

some persons go so far as to advocate the enactment of a uniform civil marriage law for the whole Union. If Congress were to attempt to pass such a law, it would be seen whether the States would permit and accept it or not. This we merely remark *en passant*.

Let us now inquire whether "Mormon" marriages are religious or civil. There are in this Territory two great classes of marriages, so far as we know, and these classes are similar to the two previously mentioned—civil and religious. Officers of the civil law, such as justices of the peace, officiate in the civil marriages, and accredited ministers of religion officiate in the religious marriages. The latter kind, we have every reason to believe, are very heavily in the majority, most of the people in this region, as nearly all over Christendom, believing in the religious nature of marriage, and consequently strongly desiring, when they are married, to be married to persons of similar religion, by accepted ministers of religion, in a building devoted to religious purposes, and according to an acknowledged religious ceremonial. This is especially noticeable with members of the Church of Jesus Christ of Latter-day Saints, or "Mormons," as they are commonly designated by others. Indeed, where a person professing to be a "Mormon" marries a person who is not of the same religion, the former is considered either an impostor, or exceedingly weak in the faith, which he need not be so considered if marriage was not regarded as a religious affair.

For a "Mormon" to be married by the ministers of any other church than his own, where marriage by his own is reasonably feasible, is also considered a very decided evidence of weakness of faith, which could hardly be the case if marriage were not considered a part of that religion.

These are evidences patent to every person of intelligence. But let us bring the question a little closer. Let us refer to the only competent authorities on the point, the real witnesses in the case. Ask any intelligent "Mormon," in good standing in his church, whether he considers his own marriage a religious act, and he will answer yes in every respect, so much so that he believes that marriage according to the law of God is the only real, true, authoritative, perfect, and permanent marriage that is contracted on earth. He will claim that it is the prerogative of Heaven alone to authorize and regulate the institution of marriage, and that it is an institution which is the very basis of salvation, eternal life, eternal happiness, and eternal glory. He will claim that what are termed civil marriages are merely human arrangements, and made for only a few short years at most; that real marriage is a divine institution, and, when administered in by divine authority and in accordance with divine law, and lived up to accordingly, is administered for all time and for all eternity, and is the divine order of perfect living and of endless life.

Here, then, taking the only competent earthly witnesses, the "Mormons" themselves, it is evident, beyond controversy, that their marriages are religious marriages, and more religious than any other of their acts; if one religious act can be more religious than another religious act. Therefore it may fairly be considered as proved, beyond refutation that marriage is esteemed as a part of the "Mormon" religion, an essential part of that religion, and as absolutely necessary, sometime or other, sooner or later, to be religiously administered in order to be valid or fully and finally acceptable in the sight of Heaven.

If Congress, therefore, were to make a law prohibiting "Mormon" marriages, it would be not only an unconstitutional act, but an act of sheer persecution, persecution in a matter of the most sacred character and of the most intrinsic and essential religious importance.

It may be urged that, so far as marriages wherein one man and one woman only are joined to each other, Congress has no objection, and is not disposed to interfere with the "Mormons," but that it ought to prevent the "Mormons" from marrying one man to more than one living woman as his wives at one and the same time.

Not so fast. Remember, Congress has no right to interfere with "Mormon" marriages, not because they are "Mormon" marriages, but because they are religious ceremonies,

because marriage is an integral part of the "Mormon" religion, and of the very highest importance in the estimation of the "Mormons" themselves. Congress cannot prohibit "Mormon" marriages without prohibiting the free exercise of their religion by the "Mormons" in its most essential characteristics. In such prohibition the Constitution positively forbids Congress to indulge.

We have said that if there is one religious act of the "Mormons" more religious than another, it is the act of marriage, and for the sake of comparison we may say if one "Mormon" marriage is more religious than another, it is the marriage of a man to a second or a third wife, or, in common phraseology, plural marriage. This plural marriage, to an intelligent, conscientious, and faithful "Mormon," is an institution of the most sacred character, involving the most sacred responsibilities. Accordingly, it is considered that to obtain a second wife a man should not only be a "Mormon," but be a worthy and faithful and true "Mormon." It is right enough that a man ought to be all these to enjoy the high privilege of having one wife, but to be accounted eligible to the privilege of having more than one wife, a man ought to be especially worthy, because of the greater responsibilities involved and the greater power given into his hands and the greater opportunities placed within his reach for good or evil, as he shall be disposed to acquit himself, or shall suffer himself to be led.

The "Mormons" claim that their practice of plural marriage is by especial permission and commandment of Heaven, and is fully as binding upon them as is any other divine doctrine or principle. But it is nothing to Congress whether the "Mormons" have been permitted or commanded by heaven or not to practise plural marriage. That is a matter which concerns themselves alone as human creatures. It lies between them and their God, and Congress has no right to step in between.

But farther, if the "Mormons" merely believe it to be their religious duty to practise plural marriage, independent of any special mandatory revelation from heaven to them upon the subject, then plural marriage becomes a part of their religion, a part of the exercise of their religion, and this Congress is especially forbidden to prohibit. So far as the right of Congress to prohibit is concerned, it is perfectly immaterial to that body whether or not the "Mormons" have had any revelation or commandment from God upon the subject. If the "Mormons" accept plural marriage as a part of their religion, in good faith, and so maintain, that is amply sufficient to guarantee them perfect immunity from constitutional Congressional prohibition touching such marriages.

But it may be asked in consternation by some parties, is a man to be guaranteed immunity from Congressional interference in every thing which he may claim is included in the free exercise of his religion? Yes he is, when such free exercise of his religion, whatever it may be, does not infringe upon the common liberties guaranteed to all citizens. This is the only constitutional limit to the free exercise of his religion. If the Chief Justice had only properly considered this limit, he would never have introduced into his charge to the jury, in connection with religious plural marriages, the utterly irrelevant cases of the Hindoo mother casting her new-born babe into the Ganges, the Fiji islander leaving his aged and helpless parent in the woods to starve or be devoured, or the placing of the Hindoo widow upon the funeral pile of her deceased husband, to be consumed with his corpse. All these things are murder, or equivalent thereto. They are not the pursuit of life and liberty. They are the pursuit of death, and consequently are destructive to life and liberty. Therefore they could not be permitted in the United States, so far as the jurisdiction of Congress is concerned, even though they were to be claimed as included in the free exercise of religion, because they would prevent persons from enjoying the free exercise of their religion. By no fair or acceptable process of reasoning could such restrictive and destructive acts be placed as parallel with and equal to "Mormon" plural marriage, or as having any claims to be included in the free exercise of religion. The

surprise is that men of intelligence otherwise should ever presume to present such limping apologies for argument.

Marriage is honorable in all. It is the grand portal of legitimate life, of real and true life. It is the very liberty of the Gospel. In it the very highest human happiness and the most perfect human development may be found. We might say that in it, and in it only, divine life, divine development and divine happiness may be found. Jesus said, "Suffer little children to come unto me, and forbid them not, for of such is the kingdom of heaven," and only by marriage can there be legitimately any little children to be suffered to go to Jesus and become a prototypical part of the kingdom of heaven. So that marriage is so clearly of a religious nature that it furnishes, that it alone furnishes, the very finest and most acceptable material for the kingdom of heaven, according to the testimony of Jesus Christ himself, the great author and finisher of the Christian faith.

The condition of marriage should be considered as not only eminently of a religious nature, but likewise so far from being destructive to life, liberty and happiness, that it is the very way of life, liberty, and happiness. We may therefore boldly declare that in no condition on earth is there so much life, liberty, and happiness attainable, so much of perfect human and divine development within reach, as in the marriage relation, and that the pursuit of these desirable things through this relation is not only guaranteed by the Constitution, but is heartily to be commended by all intelligent people.

Again it may be said that this is true enough of marriage on the monogamic plan, but it is not true of marriage of a plurality of wives. Why not? If one woman by marriage with a man finds life, liberty, happiness, and perfect feminine development, why should not another woman find the same blessings by that man? There is no valid reason why she should not.

In contradistinction to the charge of the Chief Justice, and to the assertions of many others, we earnestly contend that "Mormon" plural marriage is a religious act, that it does not infringe upon the constitutional liberties of any citizens, and that therefore Congress has no constitutional right to prohibit the free exercise of that part, any more than of any other parts, of the "Mormon" religion. This, we believe, is a position which cannot be rationally overthrown.

We will examine the possible objection that plural marriages are opposed to liberties constitutionally guaranteed. If a man marries a wife, whose constitutional liberties does he thereby infringe upon? Nobody's. If he marries a second wife whose constitutional liberties does he thereby infringe upon? Nobody's. If he marries a third wife, whose constitutional liberties does he thereby infringe upon? Nobody's.

In the first place it is well enough known that plural marriages are a part of the "Mormon" religion. Consequently all "Mormon" men and women are married with the knowledge of the possible, and indeed probable, contingency of their individual connection with such marriages, if they do not immediately enter upon such plural marriage union.

In the next place we would ask again, and more explicitly, whose liberties are infringed upon by plural marriage? One may say, that the liberties of the first wife and those of the children. In what way? If there were no second or third wife and their children, there would be more of the husband's goods to be enjoyed by the first wife and her children.

O, that is the line of argument! Then it is a very selfish one. But we will pursue it to its logical issue. There shall be no second or third wife, because such wife or wives, and her or their children, would lessen the amount of means which might come into the hands of the first wife and her children. By the same reasoning, there should be no second child, because the second would lessen the amount of this world's goods that might come into the hands of the first child. This policy is extensively practised in portions of these United States, and the results are not life, liberty and happiness, but baby farming, infanticide, abortion, feticide, lust, and debilitated femininity. Again, by the same reasoning, men should not marry, for a wife will deprive

her husband of some of this world's goods to support herself. This sort of policy, too, is extensively carried out in various parts of the United States, and the results are not life, liberty, and happiness, but licence, lust, seduction, illegitimacy, prostitution, debauchery, and, if pursued to the end, depopulation, death, and desolation, the very reverse of the purpose of the first great commandment to increase and multiply and replenish the earth, a commandment which has never yet been revoked.

Now we have herein set forth, so that it cannot be rationally controverted, that civil and religious liberty is the birthright of American citizens; that it was the great controlling principle of the American Revolution; that it is the fundamental principle upon which the Federal Union was founded; that it is the grand characteristic and standing boast of the American system of republican government, in direct and designed corrective or counterbalancing opposition to the Old World restrictive policy of government; that the Constitution expressly guarantees the free exercise of religion to all, so far as the action of Congress is concerned; that the exercise of religion necessarily means religious acts; that marriage is regarded by most if not all Christian people as an essentially religious act; that it has been so regarded for ages; that civil marriage in Christendom is a very modern institution; that the "Mormon" people especially regard marriage as a pre-eminently sacred, religious, and divine institution; that they regard plural marriage, at least equally with monogamic marriage, as a sacred, religious, and divine institution; that the limit of the free exercise of religion is where it would infringe upon the common constitutional liberties of citizens; that plural marriage does not infringe in the least upon those common constitutional liberties, but that it rather encourages, promotes and maintains those liberties; and that consequently any congressional enactment prohibitory of the free exercise of religious marriage, whether monogamic or plural, is a gross violation of the Constitution of the United States, and of the grand dominating principle of the American government—the liberty of the people.

EDITORIAL NOTES.

—The announcement of Chief Justice Waite, that under no circumstances will he be a candidate for the Presidency of the United States, appears to be generally commended throughout the country. He cannot obtain a more honorable office under the constitution than the one he has, and it may well satisfy any prudent man's ambition. Besides, if there is one class of offices, more than others, the incumbents of which should keep outside of the excitements of political ambitions, it is the judicial.

—An effort is under way in New Jersey to establish the old English field sport of fox-hunting. Three or four hunts of the kind have already been had, and Mr. Bergh has got into a controversy with the patrons and admirers of the sport.

—A young woman was discharged from service in a house in Paris, and she went and drowned herself in the river Seine, where, upon *L'Opinion* suggests that she did it to be in the fashion, as suicides are becoming more fashionable than marriages in Paris.

—Maryland has an amendment to her constitution, restricting the removal of trials, and Judge Gilmer in charging the grand jury recently at Baltimore, expressed the opinion that the gamblers, policy venders, and violators of the Sunday law would be compelled to mend their ways, as they could not now run away from the jurisdiction of the criminal court, and they need expect nothing less than the full penalty of the law, also if they were brought into court a second time they would certainly be sent to prison.

—R. W. Baylor, one of Mosby's men, and Col. James F. Keegan, an ex-U. S. officer, had an affair of honor near Edgemoor, Delaware, the other day, Baylor receiving a flesh wound, and then friends interfering. The officers of the law are after the belligerents, and the law provides a whipping of thirty stripes, and three months imprisonment for the offence.

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