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## THE U. S. SUPREME COURT DECISION REVIEWED.

We present to our readers to-day the full text of the Decision of the Supreme Court of the United States in the Snow cases. We expected an ingenious and learned argument, giving some substantial reasons for the conclusion arrived at by the Court. The Opinion is a disappointment. It is decidedly thin. It is in conflict with many previous rulings of the Court, and is manufactured for the occasion. If this is considered disrespectful to the highest tribunal in the country, we cannot help it; inconsistency and the evasion of a great responsibility are not calculated to inspire respect either in courts or individuals. Let us examine the Opinion in the light of the Court's own previous enunciations.

The question of jurisdiction, the Court admits, was not sprung by counsel either for the Government or the plaintiff in error. The brief to which the Court alludes, which was prepared by Mr. F. S. Richards, was presented after the case was closed and submitted, at the pressing request of the Court. Counsel had no opportunity of arguing the question. The desire of both parties was to obtain a definite construction of the third section of the Edmunds law. The Government purposely waived the question of jurisdiction, that nothing might stand in the way of the ruling, to settle the immense difficulties that have accrued from the varied and contradictory rulings on that section by the Federal courts in Utah.

These difficulties might have been avoided by a general construction of the law when the Cannon case was reviewed. The same conditions as to jurisdiction existed then as in the Snow cases. The Court exercised jurisdiction, but confined its ruling to the individual case before it, and refrained from rendering a decision defining the meaning of the law, as requested. In both instances, then, the Court evaded the main question and crept out from a grave official responsibility. It was not courageous nor worthy of their high calling.

Justice Blatchford, speaking for the whole Court, first takes up the provision of the United States statutes in relation to Washington Territory That this in itself only applies to that Territory no one disputes. It can only be cited in connection with other similar provisions applying to other places, to make clear the intent of the later law. The sections of the Revised Statutes having special reference to the Territories named therein, which are quoted in the Opinion, need not be noticed because they do not bear on the question. So with the Poland law and the Edmund Act.

But the Act of March 3, 1885, contains the provision on which the whole question of the Court's jurisdiction of these cases turns. It is in the second section. It gives jurisdiction to the Supreme Court of the United States in any case on appeal or writ of error from the District of Columbia and the Territories, "wherein is involved the validity of any patent or copyright, or in which is drawn in question the validity of a treaty or statute of, *or an authority exercised under the United States*;" in all such cases, the law says "an appeal or writ of error may be brought without regard to the sum or value in dispute." The question, denuded of all extraneous trappings, is simply, do the cases brought before the court draw in question the validity of "an authority exercised under the United States?" The Court now answers "No;" the record of the cases claims to the contrary. It is shown therein that the lower court exercised authority which is not warranted by the Act of Congress of March 22, 1882, under which the cases were tried; first, in giving a construction to the third section of that Act not warranted by its language; second, in segregating the offense, so as to multiply the penalties of the law, contrary to its evident intent and purpose. This was an exercise of authority not given in the law, and therefore the validity of that authority is called in question.

The validity of the statute is not disputed. It all turns on the validity of the authority exercised. That this was "authority exercised under the United States" cannot be denied. The Court makes an "if" in regard to the point whether the Act of 1885 applies to criminal as well as civil cases. But the language of the second section covers the ground of "*all* such cases" as described, and this must include criminal as well as civil cases; and the Court has itself decided this question many times in cases arising under previous statutes with exactly the same wording. For instance, in Twitchell v. Commonwealth (7 Wall. 324) and in Tennessee vs. Davis (10 Otto 284-288.) In the former case the Court ruled:

"Neither the act of 1789, nor the act of 1867, which in some particulars supersedes and replaces the act of 1789, makes any distinction between civil and criminal cases in respect to the revision of the judgments of State courts by this court; nor are we aware that it has ever been contended that any such distinction exists. Certainly none has been recognized here. No objection, therefore, to the allowance of the writ of error asked for by the petition can arise from the circumstance that the judgment which we are asked to review was reudered in a criminal case."

This settles the question beyond dispute, for the language of the Act of 1885 is exactly the same in this regard as that of the Act of 1867 referred to in this decision; it is evident, on comparison, that the former was copied from the latter, as that was from the Act of 1789 alluded to above. The "if" of the Court in relation to the application of the statute to criminal cases is, then, entirely gratuitous and superfluous.

But in regard to the meaning of the word "validity." The Court now construes it very strictly and confines it within a very narrow compass. Much of the argument of Judge Blatchford on this point is needless. It is not contended that there is any invalidity in the existence, or jurisdiction of the cases, of the lower court. As we have said, it is the *authority* exercised that is in dispute. And the case of Bethell vs. Demaret, cited by the Court, has no direct bearing upon the real question involved and no parallel to the cases brought for review.

What is the meaning of the word validity in law? Webster says its legal definition is "Legal strength or force; that quality of a thing which renders it supportable in law or equity." Apply this to the authority exercised by the lower court, and is not its validity as upon in question? It is claimed by counsel for Mr. Snow that the authority is not "supported" by the Edmunds Act and has not "legal strength or force" under it. The Court now attempts to avoid jurisdiction of a case wherein the *construction* of a statute of the United States is drawn in question, contending that the word validity does not include that term. But this is contrary to its previous decisions. In the case of Williams vs. Norris (12 Wheat, 117) Chief Justice Marshall, giving the decision of the Court says on this point:

"That judgment is now before the Court and in considering it we are confined to the inquiry whether the record shows any *misconstruction* of an Act of Congress, or of the Constitution of the United States."

In Montgomery vs. Hernandez, the Court ruled that,

"Under the 25th section of the judiciary act of 1789, chapter 20, this court has no appellate jurisdiction from the final judgment of the highest court of a State in a suit where is drawn in question the *construction* of a statute of or a commission held under the United States, unless some title, right, privilege or exemption under such statute, etc.".

These rulings show that the Court has jurisdiction of cases wherein the *construction* of a United States statute is drawn in question, under certain conditions; now the Court takes ground to the contrary.

In the case of Bridge Proprietors vs. Hoboken Company (1 Wall, 116), the question of jurisdiction being fully argued, the Court said:

"But the true and rational rule is, that the Court must be able to see clearly, from the whole record, that a certain provision of the Constitution or Act of Congress was relied on by the party who brings the writ of error, and that the right thus claimed was denied."

This is just the position of the case before the Court, and the record shows that very state of affairs. In the case last cited, the Court said further:

"If the *construction* is one which violates the contract, it is clear that the plaintiffs have no relief except in this court, and unless it take jurisdiction it will not discharge its duty to see that no State shall pass a law impairing the obligation of a contract." (1 Wall, 144.)

There was no relief for Mr. Snow but in this Court, and yet the Court would not take jurisdiction. In United States vs. Thompson (93 U. S. 586) the Court ruled that,

"On writ of error, held, that judgments against the United States in State courts, stand on the same ground, in reference to the revising jurisdiction of this court, as judgments against individuals, and *to justify this jurisdiction the record must show a Federal question.*"

It was a "Federal question" that was submitted to the Court in the Snow case and that was shown on the face of the record.

In River Bridge Co. vs. Kansas (92 U. S. 316) the Court decided:

"But in chancery cases or in any other class of cases, where all the evidence becomes part of the record in the highest court of the State, this Court can revied the decision of the court *both on the law and the fact*, so far as may be necessary to determine the *vadility of the right* set up under the Act of Congress."

Thus not only the validity of a law, but the validity of a right under the law, can be determined by the Supreme Court of the United States in "any class of cases." This is in direct conflict with the present Opinion delivered by Judge Blatchford.

The cases cited above were brought either under the Act of 1789 or that of 1867, and were from State courts. The present case was brought under the Act of 1885, which relates to Territorial courts. But the provision in each case is the same, and the evident object and intent of Congress, by the similarity or rather identity of the language, was to extend to cases from the Territorial courts the same rights of appeal as from the State courts; to give to all the Territories that right which had been specially conferred upon Washington Territory under 702 of the Revised Statutes.

If the Court, then, has jurisdiction of the construction of a statute, and of the validity of a right claimed under it, as well as of the validity or constitutionality of that statute in cases from State courts, why has it not the same jurisdiction in cases involving the same questions from the Territorial courts, since the act of Congress has extended the same rights in the premises to the latter as to the former? Or will the court of last resort enunciate the monstrous doctrine that a citizen of a Territory has not the same legal rights as a citizen of a State, or that a "Mormon" cannot claim the protection of the Court established by the Constitution for the purpose of securing justice to all citizens alike under the laws of the United States?

But the Court says:

"The contention of the plaintiff in error would allow a writ of error from this Court in every criminal case in a Territory where the prosecution is based on a statute of the United States; and, indeed, might go still further, for the authority of every court sitting in a Territory is founded on a statute of the United States."

That this is erroneous may be seen at at a glance. For if the Court would give a settled construction to section 3 of the Edmunds Act, writ of error would not lie in any case afterwards arising under the section. If the Court should take the same position as in the Cannon case, and give a ruling simply on the technical question involved in the individual case brought for review, then other cases having different bearings would necessarily have to come up for investigation. But a general interpretation of the section would settle its meaning and writs of error for cases affected by it could thenceforth be denied.

And we do not think any sound reasoner will admit that a right of appeal, established by act of Congress, should be abrogated or denied on the plea that if granted it would make too much business for the appellate court. Yet that is the conclusion to be reached by the shallow argument put forth as an excuse for dismissing the present cases.

We may be assailed for calling in question a decision given by the highest tribunal in the nation, and the question may be asked, What is the good of disputing it? Our position is, that we have the right to combat error wherever we meet it; that a citizen or a journal has as much right to criticize the utterances of a Court as the doings of a President; that judges are the servants of the public the same as legislators or executive officers; that the Supreme Court of the United States has in several instances reversed its own rulings; that it is not infallible; that if it was wrong in exercising jurisdiction, as it claims, in the Cannon case, it may be wrong in denying jurisdiction of the Snow cases; and that the cause of truth cannot be injured by the discussion of questions involving the liberties of men.

We have no hesitation in saying that the opinion of the Court is unworthy of so august a tribunal and that in our belief, if the cases had not been associated with the unpopular "Mormon" question, that body would not have evaded an important responsibility under a pretext so shallow as that put forth in this plea of lack of jurisdiction.

## TOTALLY DEPRAVED.

The total depravity of the local journalistic anti-"Mormon" defamers could not be more completely exhibited than it has been. They keep on asserting with the most unmitigated effrontery that the Latter-day Saints who are placed in jeopardy before the courts under the Edmunds law are guilty of wholesale perjury. These statements are iterated and reiterated for effect abroad. It is asserted that they are taught by the Church that it is no sin to lie when it is done for the protection of a church interest or to benefit a co-religionist. While those falsehoods may serve to deceive people at a distance everybody in this community knows the infamous and untruthful character of the cruel and heartless charges.

The correctness of our position can be proved to a demonstration. The first case under the Edmunds law was that of Rudger Clawson, who was sentenced Nov. 3d, 1884. From then until May 11th, 1886, when judgment was passed upon H. W. Naisbitt and Geo. C. Lambert, 75 Latter-day Saints have been imprisoned in the Utah Penitentiary under the unmerciful administration of the Edmunds Act. Of these only 28 set up any legal defense whatever. If there was any departure from the strict line of truth it must have been in those cases and only those. The only basis upon which to found such an aspersion is because some of the witnesses did not testify as strongly for the prosecution as the rabid crusaders desired. Women were required to testify against their husbands, and children against their fathers, and the fact that in nearly every case before the courts, conviction of the accused has been the result, shows that the evidence given was deemed sufficient. There may have been isolated cases—where perhaps, in the desperate endeavor to shield a loved husband or other relative—in which evasions have been made.

But what about the remaining 47 cases. In them the defendants either pleaded guilty to the indictments or took the witness stand against themselves, acknowledging the relationship with their wives and the fact of their having lived with them in that association. They are nearly double the number of those who even attempted a defense. Was there any perjury there, or false-swearing? It cannot be said that they testified falsely. The book just published by Mr. Nicholson gives, in its appendix, a statement of all the cases referred to, and shows which were defended in the courts and those in which no legal fight was made. Facts, however, are not wanted by the crusaders. The truth is not harmonious with their constitutions, nor congenial with their by-laws.

Those who spread falsehood about the Latter-day Saints are essential criminals. An assertion of the noted Thomas Paine is directly applicable to them: "A continual circulation of lies among those who are not much in the way of hearing them contradicted, in time pass for truth. The crime lies not in the believer, but in the inventor."

Special reference is inteuded to the chief anti-"Mormon" organ published in this city. But, after all, what could be naturally expected from a newspaper which unblushingly advocates or threatens a resort to murder as a means of obliterating the "Mormon" religion?

## WORTH THINKING OVER.

One of the poets once wrote, "This life is all a fleeting show, for man's illusion given." The author of that statement took a very superficial view of a very far-reaching subject; his idea of life, while prettily enough expressed, was confined to but one phase of the probation through which we are passing, and is such a view as the chronic hypochondriac or social anchorite might feel but be unable to express in words. This life is not a fleeting show, nor is it given for illusion's sake; it is an intermediate existence, following one less and another more perfect. That it is fleeting is easily understood and undisputed as well as indisputable, because at the best its span is circumscribed to such narrow limits that we have scarcely matured in it before it has to be given up, and with it go "the boast of heraldry, the pomp of power, and all that beauty, all that wealth 'ere gave." We enter it helpless and go out with nothing but the record made in transit. Those who look beyond and above place a vastly different value upon the experiences and the knowledge acquired here from what those who live to lust and oppress to thrive do, no matter how elegantly stated and how immediately palpable the conclusions of the latter may be.

We wonder seriously if those whose sole aim and object in life seems to be the utter subjugation and perhaps spoliation of the Latter-day Saints ever take into consideration the consequences attached to this subject? Do they ever consider that the only life which they recognize—the present one—is so ephemeral that when they reach the last of the fleeting hours, all they will have is what they can look back upon? And when they are, as they must be soon, face to face with the King of Terrors, will the reflection that they have made a part of a few people's lives miserable because of difference of opinion lend even a tinge of brightness to the shadows which gather thickly and darkly around? That is the time when conscience will be the sovereign capital or the crowning curse; and imminent and inevitable as is that dreadful day, they seem to give no thought upon it. They will go burdened with the knowledged that the lives, liberties and properties of a number of their fellows, fashioned and facultied like themselves, and moulded from the same clay, have been sacrificed at the behest of the demons Hate, Avarice and Ambition. And to what purpose? Perhaps they may be able to point to one out of a hundred who has been coerced into outwardly adopting their views and sentiments, but the other ninety-nine will have a record of faithfulness to conviction through sorrow, suffering and death such as their persecutors would barter the mighty scope of their brief honors so dishonorably acquired to possess when the end shall come.

It is worth thinking over. It will be thought over, some time, perhaps when it is everlastingly too late. Why not now?

## A WORD TO THE SWISS.

A despicable creature who hails from Germany, having the instincts of a scavenger, has been collecting from every foul source within reach, scandalous stories and salacious inventions concerning prominent persons in the "Mormon" Church, with the view of making money by pandering to the depraved tastes of prurient humanity. Every rank and bitter apostate who has become soured and vindictive through fighting the truth, has been pumped dry to gain bucketfuls of slander and hate, that they might be dealt out to the world as "Mormon history." Let those who relish such unsavory diet revel in the festering mess, but let the decent among men hold their noses and pass it by.

The same being who is preparing this dish for the delectation of the impure, has been working for evil in another direction. Letters have been sent to Germany containing gross falsehoods concerning our Elders, with the view to crippling their influence there. And the Swiss Consul at San Francisco, has been imposed upon enough to induce him to repeat some of these falsehoods to the government of the Federation. The Swiss residents of Uta are represented as in the depths of misery.

We doubt not that some individuals who have been helped here by their friends, without the love of truth in their hearts or any real faith in the Gospel may be dissatisfied and have expressed their feelings in such a way that it could be distorted to do injury. But that the majority of the people who have come from the Swiss Cantons have bettered their material condition, and that they enjoy vastly more freedom than in their native land, there can be no question with those who understand the facts.

Now we thiuk something should be done immediately to counteract this evil work. We advise our Swiss friends to write back to their acquaintances and tell the truth. Affidavits could be made before notaries in regard to the actual state of affairs, and forwarded to proper parties in Switzerland. Falsehood travels fast and its effects are soon felt. Truth ought not to be far behindhand and the responsibility of correcting these vile stories devolves upon our Swiss brethren who know what to do and how to do it. What they do must be done quickly. A word to the wise should be sufficient.

## FOSTERING IMMORALITY AND CRIPPLING JUSTICE.

Last Friday four arrests were made by the police, of persons guilty of the most shameless indecency and criminality. On being brought before the Justice's court two were convicted of vagrancy and indecent exposure, and the other vile couple who were taken in *flagrante delictu* were discharged from custody. The reason of this feeble disposition of these cases is not a lack of willingness on the part of the local authorities to punish the guilty parties, but because the courts which are engaged in the work of persecuting the "Mormons" have thrown up bulwarks around the debauched and dissolute, in the shape of rulings that turn aside the force of statutes and ordinances, and interpose the power of the Federal against the local judiciary.

When the doings of a number of so-called "respectable" bipeds, among them some of the attaches of the District Court, were exposed to the public, every technicality and evasion known to pettifoggers was resorted to by the Prosecuting Attorney to protect them from punishment. The ingenuity which is exercised to enmesh "Mormons" in the toils of the law, was turned in the other direction to protect the "Gentile" criminals. The lewdness of which the resorters to vile houses had been proven guilty in the police court, was protected under the ruling that it must be open, committed in a public place and a public manner, in order to come within the meaning of the municipal law. And when the territorial statutes was brought into bearing and its validity could not be overturned, the Public Prosecutor, so zealous in pursuing and punishing to the utmost extreme those "Mormons" who could be captured for living with their wives, utterly refused to proceed against the depraved and filthy wretches who had been detected in the very act of committing foul crimes against morality, decency and society, descending below the dirtiest brutes in their grovelling bestiality. And when the lower courts, acting under a law sustained by the higher court, proceeded to try cases of this character, the majority of the Supreme Court of this Territory, by twisting the law so as to cripple the authority of the Justices of the Peace, decided against their jurisdiction of such cases and thus protected the libertines in their lechery.

It is because of these rulings in the interest of vice and to the detriment of virtue, that persons like those discharged from Justice Pyper's court, or mildly puuished for a comparatively trivial offence, were not made to suffer the penalties in such cases lawfully made and provided. The decision of Judge Zane that "lewdness" must be open and public to be punishable, and of Judges Powers and Boreman that