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POLYGAMY IN THE UNITED STATES.

The case of *Reynolds* v. *The United States* involved questions of great importance, and the judgment of the United States Supreme Court is worthy of attention. The plaintiff, a member of the Mormon Church, was indicted for bigamy under section 5352, Revised Statutes, which provides that "every person having a husband or wife living, who marries another, whether married or single, in a territory, or other place over which the United States have exclusive jurisdiction, is guilty of bigamy, and shall be punished by a fine of not more than five hundred dollars, and by imprisonment for a term of not more than five years," and was found guilty. Among other questions presented to the Supreme Court by the assignments of error, was this: Should the accused have been acquitted if he married the second time because he believed it to be his religious duty? On this point the Court (WAITE, C. J.) said;—

"As to the defence of religious belief or duty.

"On the trial, the plaintiff in error, the accused, proved that at the time of his alleged second marriage he was, and for many years before had been, a member of the Church of Jesus Christ of Latter-Day Saints, commonly called the Mormon Church, and a believer in its doctrines; that it was an accepted doctrine of that church 'that it was the duty of male members of said church, circumstances permitting, to practise polygamy;.... that this duty was enjoined by different books which the members of said church believed to be of divine origin, and among others the Holy Bible, and also that the members of the church believed that the practice of polygamy was directly enjoined upon the male members thereof by the Almighty God, in a revelation to Joseph Smith, the founder and prophet of said church; that the failing or refusing to practise polygamy by such male members of said church, when circumstances would admit, would be punished, and that the penalty for such failure and refusal would be damnation in the life to come.' He also proved 'that he had received permission from the recognized authorities in said church to enter into polygamous marriages;.... that Daniel H. Wells, one having authority in said church to perform the marriage ceremony, married the said defendant, on or about the time the crime is alleged to have been committed, to some woman by the name of Schofield, and that such marriage ceremony was performed under and pursuant to the doctrines of said church.'

"Upon this proof he asked the court to instruct the jury that if they found from the evidence that he 'was married as charged—if he was married—in pursuance of and in conformity with what he believed at the time to be a religious duty, that the verdict must be not guilty.' The request was refused, and the court did charge '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—did not excuse him; but the law inexorably in such cases implies the criminal intent.'

"Upon this charge and refusal to charge the question is raised whether religious belief can be accepted as a justification of an overt act made criminal by the law of the land. The inquiry is not as to the power of Congress to prescribe criminal laws for the territories, but as to the guilt of one who knowingly violates a law which has been properly enacted, if he entertains a religious belief that the law is wrong.

"Congress cannot pass a law for the government of the territories which shall prohibit the free exercise of religion. The first amendment to the Constitution expressly forbids such legislation. Religious freedom is guaranteed everywhere throughout the United States, so far as Congressional interference is concerned. The question to be determined is whether the law now under consideration comes within this prohibition.

"The word 'religion' is not defined in the Constitution. We must go elsewhere, therefore, to ascertain its meaning, and nowhere more appropriately, we think, than to the his-