nature as set forth above.

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Lieutenant Greely, the Arctic explorer is Lord Roseberry's guest at Edinburgh.

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The Cologne Gazette says it is convinced that the Turks will be driven from Eutopie.

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