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THE PRESIDENT'S MESSAGE.

THE President's message, which the readers of the NEWS had last evening, though unusually lengthy, will have been waded through by the public, and its contents pretty generally discussed, to a greater or less extent.

The Cuban question is one of the most prominent topics in the message. On this question the President seemed to be almost ready and willing to act. He sees justifiable action in one of two ways—mediation, and intervention. Mediation is peaceful, intervention warlike. The President manifestly anticipates one or the other, by the U.S., in the near future.

He finds five subjects on which he considers legislation the present session especially desirable, thus—

1. Compulsory common school educational opportunity.
2. National or State semi-compulsory, non-sectarian education, with educational basis of franchise after 1890.
3. Permanent separation of church and state, and general taxation of church property.
4. Stamping out immorality, under which he includes specially polygamy and the importation of Chinese prostitutes.
5. A return to specie basis in 1879.

One other point specially concerns the inhabitants of this Territory, and that is, more liberal legislation concerning timber and other lands in the territories. This has long been needed, and it should be made to favor, as much as is reasonably expedient, the *older settlers*, rather than *those later arrivals*, who largely come to take advantage of the enterprise and labor of others.

No other President has so persistently called the attention of Congress to the Utah question. Viewed from his standpoint, and considering the peculiar politico-religious influence around him, perhaps he could hardly have done otherwise. If a president considers polygamy such a dreadful thing as President Grant appears to do, it is perfectly natural that he should call the attention of Congress to the subject, as one of the particulars showing the state of the Union.

From our standpoint, however, we see no necessity for the President to concern himself about the topic mentioned, as will appear by the following—

1. Polygamy is not a "crime against decency and morality."
2. Polygamy is not a "crime" at all of itself.
3. Polygamy is not an "unnatural vice."
4. Polygamy is not a "vice" at all.
5. Therefore, it is not "anomalous" if not "preposterous" that "polygamy should exist in a free, enlightened, and Christian country." It would be "anomalous" and "preposterous" were it otherwise.
6. Therefore, polygamy should not be punished "as a crime." It should not be statutorily made a "crime." It should not "be banished from the land," and therefore no law is needed for that purpose.
7. Polygamy is one of the most natural things in the world.
8. Polygamy is a virtue.
9. Polygamy in Utah is wholly a religious institution, with which the civil law has constitutionally nothing to do.
10. Therefore, Congress has not the shadow of a right to interfere with polygamy in Utah, it being outside of the constitutional purview of that body, excepting perhaps where it is made a civil contract or ceremony, any instance of which we do not know in this Territory.
11. Congress, however, has the power to make laws authorizing or forbidding polygamic civil marriage, but it has no such authority concerning polygamic religious marriage, a very essential distinction, which the President does not seem to realize.

CHARGE TO THE JURY.

By Chief Justice White, in the case of the U. S. vs. George Reynolds, indicted for bigamy, delivered in the Third District Court, Salt Lake City, Dec. 10, 1875.

Gentlemen of the Jury: While your consideration of this case will properly be confined to the case itself, to the evidence which you have heard from the witnesses, the argument of counsel, and the law given you by the Court, yet it cannot be concealed that in its dimensions it swells far beyond the individual case, and demands of you, gentlemen, as members of this community, and citizens of this Territory, the most deliberate, intelligent, and profound investigation and consideration.

The defendant is indicted for bigamy. Bigamy is an offence known to our law, and consists in a second marriage by a man or woman having a wife or husband living, and not divorced at the time of the second marriage. If a man, with a wife living and undivorced, marries a second time, he is guilty of bigamy.

The first thing, then, to which the Court will direct your attention is the evidence in the case, as it conduces to establish the charge, or as it tends to repel it.

The first fact for your consideration is, whether the defendant was married—whether there was a first marriage; did he marry according to the forms and ceremonies practised in this Territory, and in the city of Salt Lake, the lady, Mary Ann Tuddenham, in 1864? The proof is before you with regard to the manner of marrying in this Territory, and the Court charges you that, under the ceremonial which has been adopted here, by an agreement in the presence of other persons, a man and woman may enter into the relation of husband and wife, and living together after that time as husband and wife, constitutes, in law, a legal marriage.

Then the next question is, was there a second marriage? The evidence upon this point was, first, the testimony of Mr. Wells, the mayor of Salt Lake city. You will remember what he said with regard to his performing a ceremony of marriage; he said it was his best recollection that he performed a ceremony of marriage between the defendant and the lady, Amelia Jane Schofield, in August, 1874. Then, gentlemen, you look at the testimony which was allowed by the Court to go before you, of what was testified to on a former trial by Amelia Jane Schofield, or Amelia Jane Reynolds. It was suggested by counsel that it was for you to consider whether the defendant in this case had been instrumental in, or had connivsd at, the non-appearance of this witness at this time to testify on this trial. That was a question, gentlemen, which was submitted to the court upon the question as to whether the testimony of this witness at the former trial was legal and competent testimony in this case. It is a matter with which you have nothing to do; the Court has passed upon it, and if the Court has erred it can be corrected by another tribunal.

What Amelia Jane Schofield swore to at the former trial between the same parties, relating to the same subject matter, was allowed to go before you as testimony in this case; and if you believe from the testimony of the witnesses that she swore on that trial as has been stated before you, then it should have the same weight as evidence, as if she had herself been upon the stand to day, been examined and stated those facts.

There is one other witness, gentlemen, who spoke with reference to this fact of a second marriage; I did not understand his name, but you will remember it. He stated that he was acquainted with the defendant, and you will remember what he said about the defendant's having one or more wives, and what he said to you with reference to it. This, gentlemen, is as much of an allusion to the testimony as the court under the law feels it is called upon and justified in giving you.

You are called upon, as jurors, to determine whether the defendant is guilty as charged or not—has he married twice, contrary to law? I will state to you what the law is upon the subject more fully hereafter. Has he been married twice, then, within this Territory? If the evidence shows to you that he has, then, irrespective of any individual opinions of your own, you are bound by your oaths so to declare, unless, under the further charge which the court shall give you, you shall think that the defendant should be excused or that he is not guilty; but if these facts are established, then the defendant is guilty as charged. They must be established beyond a reasonable doubt; but that reasonable doubt must find its source and be founded in the testimony in the case: to that alone can you look in passing upon the guilt or innocence of the defendant.

I have said your individual opinions have nothing to do with it. Your individual opinions as to whether the act committed is a crime have nothing to do with it; they do not enter into the oath which you took. That oath was that you would a just verdict render according to the law and the evidence. It means that you will take all the evidence and give to it its just, rational and legitimate weight in forming conclusions as to the facts; and that you take the law as the court gives it to you; that is the obligation by which you are bound.

But, gentlemen, it is said that to constitute the crime it is necessary that there should have been a criminal intent; and it is urged upon you with much plausibility and much force, that, under the proof in this case, you cannot find the defendant to have been guilty of the criminal intent which the law makes a constituent, an essential constituent of the crime. It is said that the defendant acted under the inspiration of a religious belief, and that in this country by the fundamental law of the land, every man has a right in matters of religion to think for himself. This, gentlemen, is true, and I may add that it is the glory of our country, it is the crowning excellence of our political institutions, that in matters of opinion every man has a right to think for himself, that so far as religion is concerned he may believe as his judgment dictates and his conscience approves, and it is of the very essence of American liberty that this right should be accorded in effect and in spirit by all and to all. The reverse of it, persecution for opinion's sake, is the essence of tyranny. Not only is it so in an abstract and theoretical view, but it has been illustrated in the bl odiest pages of the history of the human race.

But, gentlemen, there must be some limit to this high constitutional privilege, and you will observe that the court has told you that, in matters of opinion, and especially in matters of religious belief, all men are free. But parallel with and dominating over this is the obligation which every member of society owes to that society; that is, obedience to the law. This great principle to which I have alluded must have its limits in practice. While, so far as opinion is concerned, it is free—free as the air which we breathe, free as the thoughts which spring from the very organization of our being, and which is not only based in the foundations of our political system, but has received the sanction of the greatest names that adorn American history, of which it is said, by the great apostle of American liberty, that we should be tolerant of error so long as truth is left free to combat it, yet all of this is with a limit, and with the qualification that in their actions, no matter what their opinions may be, they must conform to and obey the law of the land.

Now if in this case the defendant was under the influence of a relious belief, which amounted as he conceived to inspiration, which he believed as thoroughly as is possible within the limit of the human mind, yet, if he violated the law, does that belief mitigate in any sense the crime which he has commited? Does the extent of that belief, reaching a large portion of the community, suggest to jurors in any modifying or mitigating degree the propriety of their doing their duty manfully and independently in cases which come under the influence of this inspiration or belief?

Allusion has been made by counsel to the errors of which the human mind has been the victim; the Court will suggest to you in the same line some such errors, well known, as illustrate the principle. The Hindoo mother, when she casts her new born infant into the Ganges, believes that she is discharging a holy and sacred duty. She sacrifices that first and highest love of which humanity is capable for the good of her child and by way of assurance to herself of the blessing of heaven, here and hereafter. She gives the strongest possible illustration of the intensity and sincerity of her convictions. Now could it be said in this community that the Hindoo mother, thus sacrificing her child, would not be guilty of a crime?

The Fiji Islander takes his aged and helpless parent to the woods and leaves him to starve or be devoured by wild beasts. He does it under the dictates of a custom handed down for generations, and which has become sacred in his eyes; he believes it is in the discharge of a duty.

The Indian widow is placed upon the funeral pile of her deceased husband, and the fire that consumes it consumes her.

These are illustrations, gentlemen, of the sincerity of conviction and the depth of error.

Could these things be allowed in this country? Would not these be crimes? And would the fact that there were victims of error set aside the law of the land and legitimzie murder?

Now I charge you, gentlemen, in this case, that there must have been a criminal intent, but that, if the defendant, under the influence of a religious belief that it was right, under an inspiration, if you please, that it was right, deliberately married a second time, having a first wife living, the want of consciousness of evil intent—the want of understanding on his part that he was committing a crime does not excuse him; but the law inexorably, in such case, implies the criminal intent.

There is another view which the Court feels it to be its duty to present to you upon the trial of this most important case. It has been established by the witnesses for the defence, that it is a part of a religious creed, accepted by many—by a very large portion of the community in which we live, that it is right in the sight of heaven for a man having a living wife to marry another. That, gentlemen, is the voice of this religious belief. On the other hand, equal with and more potential, the voice of the law, the supreme power in this our land declares to you it is a crime. Here, then is a conflict of opinion—settled opinion, honest opinion, deliberate, said to be inspired opinion, coming with very little remoteness, from heaven itself, on the one hand, and the law on the other. Gentleman, there is no man and no community that can ever enter into a conflict with the law with any reasonable hope of success. The law may in a particular instance be evaded, the law on some occasion may be overturned, but the law still pursues, it still rises with unyielding energy and challenges to the combat, and pursues the violators of its mandates. Then the end is to be—as sure as we sit here this conflict is to end, and it is to end in the assertion of the supremacy of law.

Then 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 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, as these cases come up in the Territory of Utah, just so do these victims multiply, and spread themselves over the land. Then, gentlemen, I conclude what I have to say, by enjoining upon you the obligation of the oaths which you have taken, the obligations which you owe to the community of which you are members, the obligations which you owe to the law and to humanity.

In view of these, discharge your duties, both to the defendant and the country.

Local and Other Matters.

FROM THURSDAY'S DAILY, DEC. 9.

Lovely.—It seems as if we are having another installment of Indian summer. Witness this morning for special instance.

Under Bonds.—Dan Toevey and Henry Jenkins of Farmington, accused of stealing cattle, were preliminarily examined before Justice Raleigh yesterday, resulting in their being held, in $300 bonds, to answer to the grand jury.

Matrimonial.—Mr. B. W. E. Jennens and Miss Matilda M. Brain were united in the bonds of matrimony yesterday by Rev. Josiah Welch, at the residence of Mr. C. Colebrook. In the evening a reception at the home of the happy pair was held, attended by many of their friends.

Lost.—Last night, between the Post Office and the top of Arsenal Hill, Mr. T. R. Fisher lost a purse containing, among other things, money and notes to the amount of forty dollars, and an order for three tons of coal. As Mr. Fisher is a poor man, the finder of the purse will do him a very great favor by leaving it at this office.

Found Dead.—A gentleman residing in Brigham City writes as follows to a friend in this City, under date of Dec. 6th—

"While travelling late on Saturday evening, the 27th ult., when it was very dark, about three or four miles from Monument Point, on the Central Pacific Railroad, and about twenty miles east of Kelton, we discovered a man lying on the side of the wagon road, as we supposed, in a beastly state of intoxication. We hailed him, when he got up on all fours, and enquired whether we had seen his partners, Jim Vivian and another, whose name he did not pronounce loud enough for us to hear. We, of course, replied in the negative.

"The night being very dark and the situation rather uninviting, we moved on and next morning reported the circumstance to two young men at Locomotive Springs, and also at Kelton, and when we reached home were informed that a man, answering the description that we gave of this man, had been found dead on the road at the same place, a day or two after we had passed. Our coroner and one or two others went out and held an inquest on the body. Deceased was a man of large stature, with heavy, dark beard, supposed to be a German by birth, and, taking him all through, not very prepossessing in his appearance.

"I understand that an attempt has been made by some interested parties to ch rge a conductor on the Central Pacific Railroad with the taking off of this defunct disciple of Bacchus, from the fact that this conductor referred to had occasion to put a tramp off the train somewhere near the point named, and it was charged that the conductor in getting this tramp off the train had maltreated him to that extent that he died from the injuries received at that time, and that the man that was found dead on the wagon road and the man the conductor put off the train were one and the same person.

"Now, I do not pretend here to judge the motives of men, but will voluntarily state, without the fear of successful contradiction, that this charge is groundless, altogether unwarranted, and absolutely false, in every particular. I do not know who this conductor is, but I merely wish to see truth and an innocent man vindicated and set right before the public. There were no marks of violence on the man's person when found, no evidence whatever that he had been maltreated in any degree, but every evidence of intemperance, through the effects of which, and exposure to a keen frosty night on the prairie, it is my opinion, he died."

The United States vs. Reynolds.

The following are the pleas in abatement, minus some of the formal portions of the document, entered by the defendant on Tuesday, in the case of the United States against George Reynolds, indicted for bigamy or polygamy—

In District Court of the Third Judicial District of Utah Territory, October Term, 1875.

United States *vs.* George Reynolds. } Pleas in abatement to indictment for bigamy.

Now comes into court here the said George Reynolds, in his own proper person, and, having heard the said indictment read, says that he ought not to answer or be tried upon the said indictment, for the reasons that the persons acting as a grand jury, by whom the said indictment was found, were not, at the time of finding the said indict-