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TRUTH AND LIBERTY.

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THE RAILROAD LANDS MUDDLE.

THE decision of Secretary Schurz in relation to railroad lands, and the consequent instructions of the Commissioner of the Land Office which have been published in the NEWS, raise questions of great interest and importance to many of the people of Utah as well as of the surrounding States and Territories.

It appears from this decision, that all lands accruing to the Union Pacific Railroad Company, by acts of Congress, have been subject, since July 15, 1872, to the provisions of the laws in relation to the pre-emption of the public lands. The company has been holding these lands in this vicinity at prices ranging from $3 up to $10 per acre. Quite a large area has been disposed of to our people, who have made part cash payments for the same, and have commenced to improve and cultivate the soil.

Now this decision not only throws open the unsold railroad lands to settlers at a cost of but $1.25 per acre, but affects the title to the lands which have been sold by the company, whether paid for in full or only in part. For, the Land Commissioner says:

"I am, therefore, of the opinion that an actual sale to a *bona fide* purchaser, for a valuable consideration, *within the time limited*, is the only disposition which was intended by Congress should exempt any of said land from sale under the pre-emption law."

It will be seen by the words we have italicised, that the sale by the company to be valid, must have been "within the time limited," which expired on the date given above, and that the sale must have been actual, not a mere pledge for the payment of money due on bonds, or a security under mortgage, which is not a sale in fact or in law.

These lands, then, that have been purchased since July 15, 1872, may be considered as still open to pre-emption. Those who are in possession of them should therefore take steps to secure them title. How can this be done? At present we see no other way than to file on them, just as though they were unoccupied public lands. By this means others would be prevented from "jumping," them, and the rightful claimants be saved from dispossession and loss.

The matter, however, is not yet definitely settled. It will certainly come before the courts. A test case will be made and a final decision be reached. But this may take a long time, for it will no doubt go up ultimately to the Supreme Court of the United States. Should the decision of the Secretary be sustained in the Court of last resort, then those who file on the lands and secure them will have recourse upon the railroad company for the amounts paid for land, to which it had no title. And should the ruling reverse the decision of the Secretary, still the company could be held for the money paid on pre-emption, which has to be handed to its representatives by the Land Office authorities.

This brings up a point which some do not seem to understand. The question is asked, Why is the $1.25 per acre, required on pre-emptions these railroad lands, to be paid over to the railroad companies if they do not own the soil? Here is the answer. The lands in question were given to them by the Government, but subject to certain conditions. One of which was that at the end of three years after the entire completion of their roads, all the land which they were allowed to sell up to that time, should be thrown open to pre-emption at $1.25 per acre, the amount to be paid to the companies.

This proviso was inserted for the protection of the public. The companies had three years in which to make the best sale they could, at such prices as they could ensure, but when that time expired, although they still held their claim on the lands, the Government, for the benefit of the thousand landless people seeking for homesteads, retained sufficient control to specify at what rate the lands should be sold.

The rich corporations which hold the right to these broad acres, subject to the conditions specified will fight to the last for absolute control of the valuable property. Therefore all who pre-empt, as well as those who purchase from the Companies, will labor under the disadvantage of insecure titles until a test case is finally decided. We have no doubt, however, that the decision will be the same as reached by the Secretary, which appears to us to be so plain that "a wayfaring man though a fool need not err therein. However, sound legal advice may be required under the peculiar circumstances of different cases, and our friends had better be sure that they are right before they venture to go-a-head.

THE FACTS IN THE CASE.

IN another column we publish an article from a Missuori paper in relation to the Book of Mormon. It refers to a former article, which had been copied into other papers. This was an announcement that David Whitmer had in his possession the original manuscript of the Book of Mormon, and a statement that the authorities at Salt Lake were willing to give any amount of money to obtain it.

Both these assertions are erroneous. The manuscript in the keeping of David Whitmer cannot be consistently claimed as the "original." It is in all probability the first transcript from the original, and the copy given to the printers, as stated in the article we clip from the *Conservator*. As evidence of this, the manuscript which David Whitmer holds is in the handwriting of Oliver Cowdery, including the names of the three witnesses and of the eight witnesses. *The original manuscript*, which Joseph Smith retained in his possession when the transcript was sent as "copy" to the printers, was written by several persons who, in turn, acted as scribes for the translator, and on that manuscript the witnesses severally inscribed their names in their own hand—writing.

The differences in the two then are briefly these: The original manuscript was written by several persons; that which David Whitmer has is in the handwriting of one person. The former contained the autographs of the witnesses; the latter bears their names in the handwriting of Oliver Cowdery. The first was preserved intact; the other is cut up into printers "takes," which identifies it as the transcript and shows it is not the original.

But if it were what the *Conservator* claims it to be, it would be of no particular intrinsic value to the Church in Utah. As a relic to be stored with the archives of the Church it would be of some interest. But as the Book of Mormon printed from it was revised by the Prophet Joseph Smith, and some of its subsequent editions were corrected by him in person, the published Book so corrected is of far more real value as an authentic and authorized translation of the plates, than the written manuscript which may contain the verbal inaccuracies that disfigure the first printed edition. We repeat here what we have previously stated, that the Book is essentially the same in all its editions, with the sole exception of such verbal errors as may occur in any book, unless very critically proof-read and carefully corrected. Such inaccuracies, when remedied in subsequent editions, cannot be reasonably construed as essential changes in the work. Indeed the *Conservator* acknowledges, at the close of the article, that there has been "no interpolation of the original book printed from those pages at Palmyra, New York."

But the intimation is given that changes may be effected though none will be made while David Whitmer holds the manuscript in his possession. Now we ask all reflecting persons who read this, what check would the single manuscript, held by one obscure though respectable old gentleman in Missouri, be against changes and interpolations if such were intended, compared with the printed editions of the Book scattered over the civilized world, translated into several languages and to be found in the great libraries of the chief cities in Christendom? If alterations were to be made in future editions there would be a cloud of witnesses against them, in the thousands of volumes, each of which is a printed copy of the manuscript about which so much smoke arises from so little fire. The manuscript, then, is of very little importance, except as a relic of the past, which might be interesting in a museum of curiosities, or among the records in the office of the Church Historian.

We shall have to refer once more to the quotation from the Book of Mormon, which is made by the *Conservator*, which Hon.(?) Schuyler Colfax rolls under his tongue as a sweet morsel, when striving to stir up public animosity against the "Mormons," and which is used with an uningenuous assumption of importance by "Christian" ministers, when preaching the evangile of hate against doctrines they cannot controvert, but strive to misrepresent. All these persons who seem so anxious to enlighten the world about the Book of Mormon, when quoting the commandment to the ancient Nephites that "not any man among them should have save it be one wife," &c., fail to give the full quotation. They suppress the latter part because it would be fatal to their position. They claim that the revelation on plural marriage is in complete opposition to the Book of Mormon. And the portion they quote is brought forward to prove this assertion. But the words which follow, they omit with palpable dishonesty of intent. They are these:

"For if I will, saith the Lord, raise up seed unto me, I will command my people; otherwise they shall hearken unto these things."

This contains an answer to all that may be quoted from the Book of Mormon, Doctrine and Covenants, or any other book. Until the Lord commanded, plural marriage was not permitted. When he did command His people they were required to obey. The matter is simple, plain, easy to be understood. *Until the revelation on celestial* marriage was given to the church its members were under the divine injunction referred to. But the intimation that the Lord would at some time command His people otherwise, proves that plural marriage, when so commanded, is not [illegible] position to that Book.

Some will cavil at the idea that God should forbid a thing at one time which he commands at another. Yet those same objectors will assert that polygamy was permitted by the Lord under the Mosaic law, but prohibited through Christ in the gospel. Thus they establish the point against which they argue, and prove what they deny, while they fall into a gross error of fact, for there is not a word uttered by the Savior on record which in any way forbids the plural marriage practiced by His ancestors under Divine sanction and regulation.

We should be pleased to see David Whitmer take the course of the other two witnesses, Oliver Cowdery and Martin Harris, and, turning from his errors, return to the fold of the Church whose foundations he assisted to lay. But the manuscript in his possession is of little importance beyond that which we have mentioned, and the Twelve Apostles, upon whom the Prophet, Seer and Revelator placed the responsibility of proclaiming the truths contained in the Book of Mormon, and carrying on the great work for which he lived and died, have placed beyond the possibility of successful change or mutilation, the sacred record preserved for fourteen centuries by the angels, and translated by the gift and power of God for the benefit of the whole world in the dispensation of the fulness of times.

THE REYNOLDS POLYGAMY CASE.

THIS is the day that was set in the Supreme Court of the United States for the case of George Reynolds, appealed from the Supreme Court of Utah. It is a case without precedent. For the first time in the court of last resort the polygamy question, which has been agitated and discussed throughout the land, comes up for investigation and decision.

George Reynolds, an Elder in the Church of Jesus Christ of Latter-day Saints, was indicted by the grand jury of the Third District Court of this Territory, for marrying a second wife, his first wife being alive and undivorced, in violation of the anti-polygamy act of Congress of 1862. He was tried for bigamy, in the Third District Court, March 31, 1875, was found guilty and sentenced, the first marriage being proven by the testimony of his first wife's parents, and the second marriage by the testimony of the second wife, who was subpœnæed and who answered the direct questions of the prosecution. On appeal to the Supreme Court, this trial was proven invalid June 19, 1875, the indictment having been found by an illegal grand jury. A second indictment followed, and another trial on December 9th, 1875, at which the second wife's testimony not being obtained, the evidence of two lawyers, present at the first trial, that they heard her make such and such statements, was received against the defendant, he was found guilty and sentenced to two years imprisonment, at hard labor, and a fine of $500. The case was appealed to the Supreme Court of the Territory, and the action of the lower court being sustained, July 6th, 1876, was carried up to the Supreme Court of the United States, as provided for in what is known as the "Poland Bill."

The position taken by the defendant, which is that of the "Mormon" people generally, may be defined as follows: Plural marriage, that is, the uniting of two or more women in wedlock to the same man, by an ecclesiastical ceremony, is a religious practice of the Latter-day Saints, commonly called "Mormons," the authority for which is derived from a Divine revelation, given to the Church through Joseph Smith, its acknowledged and appointed prophet, seer and revelator. The principles contained in that revelation are corroborated by the sacred scriptures, called the Holy Bible, or, the Old and New Testaments, which are the accepted authority for religious doctrine and practice among all the various Christian denominations.

The Constitution of our country provides that "Congress shall pass no law respecting an establishment of religion, nor prohibiting the free exercise thereof." "Mormon" plural marriage had been for many years practised under an "establishment of religion," when Congress passed a law prohibiting it and providing penalties against it. That statute, familiarly known as the Anti-Polygamy Act of '62, was aimed and directed against a ceremony well known by the legislators who enacted the law to be a part of the "Mormon" religion. Therefore, we claim that the said Act of Congress is unconstitutional and, consequently, void.

It must be understood that the statutes of Utah Territory are silent on this subject. The marriage ceremony, which unites a married man with a plural wife, is essentially religious, claiming no secular acknowledgment nor legal sanction or recognition. The law of the land, apart from the unconstitutional Act referred to, has nothing to do with it. Its validity depends upon an ecclesiastical ordinance based upon a revelation assuredly believed to be from God. Those who are affected by it are willing to accept it, as such, with all its responsibilities. No force but the power of conscience is exercised upon any person in its practice. No woman is thereby compelled to marry any man against her choice. No man is obliged to take any woman to wife in opposition to his own volition. It does not infringe upon nor violate any human rights. It is not a crime of itself and only appears as such by construction.

There is a vast difference between "Mormon polygamy" and that which is generally denominated bigamy. The latter is the abandonment of a legal wife for an illegal union with another. Deception and fraud are its usual characteristics. The wife is deserted and defrauded, the new companion entrapped and deluded into a false relation. It is for the protection of women against the wiles of unfaithful and untruthful men that laws in various countries have been enacted against bigamy. "Mormon" plural marriage involves an addition to a man's family responsibilities without any forsaking or defrauding of his first wife. All parties to the transaction are believers in the sacredness of its obligations. It is a mutual arrangement. It is recognized as right and proper by the body of the people among whom they live, and nobody outside is injured by it. The ceremony is performed as a religious ordinance only, and the minister who performs it, understands and sanctions the relationship of all the principals. There is no parallel therefore between common bigamy, and Mormon "polygamy."

The subject hinges upon the question whether or not marriage is "an establishment of religion." If it is, then the controversy upon monogamic *versus* plural marriage is one for the theologians rather than the lawyers, and the regulation thereof for the churches, instead of the legislatures and congresses. That matrimony has been considered a religious ordinance for ages among heathens, Jews and Christians, is a fact no one will care to dispute. Under the patriarchal and Mosaic dispensations it was a sacred rite. The oldest ecclesiastical organization in Christendom—the Roman Catholic Church, calls marriage a sacrament. It is not considered valid unless administered by a priest. The Church of England, or, Episcopal Church, does not number it among the sacraments, but still announces it as an ordinance of God. In the marriage ceremony, as contained in the prayer book used in all countries where the Episcopal Church is established, the bride and bridegroom, are asked if they will "live together after God's ordinance in the holy estate of matrimony." And when the priest pronounces them man and wife, he says: "Those whom *God* hath joined together let no man put asunder." The dissenting ministers use a form similar in *spirit* if differing in words.

It is only of very recent date that marriage has been viewed at all *in the light of a mere civil contract*. No mention of it is found in the Constitution of the United States, *for in the time that document was* penned, marriage was strictly a religious ordinance, and the framers of that glorious instrument of liberty were determined to permit *no laws which should set up any* State religion, or prevent or restrict the freedom of religious faith and practice.

Here is an extract from the statutes passed by the General Assembly of Virginia in 1662:

"No marriage shall be valid in law except such as is made by a minister of the Established Church of England, according to the laws of England."

This shows how marriage was viewed in that State, and it is a sample of the sentiments of other States on this important question. The degrading of God's holy ordinance of matrimony to the level of a mere civil contract has opened the way for the loose divorce system of modern times, it was the stepping stone into the mire of "free love," and it has lifted the floodgates of passion and sin, till the very foundations of society are saturated and sapped, and the mists that have arisen therefrom have blinded the eyes of the mighty.

The case of George Reynolds involves a principle. It is not merely a question whether an individual has broken a valid law or not, but whether the entering wedge of State power over Church doctrine and discipline shall be driven into our national system, or religious liberty shall be maintained in the spirit of American institutions. If Congress may pass laws infringing upon and forbidding one religious rite which interferes with no person's life, liberty or property, that body may enact statute after statute affecting all religions, establish a State Church or declare there shall be no Church, and crush out the freedom of creed and action guaranteed to all in the Constitution of our common country.

It is possible, however, that the great judicial power of the land may avoid the main point at issue and rule upon some of the technical questions that will be presented, in which case the defendant will doubtless receive his discharge, for there are grave questions as to the legality of some portions of the proceedings against him. Whatev-