



## SUPREME COURT CASE 6

# *Reynolds v. United States, 1879*

### HISTORICAL BACKGROUND

FOLLOWERS of the Mormon Church were persecuted in 19th-century America. Driven westward from Missouri, Mormon pioneers, led by congregation leader Brigham Young, settled near the Great Salt Lake in the Utah Territory in 1847. Mormons believed that the final revelations about God's will were revealed to the church's founder, Joseph Smith, in the 1820s, and that part of the gift of God was the Book of Mormon provided Smith as part of his revelation. This lost book of the Bible contained additional teaching not included in earlier scriptures.

Mormons were expected to practice a strict, Old Testament morality. One of the elements of Mormon faith was the practice of polygamy (having more than two wives), contrary to Judeo-Christian tradition. This was one of the Mormon teachings most offensive to their neighbors. Some of the controversy and violence of the time was stirred by this practice, and, indeed, the westward migration of the Mormons was intended to find a land where they could live and worship as they pleased.

Since Utah was a federal territory, it was subject to laws passed by Congress. A ban on bigamy in any of the federal territories was passed soon after the establishment of the settlement in Utah. The law was aimed particularly at the Mormons.

At the time of the hearing of the case by the Supreme Court, the chief justice was Morrison R. Waite, appointed by President Ulysses S. Grant in 1874. The Court had entered a more conservative period in its history. A number of cases in the last quarter of the 1800s illustrated the Court's reluctance to engage in new controversies. The laissez-faire attitude of the Court tended to favor State regulation—or no regulation—over federal laws, business interests over labor rights, and property rights over civil rights.

### CIRCUMSTANCES OF THE CASE



George Reynolds, an "old order" Mormon living in the Utah Territory under federal laws, was charged with violation of a federal law forbidding multiple marriage in all federal territories. The Mormon religion at that time supported plural marriages; polygamy was even seen as a religious obligation of Mormon men under certain circumstances. Reynolds argued that the 1st Amendment states clearly that Congress shall make *no* law prohibiting the free exercise of religion. He said that the federal law forbidding polygamy was unconstitutional because it denied his right to the free exercise of his religion. He was convicted, sentenced, and then he appealed.

### CONSTITUTIONAL ISSUES



The case involved the extent of protection over religious freedom in the 1st Amendment's Free Exercise Clause. Was the federal antibigamy law an unconstitutional limit on the free exercise of religion? How far may persons pursue free exercise outside the usual norms of accepted behavior in the name of religious freedom? Did the Constitution give the National Government the right to regulate a matter of private behavior? Was there a "compelling public necessity" to limit the number of wives a man may marry?



### ARGUMENTS

**For Reynolds:** The 1st Amendment guarantees that persons will be free from any law “prohibiting the free exercise” of religion. No federal law could interfere with a person’s religious beliefs or with actions based on that belief. The federal law was unconstitutional and Reynolds’s conviction should be overturned.

**For the United States:** This case presented an obvious and compelling need to regulate a question of behavior offensive to public will. The 1st Amendment or any other amendment cannot be used to shield a person against criminal behavior. No person may violate the law and claim an exemption from punishment by reason of a religious belief. The law was constitutional and the conviction and punishment of Reynolds were just and appropriate for a civilized society.

### ARGUMENTS

In a 6–3 decision written and delivered by Chief Justice Waite, the Court upheld the federal law and upheld the conviction of Reynolds as well. “Freedom of religion means freedom to hold an opinion or belief, but not to take action in violation of social duties or subversive to good order,” the chief justice wrote.

To rule otherwise, the Court noted, “would be to make the professed doctrines of religious belief superior to the law of the land, and in effect permit every citizen to become a law unto himself. Government would exist only in name under such circumstances.”

The Court found while laws cannot interfere with religious belief and opinions, laws can be

made to regulate some religious practices. Human sacrifices can be seen as part of some religious rituals, but they cannot be condoned in the United States. Similarly the Hindu practice of *suttee*, in which the widow of a man would be burned alive on the funeral pyre of her dead husband, would not be protected by the Constitution.

Waite’s argument drew a distinction between the idea of *freedom of conscience* under the Constitution and freedom of religious *action*. “If we do not make the Constitution the Supreme Law, and allow each person to make up their mind about what law to obey on religious grounds, we would put religious belief over the Constitution.”

The Court turned to *Reynolds* time after time as it considered many questions about free exercise of religion. The decision is notable for distinguishing between the freedom of *conscience*, which is protected under the Constitution, and freedom of religious *action*, which is not.

### QUESTIONS FOR DISCUSSION

1. Was the federal law a form of religious persecution or a reasonable effort to regulate the health, safety, and morality of a community?
2. Does limiting religious behavior force people to conform to generally accepted views of what “appropriate religion” is?
3. Should people in the United States be required to adopt religious practices generally well-established in the United States?
4. Are there times when the religious beliefs of people you know cause them to consider resisting the law or breaking the law?