



LANDMARK SUPREME COURT CASES AND THE CONSTITUTION

REYNOLDS V. UNITED STATES (1878)

MONDAY, OCTOBER 27, 2008

OVERVIEW

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This month's Landmark Supreme Court Cases and the Constitution focuses on a case which tested the limits of religious liberty: *Reynolds v. United States* (1878). The Court ruled unanimously that a law banning polygamy was constitutional, and did not infringe upon individuals' First Amendment right to free exercise of religion.

RESOURCES

- <http://www.law.umkc.edu/faculty/projects/ftrials/conlaw/reynoldsvus.html>
- <http://www.constitutionbee.org/user/StudentGuide.aspx?id=786>
- <http://www.constitutionbee.org/user/StudentGuide.aspx?id=658>

ACTIVITY

George Reynolds was a resident of the Utah territory. His wife was Mary Ann Tuddenham. He was still married to Mary Ann when he married Amelia Jane Schofield. Federal law stated, “*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 \$500, and by imprisonment for a term of not more than five years.*” By being married to two women at the same time, Reynolds had clearly broken the law—a fact he did not dispute. But Reynolds was a member of the Church of Jesus Christ of Latter Day Saints. Reynolds argued that his religion required him to marry multiple women.

As part of Reynolds's legal defenses, he argued that the law was unconstitutional. He asserted that it violated his First Amendment right to free exercise of religion. He believed that his religious duty required him to marry multiple women: the penalty for refusing to practice polygamy was eternal damnation. He was convicted. Eventually his case came before the Supreme Court.

The Court upheld his conviction and Congress's power to prohibit polygamy. The Court reasoned, “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....Congress was deprived of all legislative power over mere opinion, but was left free to reach actions which were in violation of social duties or subversive of good order.” In other words, while Congress could not outlaw a belief in the correctness of polygamy, it could outlaw the practice of it. This was in part, the Court held, because marriage was a “most important” feature of social life: “Upon it [marriage] society may be said to be built. Marriage, while from its very nature a sacred obligation, is nevertheless, in most civilized nations, a civil contract, and usually regulated by law.”

Finally, the Court concluded that people cannot excuse themselves from the law because of their religion. “Can a man excuse his [illegal] practices...because of his religious belief? The permit this would be to make the professed doctrines of religious belief superior to the law of the land, and in effect to permit every citizen to become a law unto himself. Government could exist only in name under such circumstances...”

In 1890, the Church of Jesus Christ of Latter Day Saints officially rejected polygamy and issued a statement dissolving “any marriages forbidden by the law of the land.”



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COMPREHENSION AND CRITICAL THINKING QUESTIONS

1. What law was George Reynolds accused of breaking?
2. Why did Reynolds argue the law was unconstitutional?
3. How did the Supreme Court rule, and what was its reasoning?
4. In the letter to the Danbury Baptists referenced by the Court in *Reynolds v. US*, Thomas Jefferson wrote that the law can reach “actions only and not opinions.” What did he mean?
5. The Court reasoned, “Suppose one believed that human sacrifices were a necessary part of religious worship...Or if a wife religiously believed it was her duty to burn herself upon the funeral pile of her dead husband, would it be beyond the power of the civil government to prevent [these practices]?” Do you believe these examples strengthen the Court’s argument? Why or why not?

EXTENSION

Have students research the case of *Church of the Lukumi Babalu Aye v. Hialeah* (1993), and create a Venn diagram to signify how this case overlaps with *Reynolds v. United States*. Students can begin their research at:

Church of the Lukumi Babalu Aye v. Hialeah (1993)
http://www.oyez.org/cases/1990-1999/1992/1992_91_948/



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ANSWERS

1. The federal law outlawing polygamy in the US or any of its territories.
2. He asserted that it violated his First Amendment right to free exercise of religion.
3. The Court upheld his conviction, reasoning that the First Amendment prevented Congress from outlawing beliefs, but did not prevent Congress from outlawing practices. Marriage was the foundation of society and was traditionally regulated by law; finally, allowing people to excuse themselves from criminal laws because of their religious beliefs would allow government to exist in name only.
4. Jefferson meant that while a person's beliefs—opinions—were his alone and could not be subject to any law, the government could regulate what people do—their actions.
5. Accept reasoned answers. Some may say they do strengthen the Court's argument, because they are further examples of practices which are universally condemned in the United States and for which exceptions should not be allowed even on religious bases. If exceptions are allowed for polygamy, perhaps these examples would be next. Others may say they do not strengthen the Court's argument, because they are so much more extreme than the actions before the Court. If anything, they show how relatively innocuous is the practice of polygamy among consenting adults. Others may say that if consenting adults wish to engage in human sacrifice or to burn themselves on their dead spouse's funeral pyre, that those actions should not be within government's power to ban, either.