

THE IDAHO TEST CASE.

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Smith, one of the Twelve Apostles of the Church.

Q. You may state whether to your knowledge there has been any teaching, either publicly or privately, of that doctrine of polygamy or bigamy? A. I have heard none since then.

Q. Are you a polygamist or bigamist yourself? A. No, sir.

Q. About what proportion of your people in your county occupy that position or status? A. I could not tell only as to the ward where I reside.

Q. How many are there? A. There is only one.

Q. How many are there in the ward? A. Out of the 115 persons there are, I expect, about 35 male adults.

Q. You have been familiar with the teachings of the Church more or less ever since you have been a member? A. Yes, sir.

Q. You may state to the court whether it has ever been taught as a duty resulting from membership? A. Never.

Q. Or as leading to the highest degree of salvation? A. No, sir.

Q. It has been left to the discretion of the people? A. Yes, sir.

Cross-Examination by Smith.

Q. When did you come down here? A. I came down yesterday morning.

Q. Did you come down on the train with Mr. Taylor, the Sheriff, and some other parties? A. Yes, sir.

Q. On the train coming down here were you not engaged most of the time in making an argument in favor of polygamy? A. I will state the facts.

Q. Just answer my question; was not that the case? A. I was asked the question by Mr. Taylor as to whether polygamy had been renounced and I told him the way it was, and that it was; and he asked me where it came from. I cited him to the evidence of Angus M. Cannon in the District Court of Salt Lake City.

Q. Did you not take up most of the time in coming down here in the cars to the effect that the doctrine of polygamy was right? A. Yes, sir; I was engaged in an argument with these gentlemen.

Q. In which you espoused the cause of polygamy? A. Yes, sir; from my belief.

Q. That is what you did? A. Yes, sir; I said I believed in the principle, and so do still.

Q. And made an argument in favor of it? A. Only as far as I believed in it as a principle, and I stated I did not wish them to bring me to talk upon the subject; while I was with a sheriff on one side and a lawyer on the other side of me it was not very safe for me to talk about it.

Q. Did you not take up for a long time and lengthily, the subject of polygamy and make an argument in favor of it? A. Not very lengthily; I answered their questions just the same as I do yours now.

Q. Did you not claim to them that polygamy was right? A. No, sir; I don't know that I claimed that it was.

Q. Did you, or did you not? A. I don't remember the words exactly that I spoke.

Q. What was the substance of it. Did you mean to convey the idea that it was right? A. I meant to convey the idea that the principle was right, and told them that I did not preach it nor allow others to preach it, and they said if I would preach to them they would come to the meeting. I told them if they would come I would preach to them, but not polygamy, because we were restricted and told to preach nothing but the first principles of the Gospel.

Q. You accept this book of Doctrine and Covenants as your declaration of belief? A. Yes, sir.

Q. Along with the Book of Mormon and Bible? A. Yes, sir.

Re-direct Examination.

Q. Who were the two gentlemen? A. Mr. Taylor and Mr. Winters.

Q. When was that? A. Yesterday morning.

Q. Where did they get hold of you? A. On the cars.

Q. They proceeded to pump you on the polygamy question? A. Yes, sir; they did, and I told them I did not want to talk.

Q. Here the court adjourned until Thursday morning at 10 o'clock.

Thursday, 10 o'clock a.m.

At the opening of the court at this hour, Mr. Rawlins stated that any other evidence he might desire to introduce in behalf of the plaintiff would simply be a repetition of that which had already been introduced. The plaintiff therefore rested.

Mr. Bennett then asked that Mr. D. W. Standrod be permitted to come into the case in behalf of the intervenor.

The court granted the request.

Mr. Smith then informed the Court that he desired to call some witnesses in behalf of the defendant.

C. B. FIEFIELD,

being duly sworn for the intervenor testified as follows:

Q. Where do you reside? A. I live in Oneida County.

Q. At what place in the county. A. I live at Weston.

Q. How long have you lived there? A. I have been there about eighteen years.

Q. Have you ever been a member of the Mormon Church? A. Yes, sir.

Q. To what particular local subdivision did you belong while a member of that church? A. I was a Seventy at one time.

Q. To what Stake or Ward did you belong? A. I belonged to Weston Ward in Oneida County.

Q. You say you were a Seventy at one time. Tell us what that means? A. It is a sort of organization; I don't know exactly how many there are in it.

Q. Is it an order of the Priesthood of the Mormon Church? A. Yes, sir.

Q. What is the next order above that in the Priesthood? A. The High Priests.

Q. Who are next above the High Priests? A. I don't know that I could tell; I have not paid very much attention to it for a very long time.

Q. What were the duties of yourself as a Seventy? A. The High Priests.

Q. Who are next above the High Priests? A. I don't know that I could tell; I have not paid very much attention to it for a very long time.

Q. It is something like a minute man, to be ready when you are called for and to be always on hand.

Q. Did your duties pertain in any way to teaching the people the doctrines of the Church? A. I believe so.

Q. How long is it since you ceased to be a member of the Church? A. I was cut off about a year ago or more.

Q. Were you acquainted while a member with the teachings of the Church in relation to polygamy or bigamy? A. Yes, sir.

Q. Were you acquainted with the relation and practice known as celestial marriage? A. Yes, sir.

Q. I am only partly acquainted with it, I have heard about it.

Q. You have taught it? A. Yes, sir.

Q. In the public church organization? A. Yes, sir.

Q. In relation to polygamy and bigamy you say that was taught to the people in that Church, was it taught publicly and openly in the congregations? A. Yes, sir, I believe it was as a general thing in the past; I have not heard it for more than a year; I have not attended their meetings for that time.

Q. Was it enjoined upon the people to enter into that relation as a duty or was it simply a sort of permission? A. At one time it was enjoined upon them pretty steady and only about three or four years ago.

Q. Who were the persons who did so enjoin the people; you may state their names? A. I have heard John Munn, an ex-Bishop of Weston.

Q. Who else? I have heard a great many.

Q. Is Munn a member of the Church? A. Yes, sir.

Q. What position does he occupy now? A. None that I know of, except an Elder or a High Priest.

Q. That was only three or four years ago? A. Yes, sir.

Q. You may state what was the substance of the teaching on the subject at the time? A. He told them it was enjoined upon the people and endeavored to show the penalty and consequences if they did not do it.

Q. What were the consequences? A. I have not given the subject any thought.

Q. I will ask you if any particular reward was promised them, such as political preferment and such things if they would enter into that relation? A. Yes, sir, not only promised, but such things were held out as an inducement to hold that position.

Q. What positions do you refer to? A. To some kind of an office.

Q. As an office of the Church? A. Yes, sir.

Q. What are these different positions in the Church? A. Deacons, Elders, Seventies, High Priests, Bishops, Counselors and so on.

Q. Have they a titling department? A. Yes, sir.

Q. Have they offices in that also? A. Yes, sir.

Q. Is there any mercantile associations under the auspices of the Mormon Church? A. Yes, sir.

Q. What are they called? A. They are called co-op stores.

Q. Objected to as immaterial and incompetent. Overruled.

Q. What offices pertain to that. A. There are clerks and superintendents and directors and so on.

Q. What if anything was said about these offices and preferments for these offices to persons who did or did not enter into this relation of polygamy? A. I don't know that I have heard anything of that kind said.

Q. Have you heard it either publicly or privately? Objected to the part of privacy. Overruled. A. No, sir, I do not believe I have heard it either way.

Q. What persons in fact hold these positions as to their being reputed polygamists or not? A. As a general thing they are the holders of offices or their sons.

Q. As a general thing these offices are held either by the polygamists themselves or their sons or daughters? A. Yes, sir.

Q. What books are recognized as embodying the teachings of the Mormon Church? A. The book of Doctrine and Covenants and the Book of Mormon. The book called the Pearl of Great Price and the Bible.

Q. Is the Pearl of Great Price regarded as a doctrinal work? A. Yes, sir; I think so.

Cross-examined by Rawlins.

Q. You spoke of the co-operative stores as being Church institutions; is that correct, that they are part of the organization of the Church, or only financial institutions of private parties? A. Yes, sir; generally.

Q. That is, the members of the Church enter into an organization and form a corporation, and put in their money as stock, and hold stock according to the amount of money invested? A. Yes, sir.

Q. And these stockholders elect the officers? A. Not altogether.

Q. There may be some stock held by persons not Mormons? A. Yes, sir; I have heard some isolated cases of that kind.

Q. Then the stockholders elect the officers of the institution? A. Yes, sir.

Q. They are not appointed by the Elders of the Church? A. Yes, sir, they are to the best of my understanding.

Q. How do you reconcile that statement with that as you said they were elected by the stockholders? A. One who was not a Mormon would not hold an office in that outfit.

Q. Supposing he had stock in the institution or the most of it? A. He would not be very likely to do that.

Q. In fact this co-op store business is not more than this; a number of people invest their capital in this business and each has stock according to the proportion of money invested? A. Yes, sir.

Q. That is true? A. Yes, sir.

Q. Then is it not true that these stockholders who subscribe this capital elect the officers to manage the institution? A. Yes, sir, I think so.

Q. So that they are not more than financial institutions? A. Yes, sir, but they are a peculiar class.

Q. You mean the people who subscribe this stock are members of the Mormon Church? A. Yes, sir, perhaps.

Q. Have you had anything to do with these stores in your time? A. Yes, sir.

Q. Who was the superintendent of the store? A. I think it was Bishop Clark.

Q. Is he a polygamist? A. Not that I know of.

Q. Has he ever been one? A. I don't think he ever was.

Q. Is he the son of a polygamist? A. I don't think he is.

Q. Then the fact of being a polygamist was not made a distinction or a distinct qualification for holding office? A. That is only an isolated matter.

Q. Are there are others in your town? A. No, sir.

Q. Clark is a Bishop of the Church? A. Yes, sir.

Q. In that case the distinction of polygamy is not made a distinction of the right of holding a beneficiary office? A. No, sir, but it is an isolated case.

Q. How many counselors have Bishop Clark? A. Two.

Q. Who are the counselors of your Bishop? A. One of them is Harry Munn and Peter Michelson.

Q. Are either of these men polygamists? A. I don't think they are; one of them is reputed to be.

Q. Is he as far as you know? A. Not to the best of my knowledge.

Q. The practice of polygamy was never a test of membership? A. Well a man was not ranked very high if he was not.

Q. Was it necessary to be a member of the Church in order to be a polygamist? A. Yes, sir; to be a member in good standing.

Q. Was it necessary to be a polygamist in order to be a member of the Church? A. Not particularly.

Q. You were a member at one time? A. Yes, sir.

Q. And you never were a polygamist? A. No, sir.

Q. How long were you a member of the Church? A. I was baptized when I was eight years old.

Q. You were a member a long time? A. If that makes a man a member then I was.

Q. You ceased to be a member about a year ago? A. Yes, sir.

Q. Had you ceased to belong to the Church before you were excommunicated from it? A. Yes, sir, I had to demand my discharge several times.

Q. They did not want to let you go? A. No, sir.

Q. How many people are in your Ward? A. I could not say.

Q. About how many are there? A. Probably there are 150 families.

Q. Are there any polygamists? A. I don't know of any.

Re-direct examination.

Q. There are none of these polygamists who have their homes there? A. There are three, I believe, in the town.

Q. Are they in the town? A. Yes, sir, and vicinity.

Q. How many polygamist families are there? A. I think there are three.

Q. Do you know whether Clark is a polygamist or not? A. I don't know.

Q. He has, as far as you know, but one family in Idaho? A. That is all I know of.

Q. How far is Weston from the line of Utah? A. I believe it is two miles and a half.

Q. Do you know whether his family is related to a polygamous family? A. I don't know.

Q. Do you know if his daughters have married polygamists? A. I believe one of them has.

Q. Do you know whether more than one has? A. I don't think there are, to the best of my understanding.

Re-cross-examination.

Q. How long is it since Munn was Bishop? A. It is some two or three years, I don't know exactly.

Q. Was he superseded by Clark? A. No, sir.

Q. It is not more than three or four years since he was Bishop? A. No, sir.

Q. Do you know, as a matter of fact, when he ceased to be Bishop? A. Not exactly.

Q. Then you may be mistaken as to the number of years? A. Yes, sir; I may be.

Q. It was while he was Bishop that you heard him preach polygamy? A. Yes, sir; and since that time.

Q. Is he still living in that Ward? A. No, sir; he is off on the railroad.

Re-direct examination.

Q. Was not Allen the Bishop who succeeded him? A. I think not; I can't remember about that, and am not positive.

W. H. DYE

Being duly sworn for the intervenor testified as follows:

Q. Where do you reside? A. I reside at Rexburg.

Q. In what Stake of Zion is that? A. It is in Bannock Stake.

Q. Who is president of that Stake? A. Thomas E. Ricks, Sr.

Q. What ward do you live in in Rexburg? A. I live in the Second Ward.

Q. Who is Bishop of that Ward? A. Casper Steiner.

Q. Who is the counselor? A. I am not positive as to that.

Q. Have you attended Mormon churches at Rexburg during the last three or four years? A. Yes, sir.

Q. How often? A. Not very often.

Q. Have you ever been a Mormon? A. I was raised one.

Q. When did you sever your connection with the Church? A. Entirely when I was 21 or 23 years old.

Q. Have you ever heard the teachers or preachers of the Mormon Church instruct their people upon the subject of polygamy or plural marriage? A. Yes, sir.

Q. How often? A. All my life.

Q. How was it taught to the people? A. It was taught as a duty.

Q. And was it taught in public and private Priesthood meetings? A. It was taught everywhere, publicly and privately.

Q. What were the recognized works of the Church, doctrinal works? A. There was the Book of Mormon, the Doctrine and Covenants and the Pearl of Great Price, and I think there was another one.

Q. Was the Bible one of them? A. That was a secondary consideration.

Q. It was considered as second class? A. Yes, sir.

Q. You say the relation of plural marriage was enjoined as a duty? A. Yes, sir.

Q. What reward was promised for its observance, and what punishment for its non-observance? A. If a man was a polygamist he would have a higher glory in the next world, if he did not he was of a lower grade in this world and the next; if he did enter into polygamy he would have all the offices, all the fat offices.

Q. That was taught to the people? A. Yes, sir.

Q. You say you have attended meetings during the last three or four years? A. Yes, sir, since I have been at Rexburg.

Q. What have been the teachings there? A. I have heard Grant the Apostle and Woodruff both preach as rank a polygamist sermon as I ever heard in President Young's time.

Q. When was that? A. It was within the last three or four years.

Q. Have you heard either of these men preach since then? A. No, sir.

Q. Have you heard others of the Twelve Apostles preach? A. I have heard John W. Taylor, I think that was his name and that he was an apostle; I know he was a young man and an Apostle.

Q. Did he have anything to say upon the subject? A. Yes, sir.

Q. What did he say? A. He advocated it with terrible force.

Q. When was that? A. It was two years ago this summer.

Q. Have you heard any of the other Apostles preach upon the subject. A. No, sir.

Q. Have you heard any of the Elders of the Church preach against that subject? No, sir.

Q. Have you heard any local Elder or Bishop preach upon the subject? A. Yes, sir.

Q. How long since? A. I heard an Elder three days ago.

Q. Who was that? A. It was David Robinson, the man who promised to obey the laws a few days ago here in court.

Q. What did he say? A. He advocated and said the government of the United States would never eradicate it.

Q. Was that the man who was here in court? A. Yes, sir, and promised to obey the laws.

Q. He said the government could not eradicate it? A. Yes, sir.

Q. Did you ever hear a Mormon preach, teach or talk against it? A. Not a word against it, it was always in favor of it; but never a word against it.

Cross-examined by Rawlins.

Q. You say you have heard them advocate it at all times? A. Yes, sir.

Q. Do you swear to that? A. Yes, sir.

Q. You have heard it yesterday? A. No, sir, but it was because I did not happen to talk with any of the Mormons.

Q. I understood you to say you had heard it at all times? A. Yes, sir, I said so.

Q. You did not hear it yesterday? Or the day before yesterday? A. No, sir.

Q. How many times have you attended the Mormon services in the last two years? A. I am not prepared to say.

Q. How many times? A. Probably half a dozen times.

Q. Where and when did you attend the Mormon services? A. I believe it was in Lyman town about a year ago last winter.

Q. Where is Lyman town? A. Up near Rexburg.

Q. What day and date was this service? A. I could not say that.

Q. You cannot say what day of the week it was? A. No, sir.

Q. You have no idea about that? A. No, sir, I could not say what month it was either.

Q. Was it before or after Christmas? A. I could not say as to that.

Q. How do you know it was a year the winter before last? A. To the best of my recollection it was.

Q. Are you sure it was last winter? A. I might be mistaken.

Q. That was the last meeting you attended. A. Yes, sir.

Q. When before that had you attended services in the Mormon Church? A. It was the summer before that.

Q. How long ago is that? A. It was two years ago.