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SOCIAL PROBLEMS OF TO-DAY;
OR,
THE MORMON QUESTION
IN
ITS ECONOMIC ASPECTS.

A STUDY OF CO-OPERATION AND ARBITRATION IN
MORMONDOM, FROM THE STANDPOINT
OF A WAGE-WORKER.

"That's the most perfect government in which an injury to one is the concern of all."

BY A GENTILE,
Author of "Utah and Its People."

D. D. LUM & CO., PORT JERVIS, N. Y.
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CHAPTER I.

WHAT IS THE MORMON PROBLEM?

CÆSAR'S spirit still stalks the earth. It finds footing in the American, as it did in the Roman republic. Time has but shifted the scenes, not altered the plot, in the historic drama. Having scaled Olympus and brought the gods into unity, its imperial claims will not relax for man. Driven from the church, it sought refuge in the State; the power ecclesiasticism lost, politics gained. The danger to liberty to-day lies not in priestcraft, but in statecraft; not in the enforced obedience of the people to revealed law, but in the enforced obedience to assumed social requirements. Duties are held as individual, rights social, and the individual has to bend before the phantasmal abstraction "society." For centuries progress has been toward greater freedom; every extension of liberty has widened the sphere of personal freedom. In America, legislation is apparently tending toward greater restriction. Fifty years ago many of our present legislative schemes would have been impossible. "The American Idea" of that day was—"the best government is that which governs least;" hence men looked with jealousy on encroachments on individual rights. In fact, the essence of government was supposed to be protection to individual rights, that only in the extension of personal freedom could there be social freedom. Or, as expressed by one of the revolutionary heroes, Thomas Paine:

If we are asked what government is, we hold it to be nothing more than a national association, and we hold that to be the best which secures to every man his rights, and promotes the greatest quantity of happiness with the least expense. * * * Man's natural rights are the foundation of all his civil rights.

Why this eddy in the stream of progress; this apparent drift to force and "strong government;" this rejuvenance of Cæsar's ghost, urging centralization and reliance on might?

The answer is plainly to be seen. The spirit of Cæsar, rendered powerless in religious systems, castrated of divine right in forms of political government, is entrenching itself in the economic system of the age. British and German empires, Spanish and Italian kingdoms, French and American republics, are but dead forms, survivals

of past political conditions; the animating soul in each is the same. A common (economic) feeling has made them all akin. The burgher class has mounted the throne, and cries halt to progress. Statecraft exists, to-day, for the furtherance of economic interests; *forms* of government are recognized as of secondary importance to "vested interests" and commercial *rights*. Harrington's apophthegm: "Empire follows the balance of property," is no longer disputable.

In the opening of the Slavery discussion between North and South, we trace the beginning of the inevitable conflict now upon us. The North, as representative of our transitional *régime*, demanded room. In the way of the extension of *cheap* labor stood the dear labor of slavery. The struggle between the manufacturer and the importer, dignified as "the tariff question," gave way to a deeper problem. The non-extension of slavery into the territories was not a sentimental issue, but an economic one. The manufacturing and farming class instinctively felt that their existence depended upon the result. To secure the extension of the blessings of an abstract freedom, to restrict slave labor and confine it within defined bounds, all was permissible. "The end justifies the means." Hence, in the name of *freedom* the construction of the constitution was twisted into the furtherance of *power*. Our fathers ate sour grapes, and we wonder that our teeth are set on edge. The anti-slavery sentiment gave the government power to secure ideal freedom and actual centralization. The North, true to the ideal, rushed to the front and established, with the non-extension and final extinction of slavery, the extension and permanence of *cheap* labor! And for this we display our wounds!

The precedents thus formed, the forced grafts on the constitution (logically necessary), and the exigencies of our alleged commercial competition, form the justification of the "Edmunds" anti-polygamy law. Having entered upon the path of coercion, we are powerless to halt; in fact, each year increases the tendency and augments the momentum in that direction. Republican rule has shaped our history; Democracy can but administer on the legacy bequeathed.

The whole Mormon system, social, religious, industrial, is essentially based on two fundamental principles: *coöperation* in business and *arbitration* in disputes. Necessarily, in the eyes of monopoly-restricted competition, this is a foe. It could be faced by no more deadly enemy. If this be true, and the following pages will contain the proof, we need not wonder that an effort should be made "to fire the popular heart," and excite animosity against a people so hostile to feeing lawyers and the cent. per cent. policy of our commercial

lords. The old cry for *freedom* through increase of central *power*—the anti-slavery justification—cannot well be urged again; hence the moral standard is unfurled. Monogamy (with its “twin relic” Prostitution) is no more a question in the minds of the worshippers at the shrine of the commonplace, who draw official salaries in Utah, than Catholicism to the mind of Charles V. It is but an excuse for ulterior ends; a means to increase power and reap the fruit of extortion. No man doubted a few centuries ago the right to use force to attain Catholic unity, unless his mind was tainted with heretical doctrines. Philip II. of Spain, and Elizabeth of England, were in hearty unison on suppressing opinion in the interest of the State. But to-day the only heresy recognized by the State is that of the marital relation; here it differs from the traditional mode. So no man can to-day assert that monogamy is but an article of belief, a private *credo*, but lo! he is branded as a defender of polygamy or promiscuity.

But we need not waste words on polygamy, though the Utah system is well worth study. *That is not the issue!* That is but the gaudily-colored bait to catch the inexperienced denizens of economic waters. The issue is again an economic one—the extension of cheap labor—the cent. per cent. freedom of commercial intercourse—the control over the means of life of the many by the few, confronted in Utah by an antagonistic system of social and commercial activity.

To all who believe that Co-operation and Arbitration are the key notes of a higher civilization, that they are only means by which we may be saved from “shooting Niagara” as a nation, the study of the “Mormon question” is one of imperative interest. The writer served three years to establish centralization of power at Washington, and the extension of free trade in labor at the South, under the glamour of the cry of freedom. Other fools stand ready to obey the behests of Cæsar’s spirit, if need be, to again make the Republic the pathway to an Empire, their alleged minds lit by the *ignis fatuus* of social morality. The Mormon protest is one of deep significance to working men and women. The Eastern demand is that of Cæsar. The despised Mormon is an unconscious ally in what is not as yet a Lost Cause. As such let us endeavor to understand his position, to put ourselves in his place, before forging weapons for his opponents which will react upon us. Before giving assent to new Coercion Acts now before Congress, let us endeavor to understand Mormonism as it exists under present legislation, the spirit of the people, their institutions, and whether we are concerned in their preservation.

CHAPTER II.

CO-OPERATION.

THE exorbitant charges to which travelers in the far West are generally subjected, is a matter well known. Mormon territory is the only place west of the Rocky Mountains where there has been a systematic effort to remedy this evil. In California the growth of population has led to the diminution of prices and the restoration of the economical balance with that of the Atlantic coast; but the reform has been effected in Utah by other means. Although fair competition is fully recognized as the governing principle in trade, the remedy was projected before the growth of population rendered competition an available solution. The growth of the community had been slow and under extreme difficulties. Driven out of Ohio, Missouri and Illinois by the fanatical hatred of the mob, before polygamy was a cardinal feature in their social life, they had undertaken the hazardous task of crossing the vast alkaline plains of the great West, in hopes that in some far distant spot their wives and little ones might be free from Christian intolerance and midnight marauders. Entering the Salt Lake Valley on July 24, 1847, on what was then foreign soil and a barren desert far from civilization, they proposed to settle. There was no settlement of white men near, and they found but a few naked Indians making a meal from roasted crickets and dried grasshoppers. The few trappers they met *en route* laughed at the idea of a colony subsisting in such a region, and expressed grave doubts whether grain would mature. The once famous mountaineer, James Bridger, was so certain that failure alone was possible, that he offered to give a thousand dollars for the first ear of corn raised in the valley. Nature had limited their choice of location to places where water was accessible. On the south were extensive cactus plains; on the East the barren rocks of the Wahsatch range; on the west the great saline desert, while to the north were the volcanic lands extending down from Idaho. Irrigation had never been tried on this continent on an extensive scale, and yet without it starvation awaited them. In united action, and the holding of water as public property, lay their salvation as a

community; and the interminable disputes which have arisen and the claims advanced by outsiders, actuated by private greed, have naturally tended to extend co-operation beyond the matter of irrigation. But it is not alone to natural environment that Mormon co-operation arose, for from the earliest epoch of the church Joseph Smith had made it the bulwark of the nascent church. In his eyes it was the means by which a universal social redemption was to be brought about. Fifty years ago Mormon preachers insisted that without social redemption, the millennial reign was impossible. In that early day was organized the "Order of Enoch," and it signified simply the inauguration of a society based upon a perfect co-operative order where there were to be "no poor in Zion." This was the grand aim of Joseph Smith, and co-operation is as much a cardinal and essential doctrine of the Mormon church as baptism for the remission of sins, and every Mormon elder who understands the philosophy of his own system will affirm that without co-operation salvation remains but a dream.

They entered Utah imbued with this conviction; with confident faith they sought to wrest from Nature one of her most desolate and forbidding regions. Those dreary wastes of alkaline plains and sage-brush under their efforts have given place to blooming orchards and fields of golden grain; the wigwam has been supplanted by cottages embowered in green foliage, and by thriving villages and cities.

I am frank to say that I do not believe that this conquest could have been wrested from Nature by individual efforts, by settlers isolated from each other, without mutual aid and assistance; nor that this mutual aid, under such circumstances, would have been extended but for the religious bond which knit the pioneers into a common brotherhood. The obstacles to overcome were too great; nature presented too forbidding an aspect to permit of this great conquest having resulted from the unorganized and undirected labors of isolated settlers. It was a warfare upon Nature by drilled cohorts, animated by a common feeling, and therefore, accomplished what guerilla warfare would have been incapable of achieving. There was needed the unifying element of a deep moral conviction, nerving men's souls to withstand difficulties and welding individual interests together to form closer social ties.

We give credit for sincerity to the bigoted Puritans, to the exiled Huguenots, to the followers of that (truly) Catholic Lord Baltimore, when they sought to found homes on this continent; but, for men who in face of far greater difficulties, and having passed through a

persecution equally as relentless as any from which our forefathers fled, we are too often content to shrug our shoulders, and with a sneer say, *superstition*. Thirty-five years ago the co-operative social gospel of the Mormons attracted the attention and won the admiration of such socialistic apostles of England as Robert Owen, George Jacob Holyoake, and Bronterre O'Brien, the latter of whom said that the Mormons had "created a soul under the ribs of death."

Such united action and cordial co-operation, in such an emergency as their advent in Utah, shows that there must have been a master mind among them, who not only possessed their confidence, but was entitled to it by the wisdom of his counsel. That such a man was Brigham Young I think is now the impartial verdict of history. From the very first, Brigham Young "set his face as a flint" against the selfish spirit of avarice governing trade under which Mormon and Gentile alike groaned, yet he has been charged with fostering that which he essentially modified. Whatever may be our opinion of his faith, however much we may dissent from his religious views, it is impossible for any intelligent man to stand beside the simple slab which lies over his final resting-place, and not to feel that there lies a man whose worthiest monument exists in the hearts of people he led, and in the living institutions his indefatigable zeal did so much to establish. Long years before co-operation became an established principle in mercantile affairs, he tried to induce the leading merchants to inaugurate a co-operative distributive system by which the necessities of life would be cheapened and the people reap the benefit. Merchants were making enormous profits. Wheat, for instance, was bought for seventy-five cents a bushel and sold in the mining camps for twenty-five dollars per hundredweight. At last a leading firm apostatized, and the channels of trade were being used against social interests. In 1856 there was a famine in Utah, and the community was barely preserved by the leading men wisely rationing the whole and dividing among the people their own substance. Utah in her early days was utterly destitute of *cash*; all her internal trade being conducted by barter and the due bill system. In 1864 merchants had risen to opulence. Commerce was gradually, but surely, throwing all the money to a few hands. What had been so long preached as theory, had to be realized in practice or to abandon settled convictions. It had become a question of social preservation against selfish interests. Early in 1868, the merchants were startled by the announcement "that it was advisable that the *people* of Utah Territory should become their own merchants;" and that an organization should be created for them expressly for im-



porting and distributing merchandize on a comprehensive plan. Although in the prosecution of this work the church was threatened with a formidable schism, Brigham Young never faltered; it was an economic rather than a religious heresy he had to confront. In Mormon society, the two elements of organization—the social and the religious—have ever been combined, and it was to prevent their threatened divorce that this step became necessary.

In October, 1868, President Young called a meeting of the merchants, and it was then and there determined to adopt a general co-operative plan throughout the Territory. The late Mr. Jennings, one of the largest merchants and perhaps one of the wealthiest men in Utah, rented his store to a co-operative association for five years. The people possessed the genius of co-operation and Brigham Young possessed the *will*; while around him there was a small circle of men who, for commercial energy and honor, instincts for great enterprises, and financial capacity generally, would be esteemed as pre-eminent in any commercial emporium in the world. The policy which had been wisely and considerably pursued in purchasing the stocks of existing firms, or receiving them as investments at just rates, shielded from embarrassment those who otherwise would have inevitably suffered from the inauguration and prestige of the new organization. Simultaneously with the framing of the parent institution, local organizations were formed in most of the settlements of the Territory; each drawing their supplies mainly from the one central depot. The people, with great unanimity, became shareholders in their respective local "co-op's," and also in the parent institution, "Zion's Co-operative Mercantile Institution." Thus, almost in a day, was effected a great reconstruction of the commercial relations and methods of an entire community, which fitted the purposes of the times and preserved the temporal unity of the Mormon people, as well as creating for them a mighty financial bulwark.

In Brigham Young's suggestions for great things he never forgot the small; industrial independence was the constant star that illuminated his horizon. To build mills, establish factories, to reclaim the desert, to gather the poor, to provide labor, to show a novice how to carve out a living from rugged nature, were as strongly marked characteristics of his life as his *role* as a religious teacher. While in fact founding a state, he in detail encouraged industry and the use of all natural resources which best subserved self-sustenance and independence and the multiplication of peaceful and happy homes. Men of narrower views surrounded him, men who, however

strong in religious convictions, deemed the laws of trade as practically paramount to the golden rule of equity, and the acquisition of a dollar the one chief end of man. It was uphill work for him among even his own people who had tasted of the fruit of greed; and too often acquiescence from religious considerations lacked that warmth and force which comes of genuine activity and some sacrifice for others' welfare. Disappointment, mortification and chagrin were powerless to weaken his determination, though backwardness to comprehend, faltering by the way from self-interest, the ready forgetfulness and the flagging interest in things that led from personal profit, must have sorely tried his indomitable will. Yet probably the historian will not question this discipline to which he was subjected, for we may think that a more abundant success would have ministered to personal egotism and made him still more imperious than he was wont to be.

The hard facts of history point to uncommon sacrifice, to self-abnegation, to the yielding of personal will and individual preference in deference to counsel and in opposition to any prospective personal advantage. Mineral in the soil, crickets in the field, water in limited quantity and often a long way off; timber in almost inaccessible places, saw-mills of the most primitive character, winters of startling severity under the circumstances, with many necessities and all luxuries a thousand miles away; no money, no market, no mines, nothing save the free air, the solemn snow-capped mountains, the parched prairie, and the dust and powder of desert lands. The power of irrigation was untried and unknown, seed was scarce, meat anything but abundant; stores had slowly risen and instituted exchange by barter; all the circumstances and the natural surroundings tended to call into play the selfish instincts of man's nature in the supreme struggle for existence. Yet amid this people, with clothing worn out, shoeless, hatless, and coatless, the ragged and rugged Pioneers heard, in undisguised amazement, the calm assertion that in Salt Lake City wearing apparel should be offered in abundance at prices discounting those of New York !

The heaviest concern in Utah is Zion's Co-operative Mercantile Institution, of Salt Lake City; which, with its branches in Logan, Ogden and Provo, imports one third of all the merchandize in the Territory. It has a cash capital of \$1,000,000. This institution, with the aid of the local co-operative stores in the villages which it supplies, have succeeded in bringing down prices to within the reach of the poorest, being patronized by all classes. The community is no longer at the mercy of a few traders, nor can scarcity increase prices; the necessi-

ties of the people can no longer be taken advantage of and immense profits made by adventurers whose only aim is to amass a fortune. The money of the citizens, instead of going out of the Territory, remains to build up and encourage home industries. Stockholders in the various co operative associations in Utah may be counted by the thousands. So we may say, that co-operation has been raised from a religious duty to a voluntary and profitable system, and presented on a grander scale than any where else in the world.

I have before me the two semi-annual reports of the Z. C. M. I. for the fiscal year ending October 5, 1885. The following extracts will convey a very fair idea of the condition of the Institution and the amount of business done.

From the report of the first half of the fiscal year:

* * * So far as the financial condition of the Institution is concerned, we have abundant cause for thankfulness. For while our sales, in consequence of the general dullness experienced throughout the country, have fallen somewhat below what they were a year ago, yet I find they have been all we reasonably could expect.

The stocks of merchandize on hand, as shown in our inventories, are valued at \$1,144,960.81, which is \$119,791.05 less than we carried one year ago. I find that nearly 79 per cent. of this merchandize on hand has been paid for. Included in the merchandize on hand, as given above, are the following home-made goods: Boots and shoes, \$49,543.42; Provo woolen goods, \$49,325.67; soaps, brooms, trunks, crackers, candy and matches, \$4,680. Total home-produced articles, \$103,549.09.

Our merchandize and cash on hand aggregate \$1,189,192.78, or over 65 per cent. more than the sum total of all our liabilities, of course exclusive of capital stock and reserve fund.

For freight and express charges, we have paid for the half year, \$137,784.94, and our sales have been about \$1,700,000. Cash receipts for the half year have been \$1,775,719.76.

An accurate inventory of the material, machinery, and tools has been taken in the manufacturing depots, and I am gratified in being able to say the results are very satisfactory. In the shoe factory, there were turned out 11,590 pairs of boots, and 80,465 pairs of shoes, at a cost of \$148,514.12. The tannery used 4,362 hides, 1,157 skins, and produced \$53,007 worth of sole leather, buff, wax upper, calf and kip skins. At our clothing factory \$50,493.51 worth of clothing was manufactured, consisting of some 30 different kinds of garments, including overalls, of which there were 60,900 pairs turned out. The total product of these three manufacturing departments is valued at \$252,014.77, and they give employment to nearly two hundred operatives of one grade or another.

The following statement of assets and liabilities shows the condition of the institution at the close of the fiscal half year:

RESOURCES.

Mdse. on hand.....	\$1,444,960.81
Notes receivable.....	244,667.26
Accounts receivable.....	253,187.41
Cash on hand.....	44,231.97
Real estate in Salt Lake City, Ogden, Logan, Soda Sp'gs and Provo.....	231,722.59
Machinery at Shoe and Clothing Factories and tann'ry	33,220.32
17 horses, 2 mules, 16 wagons, 10 sets of harness, 10 tons of oats, and 4 tons of hay.....	2,756.00
Provo Manuf. Stock.....	272.65
	<hr/>
	\$1,955,019.01

LIABILITIES.

Bills payable.....	\$570,032.29
Accounts payable.....	68,503.53
Provo Manuf. Com'y and others for commission goods	75,051.61
Unpaid dividends.....	3,035.34
Temporary deposits by customers.....	1,411.89
Outstanding orders drawn on us for mdze. at retail....	1,488.54
Capital stock.....	999,995.32
Reserves.....	171,186.57
Undivided profits.....	64,313.92
	<hr/>
	\$1,955,019.01

A dividend was declared of 5 per cent. upon the capital stock, which will take of the undivided profits \$49,999.80, and the balance will be credited to the reserve fund.

At the second meeting—held in October 1885, another dividend of five per cent. was declared, and the report showed the institution to be in a flourishing condition, the business done during the preceding six months being somewhat in excess of that of the first half of the fiscal year, with excellent prospects ahead. The following extracts are suggestive:

Our indebtedness for merchandize purchased is less to-day than it has been for many years past, and our condition generally is sound and satisfactory.

During the half year we have disposed of some seventy thousand (70,000) bushels of our Cache Valley wheat at figures that, although not giving large margins of profit, paid us for our trouble and were satisfactory. We have also succeeded in marketing many car-loads of other produce, such as eggs, butter, oats, barley, etc., from that section, at figures that left us a small margin after expenses were paid.

From Utah, Sanpete and Toöele valleys we have moved a number of cars of wheat, oats and flour, and although no direct profit was made for the Institution by the transaction, yet we were indirectly benefited in being able to turn this produce into money which helped to liquidate debts on our books.

An examination of this report will show that production as well as distribution enters into the policy of Utah coöperation. The Z. C. M. I., feeling the necessity of home production, has started factories in several articles of production. They bought out the machinery and part of the stock of the Boot and Shoe Factory known as the "Working Men's Co-operative Association." The Deseret Tannery Association, with which a shoe factory in connection was contemplated, finally merged into the Z. C. M. I., that institution holding in its hands much of the trade of the Territory, and possessing unequaled facilities for distribution. From that moment to the present, without a solitary drawback, and in spite of many obstacles, the increased demand and manufacture have run parallel with each other. In December, 1884, there were some 150 employed in producing about 400 pairs of shoes or boots per day, in every variety and style and fashion.

From a letter from the Z. C. M. I., I extract the following as of interest to the reader:

SALT LAKE CITY, UTAH.

May 28th, 1886.

* * * * *

Our annual sales are nearly 5,000,000. The building we occupy in this city is four stories in height, 318 feet in length and 100 feet in width. We employ in this building about 125 persons; our Shoe Factory, Tannery and Clothing Factory, also in this city, give employment to about 275 men, women and girls. For the purpose of supplying the residents of the Territory with a pure article of drugs and medicines, we started what is known as our Drug Department, where we keep pure and reliable articles; and in this way, guard our patrons from the impositions of quacks. Our business is flourishing and is increasing each month. For the present month, I presume our sales will aggregate at least \$14,000 more than they did for the corresponding period of last year. It is rare that we have to sue for a debt. I think I may safely say that no more than half a dozen instances can be enumerated where the Institution has been the plaintiff in suits to recover a debt. We are careful and judicious in our credits, and in a few instances where local co-operative stores have through accident, misfortune, or bad management run very much behind, we have called their stockholders together, discussed the situation with them, and have convinced them that all they needed was a vigorous effort and they could soon place themselves on a sure and solid footing; that to accomplish this desirable purpose we would take a note for their total indebtedness to us, said note bearing a low rate of interest. We would then encourage them to organize their little stores, put more capital into them and purchase their goods from us for cash. By so doing they in all instances realized from the cash discounts that we gave them more than enough to pay

the interest of the old debt, and gradually as they again accumulated means, a portion of it from time to time was applied on the old debt; and in this way after a series of years all was cleared off, and their transactions with us from that time henceforth were for cash, and we think no inducement could be held out to them to go to the old long credit system.

As a people you are aware that we do not believe in law suits. We prefer to settle our difficulties by arbitration, believing fully that it saves a vast amount of bad feeling between people who should be friends, and should study each other's interest; by this a large saving is made in lawyer's fees and court expenses.

I am, yours truly,

H. S. ELDREDGE, *Supt.*

One feature of interest to every buyer is this, that net cost of manufacture only is charged up to the Institution, so that but one profit—and that a small one—is between the producer and the consumer. But it is unnecessary to illustrate further. That co-operation has succeeded in supplanting personal stores and factories, I do not assert, but rather that co-operation is the defined policy of Mormon society. Some extracts from representative sources will clearly establish this fact. From the *Z. C. M. I. Advocate*, for March 15th, 1886, I quote the following as an official statement of the views of their directors:

The best exponent of co-operation is Z. C. M. I., of course, not perfect by any means, not as fully co-operative as it could be made, not owned and held strictly by the majority of the people in all sections of the Territory, but, yet despite of whatever restrictions it may have been subjected to, it has ever been the undeviating friend of the people, its authorities have studied the public good, and its stockholders have been satisfied with what might be considered a moderate dividend on their investment; it has set an example in this respect, and the community would have been more protected, and received greater advantages, had the same spirit directed all the local co-operative stores, of the Territory. There are numbers of prosperous stores and there are far more dragging out a lingering existence, in the several settlements, but every one could be absorbed and the profits—if any—inure to the people, if ostensible co-operative stores were properly conducted and popularly patronized.

The great drawback of narrowed co-operative, as of combined or personal stores, is, that the primary object is to make money. It is not a percentage simply on the investment that is expected or desired, big profits and fortune is the ultimatum; and the closer we come to co-operation, if this selfish spirit prevails, the greater the evil, for the assumption and presumption is, that such store or organization possesses a claim upon the town or settlement, and so if illy regulated it becomes a monopoly as grasping and avaricious as the most exacting could desire. Is it not because of this that so-called co-op's

have lost prestige and that in little towns where one jealously guarded store would have been ample for necessity, there are now from ten to twenty, dividing the interests, feelings, and working against the progress of the body temporal in almost every sense?

Interesting as an account of co-operative enterprises in Utah may be, it must give way to the great manifestoes of the church upon her social and co-operative systems. The following Encyclical Letter, or apostolic circular, is probably unique in its character among church documents, and as it shows so clearly the spirit of the leaders of the so-called Theocracy, I shall make liberal extracts. It is said to be from the pen of George Q. Cannon, and bears date July 10th, 1875. A careful perusal will throw more light upon the "Mormon Problem" than a study of all the congressional harangues made on the subject. Here are its main points:

TO THE LATTER-DAY SAINTS:—

The experience of mankind has shown that the people of communities and nations among whom wealth is the most equally distributed, enjoy the largest degree of liberty, are the least exposed to tyranny and oppression, and suffer the least from luxurious habits which beget vice. * * *

One of the great evils with which our own nation is menaced at the present time is the wonderful growth of wealth in the hands of a comparatively few individuals. The very liberties for which our fathers contended so steadfastly and courageously, and which they bequeathed to us as a priceless legacy, are endangered by the monstrous power which this accumulation of wealth gives to a few individuals and a few powerful corporations. By its seductive influence results are accomplished which, were it more equally distributed, would be impossible under our form of government. It threatens to give shape to the legislation, both State and National, of the entire country. If this evil should not be checked, and measures not be taken to prevent the continued enormous growth of riches among the class already rich, and the painful increase of destitution and want among the poor, the nation is liable to be overtaken by disaster; for, according to history, such a tendency among nations once powerful was the sure precursor of ruin. The evidence of the restiveness of the people under this condition of affairs in our times is witnessed in the formation of societies of grangers, of patrons of husbandry, trades' unions, etc., etc., combinations of the productive and working classes against capital. Years ago it was perceived that we Latter-day Saints were open to the same dangers as those which beset the rest of the world. A condition of affairs existed among us which was favorable to the growth of riches in the hands of a few at the expense of the many. A wealthy class was being rapidly formed in our midst whose interests, in the course of time, were likely to be diverse from those of the rest of the community. The

growth of such a class was dangerous to our union; and, of all people, we stand most in need of union and to have our interests identical. Then it was that the Saints were counseled to enter into co-operation. In the absence of the necessary faith to enter upon a more perfect order revealed by the Lord unto the church, this was felt to be the best means of drawing us together and making us one. Zion's Co-operative Mercantile Institution was organized, and, throughout the Territory, the mercantile business of the various wards and settlements was organized after that pattern. Not only was the mercantile business thus organized, but at various places branches of mechanical, manufacturing, and other productive industries were established upon this basis. To-day, therefore, co-operation among us is no untried experiment; it has been tested, and whenever fairly tested, and under proper management, its results have been most gratifying and fully equal to all that was expected of it, though many attempts have been made to disparage and decry it, to destroy the confidence of the people in it and have it prove a failure. From the day that Zion's Co-operative Mercantile Institution was organized until this day it has had formidable and combined opposition to contend with, and the most base and unscrupulous methods have been adopted by those who have no interest for the welfare of the people, to destroy its credit. Without alluding to the private assaults upon its credit which have been made by those who felt that it was in their way and who wished to ruin it, the perusal alone of the telegraphic dispatches and correspondence to newspapers, which became public, would exhibit how unparalleled in the history of mercantile enterprises has been the hostility it had to encounter. That it has lived, notwithstanding these bitter and malignant attacks upon it and its credit, is one of the most valuable proofs of the practical worth of co operation to us as a people. Up to this day Z. C. M. I., has had no note go to protest; no firm, by dealing with it, has ever lost a dollar; its business transactions have been satisfactory to its creditors, and yet its purchases have amounted to fifteen millions of dollars! What firm in all this broad land can point to a brighter or more honorable record than this? * * *

It was not for the purpose alone, however, of making money that Z. C. M. I. was established. A higher object than this prompted its organization. A union of interests was sought to be attained. At the time co-operation was entered upon, the Latter-day Saints were acting in utter disregard of the principles of self-preservation. They were encouraging the growth of evils in their own midst which they condemned as the worst features from which they had been gathered. Large profits were being concentrated in comparatively few hands, instead of being generally distributed among the people. As a consequence, the community was being rapidly divided into classes, and the hateful and unhappy distinctions which the possession and lack of wealth give rise to, were becoming painfully apparent. When the proposition to organize Z. C. M. I., was broached, it was hoped that the community at large would become its stockholders; for if a few individuals only were to own its stock,

the advantages to the community would be limited. The people, therefore, were urged to take shares, and large numbers responded to the appeal. As we have shown, the business proved as successful as its most sanguine friends anticipated. But the distribution of profits among the community was not the only benefit conferred by the organization of co-operation among us. The public at large who did not buy at its stores derived profits, in that the old practice of dealing which prompted traders to increase the price of an article because of its scarcity, was abandoned. Z. C. M. I. declined to be a party to making a corner upon any article of merchandize because of the limited supply in the market. From its organization until the present it has never advanced the price of any article because of its scarcity. Goods therefore in this Territory have been sold at something like fixed rates and reasonable profits since the Institution has had an existence, and practices which are deemed legitimate in some parts of the trading world, and by which, in this Territory, the necessities of consumers were taken advantage of—as, for instance, the selling of sugar at a dollar a pound, and domestics, coffee, tobacco and other articles at an enormous advance over original cost because of their scarcity here—have not been indulged in. In this result the purchasers of goods who have been opposed to co-operation have shared equally with its patrons.

We appeal to the experience of every old settler in this Territory for the truth of what is here stated. They must vividly remember that goods were sold here at prices which the necessities of the people compelled them to pay, and not at cost and transportation, with the addition of a reasonable profit. The railroad, it is true, has made great changes in our method of doing business. But let a blockade occur, and the supply of some necessary article be very limited in our market, can we suppose that traders have so changed in the lapse of a few years that, if there were no check upon them, they would not put up the price of that article in proportion as the necessities of the people made it desirable? They would be untrue to all the training and traditions of their craft if they did not. *And it is because this craft is in danger that such an outcry is made against co-operation.* Can any one wonder that it should be so, when he remembers that, from the days of Demetrius who made silver shrines for the goddess Diana at Ephesus down to our own times, members of crafts have made constant war upon innovations that were likely to injure their business?

* * * * *

Your Brethren,

BRIGHAM YOUNG,	CHARLES C. RICH,
GEORGE A. SMITH,	LORENZO SNOW,
DANIEL H. WELLS,	FRANKLIN D. RICHARDS,
JOHN TAYLOR,	GEORGE Q. CANNON,
WILFORD WOODRUFF,	BRIGHAM YOUNG, JUN.,
ORSON HYDE,	ALBERT CARRINGTON."

John Taylor, the successor of Brigham Young, has been at all

times as explicit and zealous in this matter as his predecessor. At the annual April Conference in 1878, he spoke in these words:

If we manufacture cloths and boots and shoes, or anything else, we want the institutions to dispose of our goods. If we need encouragement in regard to the introduction of any manufactures of any kind, we want them to help us, and we have a right to expect this of them so far as is wise, prudent and legitimate. I will state that the directors of Z. C. M. I. feel interested in the very things that I am talking about, and I say it to their credit and for your satisfaction. I do not think there is an institution in the United States in a better condition than that is to-day; and it is improving all the time, not after any fictitious manner, but on a solid, firm, reliable basis. Now then, I have proposed to these brethren, which they quite coincide with, that when they shall be able to pay a certain amount as dividends on the means invested, after reserving a sufficient amount to preserve the institution *intact* against any sudden emergency which may arise, which is proper among all wise and intelligent men, that then the profits of the institution outside of this should be appropriated for the development of home manufactures, the making of machinery, the introduction of self-sustaining principles, and the building up of the Territory generally; and they acquiesced in this feeling; and I say it to their honor and credit. And I will tell you again that the Church has got a large interest in that institution, consequently we wish to see everything go right, not on any wild, erratic principle, but on a solid, firm, reliable basis, that which when carried out will elicit the admiration and confidence of all good and honorable men.

Later, in the fiftieth annual Conference, April, 1880, "the Year of Jubilee," we find the same subject strongly insisted upon, I make the following extracts:

Elder Franklin D. Richards said:

What better can we do, in this our year of jubilee, in token of our gratitude to God for the abundance of his favors bestowed upon us, than to do good to each other, and to make glad the hearts of the poor in Israel? The authorities of the Church are thinking of doing something by way of aiding such as are needy. The officers of the Perpetual Emigration Fund Company calculate to relieve in part the worthy poor, who are owing for their emigration; and as President Taylor suggested in public on Sunday, let us all do something to aid the poor and make the hearts of the Saints rejoice, and see that no one is allowed to suffer. This same charitable feeling should extend through all our Co-operative Institutions; our rich brethren merchants who have got debts owing to them by the worthy poor, who are struggling with adversity in the world for subsistence, let them get out their accounts and send them receipted, either in full or in part to their debtors, as the case may be, with a note of forgiveness, telling them to lift up their heads and rejoice, and the

Lord will bless them for it. Let the rich men in our Territory, who have been blessed to accumulate means, and who hold notes drawing interest against their poor brethren, look over their papers, and when they find a note given by their poor but worthy brother, who has perhaps mortgaged his home and is in danger of being sold out, let them forgive the debt, and thus our rich brethren may help fulfil the prophecy that the poor shall rejoice in the Holy One of Israel. There are those who have borrowed money, and whose homes stand pledged for payment thereof, who have incurred debt through misfortune, or hard times, or perhaps through sickness, and who deserve relief—I would say to all the brethren who may be creditors of such persons, go to and make yourselves their benefactors, and establish the principle in the hearts of God's people—"Make to yourselves friends with the mammon of unrighteousness, that, when ye fail, they may receive you into everlasting habitations."

Reader, are you accustomed to such sermons? Would you not rather your mortgage rested in the hands of a Mormon Elder, than in that of an Eastern Christian? Let us be honest! On the same occasion Elder Erastus Snow announced that the books of the Company showed that the indebtedness from those who have been brought to Utah during the past thirty years, amounted to \$1,600,000. And he added:

Now, it is contemplated that this year of jubilee shall be made a year of release and comfort to those who are indebted to the Fund, who have striven to do their duty and discharged it as far as able to do so, but whose circumstances have been adverse, preventing them from doing as their hearts listed.

President Taylor again spoke, announcing the decision to remit the indebtedness of "the worthy poor." And further, to remit one half due on tithing. He said:

* The amount that is behind (on tithing) according to the bishop's records—which many of the people owing it signify their willingness to pay but are not able to—is \$151,798. We propose releasing half of the amount to the deserving poor, and that will be \$75,899. * *

Another thing. We have had a great scarcity of water the last year, and consequently short crops. It is proposed that, inasmuch as there may be suffering more or less in some places, we hope, however, that our brethren will not allow our poor unfortunate brethren to suffer. I have not heard of anything of the kind; but still a little help will not do any harm. And where people have been in straitened circumstances through the loss of crops and of stock—and some people have lost perhaps their last cow, and some have lost many of their stock, and yet have a good many left; but there has been quite a general loss. Now, we propose to raise 1000 head of cows—not old cows that do not give any milk; nor any one-teated

cows, but good milk cows, and have them distributed among those that may be destitute in the different stakes, under the direction of the authorities thereof. And the Church will put in 300 of this 1000. I spoke to Brother Sheets and told him that we did not want any one-teated cows. The balance of this number, namely, 700, we would like the stakes to make up. We have been informed by the presidents that this can be easily done. It would have been quite hard awhile ago, because we lost so many of our animals; but now it seems we can do it quite easy. [Laughter]. It is much better to give them to the poor than to have them die, and they have not all died yet, so we may as well begin to dispose of them. * * *

And I would like to see Z. C. M. I., and our bankers, merchants, and other creditors scratch off a few names of their debtors; and I think they feel disposed to do it; I have spoken to some of the directors of Z. C. M. I., and I find that they feel about as we do.

Surely a strange discourse to our ears! We have seen that co-operation is not only a fundamental principle in business, but permeates their religious and social relations. The extracts I have given were from speeches before the Edmunds law went into effect.

They indicate the constant policy pursued in Mormon society. Even the Perpetual Emigration Fund, of which we hear so much from discordant shriekers, is a purely co-operative institution. The Company has an office in Liverpool. When a Mormon convert on the continent begins to save money to enable him and his family to emigrate to a land where independence awaits him, he sends whatever small sums he can save to the office at Liverpool where it is placed to his credit. When the sum amounts to the larger portion of the necessary expense to reach Utah, the Company advances the remainder. By sending all their passengers for forty years past by one line they secure reduced rates, as well as on the railroads.

In the same spirit the "Zion's Central Board of Trade," with branches in every county, was organized. In the Preamble to their Articles of Association this aim is clearly laid down. As, like every thing else Mormon, it differs so radically from Boards of Trade in other Christian communities, I invite attention to the

PREAMBLE.

The objects of this association are: To maintain a Commercial Exchange; to promote uniformity in the customs and usages of producers, manufacturers and merchants; *to inculcate principles of justice and equity in trade*; to facilitate the speedy adjustment of business pursuits; to arrange for transportation; to seek remunerative markets for home products; to foster capital and protect labor, uniting them as friends rather than dividing them as enemies; to

encourage manufacturing; to aid in placing imported articles in the hands of consumers as cheaply as possible; to acquire and disseminate valuable agricultural, manufacturing, commercial and economic information; and generally to secure to its members the benefits of co-operation in the furtherance of their legitimate pursuits, and to unite and harmonize the business relations of the Stake Board of Trade, now and hereafter to be organized throughout the Territory, with those of the Central Association.

The subject is by no means exhausted, but space forbids further citations. Enough evidence has been given to show that the Mormon community is essentially a co-operative one. The bitter feeling now being excited against them by the jealousies of land-claim jumpers, saloon and faro-table keepers, mining speculators, avaricious merchants, and religious bigots, who cordially clasp hands in a brotherhood of Crusaders, cannot but result in uniting this people more firmly in co-operative unity. While this Unholy Alliance may delay the further extension of co-operative enterprise, they cannot unsettle established results. Though united in the bonds of a common enmity, their motives are widely different. One class wishing to expropriate the fertile farms wrested from the desert by honest industry; another angered by the want of patronage at their bars or counters, and who view with selfish alarm the temperance of the people or the lessening of prices by co-operation; still another who in the spirit of greed would convert peaceful agricultural communities into lawless mining camps; while with these are joined the asinine bray of the gospel exhorter, amazed to find his appeal to flee from the wrath to come and to subscribe towards giving him a comfortable salary falling on deaf ears. As the *Z. C. M. I. Advocate* truly says:

Co-operation, unity of action, of effort and of means, will surely be the one—the only method of securing freedom from arbitrary and tyrannical rule, and from dependence on those who understand nothing, and care less, for the aspirations of the people of Utah Territory.

CHAPTER III.

ARBITRATION vs. LITIGATION.

THANKS to the publicity given to Mr. T. V. Powderly's recent letters, we have learned that a large body of working men and women are enthusiastic admirers of the principle of arbitration in matters of dispute in lieu of resorting to litigation, or the often still more expensive custom of "strikes." How far this principle is a fundamental feature in Mormon society cannot but be a matter of interest to all those who hold that arbitration is an index of higher civilization and progress. Though the word "arbitration" may not be in familiar use in Utah, we shall see that what we denote by that term has been their long-established custom.

In the first place, to more readily understand the subject, we must consider in what relation the "priesthood" stands to the people in Utah. And as it may be well to let the Mormon state the case for himself, I clip the following from the columns of the *Deseret News*, of Salt Lake City, of March 3, 1885:

Another pertinent question is often asked. Does not the practice of the tenets of your faith supersede and supplant the government in the exercise of some of its powers and functions? By no means. We have courts of arbitration which sit in civil cases to adjust difficulties and that too without compensation. The tendency is also to the reconciliation of the parties litigant, instead of the bitter hate that often follows a vexatious and expensive law suit. Let me here ask, is there any less likelihood of correct judgment being rendered by these disinterested parties, who sit as neighbors without compensation, than in courts of law? I think not. Are not important questions involving issues of the gravest consequences arbitrated, and that, too, satisfactorily to all concerned? No sound lawyer will object to this course, while a hungry pettifogger who desires to fleece his fellow-man might complain and declare there ought to be a law prohibiting the exercise of such powers. We are forbidden, however, by revelation to interfere in criminal matters. Persons guilty of such offences we are expressly enjoined to deliver up to the *law of the land*, for a person thus guilty is unworthy a place amongst us and has no claim upon any of the privileges of the Church. Further, to screen a man or woman guilty of criminality would place us under the ban of the Almighty. Let me here ask,

Would the Almighty reveal a principle that was or could rightly be interpreted to be criminal or unconstitutional? I answer, in view of the eternal consistency of His character, He could not, neither has He. Will our enemies admit this? Not now; but they will be compelled to make the admission by and by, for truth is eternal and it will eternally prevail.

The hue and cry that is raised about the priesthood dictating and controlling in all political matters is so much bosh. The unity exhibited by the people at the polls is often quoted in proof of priestly rule; whereas the facts are, we have had our discussions upon the merits of the various candidates previous to the day of election, have expressed our opinions freely, and when left in the minority have done as caucuses and conventions generally do—yielded, to make a vote unanimous. Talk about the arbitrary rule of the Priesthood; why, the lash of the scurrilous anti-“Mormon” sheet published in this city is more potent to whip into line the Gentile minority of Utah and make them dance to its music than anything that the “Mormons” could possibly conceive. For be it known, a “Mormon” cannot be cajoled or intimidated. Such a man we have no use for, neither has the Almighty. Whether the world believe it or not, we are God’s free men and expect to so continue.

Is this true? We have heard much of Mormon theocracy, of the despotic powers exercised by Mormon high-priests, and have been told that the Mormon church permits or aids the struggling farmer to get established for the purpose of securing the fruits of his labor. We hear it gravely asserted that when the farmer is rejoicing in abundance and prosperity, a long bill is presented to him by the bishop, in which there is footed up every thing advanced him, from his passage money, down to a loaf of bread, or glass of milk, given to him in the hour of need; and that he is now expected to acknowledge the debt and hand himself and his savings over to the Church, and become its serf.

Who are the priests in this theocratic State? Are our Christian churches prepared to take the ground that it is dangerous for any one denomination to become numerically strong? If our Methodist brothers were successful in their missionary efforts, and could enroll proportionately as many adherents in Utah as they were enabled to do among the Government officials sent there under Presidents Grant and Hayes, would they not hail it with delight? But would affairs be better administered, or the people less priest-ridden? Let us see.

We have been told by men who are proud of their church memberships that these poor and benighted people who have been seduced from lands of Christian civilization (but which, by the way, have none the less left them “benighted”) are *priest-ridden*! There is

no priesthood in the sense we generally understand that term; that is, there are no salaried ministers, or priests. There is no body of "spiritual guides" set apart and supported by the community; there is no fund, no tax for their support. Every intelligent man is a "priest," or Elder, and liable at any time to be called upon to speak. Every Mormon missionary goes forth "without purse or scrip" to preach his gospel and earn his living, for a salary is never given to them.

Hon. Geo. Q. Cannon, in one of his discourses has touched upon this point, and I here quote from his remarks:

A great many people seem to think, and some who are among us act upon the thought, that because a man holds the Priesthood, and is a religious man, and practices religion, that he should not have any voice in matters that belong to civil government. In Washington the charge has been frequently made that all the leading offices of the Territory of Utah were held by Mormon Elders, Mormon Bishops and others. I have frequently said, in answer to this, before committees of the Senate and House, that if we did not take Mormon Elders we would have no officers, for the reason that, as a rule, every reputable man in Utah Territory, when he attains the age of majority, holds the office of an Elder, or some other office in the Priesthood. This explanation gave a very different view to men who did not understand our organization, and whose ignorance was taken advantage of. In the world there are a few men in religious societies, who hold leading positions, hold what we would call, if in our Church, the Priesthood, and the rest are debarred, and are mere laymen. But it is not so with us. The bulk of the Mormon people hold the Priesthood, and every man of repute of any age is an officer in the Church. It is said that the members of our Legislature are men who are prominent in the Priesthood. How could it be otherwise? If a man is energetic and has any talent he of course holds some position in the Priesthood, and he is very apt to hold some prominent place. But does this prevent him from acting in a civil office, and from dealing justly and wisely for the good of the people? No, we have proved to our entire satisfaction that this is not the case.

The Elders in the Mormon Church are the men who have the most intelligence and moral fitness for the position, farmers, mechanics, business men; men who have the most interest in the prosperity of the Territory. The higher positions, as bishops, are all filled with business men, what we would call the "solid men" of the community with conservative tendencies. When the population gather on the Sabbath in their various tabernacles, one of these, perhaps a merchant, a manufacturer, or a professional man, is called upon to address them. Hence the essential social character of their

religion, and its strong hold upon the people. An intelligent knowledge of men's wants is a pre-requisite to preferment, and the spiritual power is intelligent public opinion guarding social interests, and moral as well as material progress.

In Brooklyn, the "City of Churches," a Mormon "priest," earning his bread by his daily labor, has sent over four hundred persons to Utah, and a hundred more have gone from the shores of Long Island Sound, converted by self-supporting Mormon preachers, to find for themselves homes. Do you suppose that these men, mechanics, oyster fishermen, etc., have either materially or spiritually suffered by the change? Let us be candid.

One of the features in the Mormon Church which struck me most forcibly is its apparent democracy. Twice every year, on April 6, and October 6, the Mormons come from far and near to assemble in semi-annual Conference. Travelers relate meeting ox-teams in distant cañons headed toward "Zion," in which will be, perhaps, some lone old man or woman, with a scant stock of meal and bacon, making a one or two weeks' journey to get fresh inspiration and courage for the battle of life. At these Conferences, lasting for several days, every member has a vote; humble believer and dignitary meet on a common footing—having equal rights. At these conferences, and mark this well, every officer in the Church, including Brigham Young in his day, and John Taylor now, has to be re-elected to each and every position they hold. It may be said that this is but a mere form; that the Head of the Church is recognized as infallible and dictates his own election and that of his associates.

As long as there is perfect confidence in the First Presidency and in the Twelve we should naturally expect that their nominations would be heartily ratified. But here is a provision by which the Church itself can curb any of its officers, even to its head, whenever there is a forfeiture of public opinion by a departure from the lines laid down by usage and the collective Church. Again, in a religion alleged to be founded upon conscious imposture, where those in seats of authority are only seeking preferment and honors, where profit or ambition can alone be regarded as motives to action, how is it that there never has been a falling out among these so-called "clever rogues?"

The remissions of past indebtedness at the jubilee Conference, noticed in the last chapter were severally put to vote and carried unanimously by show of hands. On that occasion the president of the Perpetual Emigration Fund Company, in the course of his remarks, made this statement.

That reminds me of another class of Fund debtors. When I speak to them they say: "Oh, yes, we are abundantly able to pay, but you cannot collect the debt by law, because it is outlawed!" I am well aware that I cannot compel you by law to pay that indebtedness, neither would I had I it in my power; *that is not the way the Fund does its business*. All its business is conducted on the broad principle of fairness and liberality, wronging no one, benefitting everyone as far as possible.

The principle of arbitration is cardinal in the faith and practice of the Mormons; it was established and practiced long years before the same method was employed by England and America to settle the dispute over the depredations by the confederate cruisers which swept the United States merchant marine from the seas. As long ago as 1834 the principle was established in the constitution of the Mormon Church. In section 102, "Doctrines and Covenants" there is an interesting report of the organization of the High Council at Kirtland, O., February 17, 1834. This Council was to consist of the twelve Apostles and one of the three Presidents—as the case might require, and their decision is final. To obviate the difficulty of travelling long distances to settle disputes by this High Council, the Mormons have divided their numerous settlements into divisions known as Stakes, in which is established a High Council after the same pattern to accomplish the same object, viz.: to settle disputes by arbitration, having the same power—with this difference, however, that the cases tried, with evidence and decisions, are to be transmitted to the High Council of the Centre Stake, which is at present known as the Salt Lake Stake.

But before cases either civil or religious are taken to the High Council, they are tried in the Bishop's Court, composed of the Bishop and two Councilors, presiding over a "ward," or settlement, where the disputants reside; and the case is not presented in this Court till after the Teachers of the respective parties have failed to effect a reconciliation, or restitution, or satisfaction as the case might require. These various Courts of arbitration are simply ecclesiastical, and have no power to inflict punishment other than disfellowship or excommunication, according to the nature of the offence. If it is a civil suit, the offender is generally disfellowshipped till restitution is made. If it is for some violation of the moral code, such as adultery, apostacy, etc., excommunication follows. Where property has been in dispute many cases might be cited where Gentiles, familiar with the principles of justice and equity prevailing in these Mormon Courts of Arbitration, have willingly submitted their cases when a Mormon has been the litigant. As these Courts sit and act without

pay, and without expense of fees for counsel, they are more likely to act on principles of exact equity.

Every "ward" has certain Teachers, whose duty it is, upon trouble arising between two Mormons, to visit them, get them to meet at some place, and, after hearing their complaints, aid them if possible to settle the difficulty by persuasion and counsel. This lower, or Teacher's Court, is composed of two members. But if no agreement is reached, then the matter is carried before the Bishop and his two Councilors, who sit as common judges and make a more searching investigation into the facts. The pro and con statements, either verbally or in writing, are made, and the testimony of the litigants and their witnesses are heard. The Court ponders the case and passes judgment. If either party is dissatisfied, he can appeal to the High Council of the Stake, to which the minutes of the Bishop's Court are transmitted, and the case comes up on its merits, or on the minutes of the Bishop's Court, as the High Council elects or determines. The High Council consists of twelve High Priests umpired by the Stake President and his Councilors. They represent respectively odd and even numbers; the odd ones on one side and the even ones on the other, the presidency in the lead. Before proceeding with the case, one, two or three "Speakers" are chosen for each side to act as special counselors or attorneys for the litigants who sit beside them. The Speakers are supposed to watch the case very closely, and have more to say during its progress than the other High Councilors; but any Councilor can speak, ask questions, etc., during the progress of the trial. If, after the decision is reached, either litigant desires to appeal to the First Presidency of the Church, he can do so, and sometimes the decisions of the lower courts are reversed by this highest tribunal, which forms its conclusions most times, though not necessarily, from the evidence contained in the minutes of the lower courts.

The following extract from the "Doctrines and Covenants" of the Church, as laid down at the formation of the first High Council, in 1834, will exhibit the spirit and method of the High Councils:

13. Whenever the Council convenes to act upon any case, the twelve Councilors shall consider whether it is a difficult one or not; if it is not two only of the Councilors shall speak upon it, according to the forms above written.

14. But if it is difficult, four shall be appointed; and if more difficult six; but in no case shall more than six be appointed to speak.

15. The accused, in all cases, has a right to one half of the Council, to prevent insult or injustice.

16. And the Councilors appointed to speak before the Council,

are to present the case after the evidence is examined in its true light before the Council, and every man is to speak according to equity and justice.

17. Those Councilors who draw even numbers, that is, 2, 4, 6, 8, 10 and 12, are the individuals who are to stand up in behalf of the accused, and prevent insult or injustice.

18. In all cases the accuser and the accused shall have the privilege of speaking for themselves before the Council after the witnesses are heard, and the Councilors who are appointed to speak in the case have finished their remarks.

All Courts are opened and closed with prayer. They generally take place in the evening, so as not to interfere with the daily avocations of the persons interested, whether members of the Court, litigants or witnesses. Each side brings his or her own witnesses, who make no charge for their attendance. Nor do either the Teachers, Bishop's Court, High Council, or First Presidency charge for their services. As illustrative of their practical working, I will quote from a letter received by the writer from a lady of high culture and attainments. She writes as follows:

May 5, 1886.

DEAR SIR: I must first apologize for the delay (unavoidable on my part) in sending you the information you desired in reference to the practice of arbitration among the Mormons, as opposed to litigation in matters of disputes between members of a community. Before touching on this subject I must remark that the great issues now at stake between Labor and Capital in the United States do not present themselves among our people. Our system of co-operation, which is carried out as far as practicable in all our home industries and enterprises, enables us to avoid the conflict between these two great social powers which at present threatens financial ruin to both. When the laborer or mechanic realizes that he is as much interested in the success of the enterprise in the prosecution of which he is a wage-earner as the capitalist who furnishes the means which render success possible, and the capitalist recognises the reciprocity of obligation existing between himself and the individual whose labor invests his gold with the power of increase, the deep, underlying cause of much of this antagonism will, I think, be removed. Co-operation, in all of its various ramifications, represents *liberty* of the individuals, *fraternity* in aim, interest and operation, and *equality* in obligation and results.

The teachings of our Church have ever condemned litigation as a means of settling differences—and the organizations of our members supply the "machinery" by which the principle of arbitration can be brought to bear practically on every question, and the right of appeal to a higher court of the same character ensures final justice and equity for all.

I will give you a case in point. A dispute arose between two

individuals regarding the amount due one for labor and service. The employee claimed twenty dollars as a balance due; the employer refused to pay this amount, alleging that the services had been sufficiently remunerated when rendered, and were so acknowledged at the time by the employee. The two disputants agreed to refer the matter to the decision of the two men who acted in the capacity of *Teachers*, one belonging to each ward in which the disputants respectively lived. They met, heard the statement of the two parties, consulted together privately and decided that the employer should pay the employee five dollars, and that that sum should be a liquidation in full of all indebtedness. The employer assented, but the employee objected and appealed the matter to the Bishopric of the Ward, consisting of the Bishop and two Councilors, who compose a Bishop's court. Before these three as arbitrators the disputants presented themselves, and were permitted to bring witnesses to further establish their statements if they desired.

The parties each stated their own case, the witnesses giving their evidence, without oath or affirmation, and the arbitrators having heard all, consulted and gave their decision, which was: that the evidence offered showed that the employee had acknowledged to these parties that payment had been received according to the value at which the services were then rated, and was therefore *not entitled* to any further remuneration.

This decision was accepted by both parties, and the matter was thus settled without cost to either. An appeal might have been taken (under the laws of the Church) to a higher court, composed of fifteen members, if either party desired it, where the investigation would have been still more searching, and a larger scope of evidence admitted. In cases involving greater interests, pecuniary or otherwise, this might perhaps have been done, but the same spirit would have pervaded the entire process, *viz.*, a desire to harmonize existing differences without the antagonistic feelings so generally excited by the same. However intricate the case, or prolonged the investigation, no expense is incurred by either party, and as a general rule no publicity is given to the matter, so that the social relations of parties interested need not be disturbed by the ill-advised meddling of those perturbed spirits who are always ready to magnify trifles to the disadvantage of both parties in dispute.

I have now endeavored briefly to give you the "modus operandi" among the Latter-day Saints. Of course you understand that it is generally among our own members that this obtains. Mormons are sometimes forced into litigation by the outsiders who would not agree to any such method of settling differences, and in those cases they must defend themselves by legal process, and do not incur disapprobation by so doing.

* * * * *

With kind regards,
Yours respectfully,

The Mormons claim that their system is founded upon the fol-

lowing five cardinal principles, viz: Equality, Equity, Arbitration, Co-operation, and Conservatism. • As far as their system of settling disputes is concerned, I think the claim well founded. Co-operation having awakened the animosity of the trader, we need not marvel that it should call forth denunciation from those whose whole education and life leads, for the sake of a fee, to the prostitution of intelligence to make the worse appear the better reason.

It is these councils, or "secret courts" as they are termed, that awaken the most violent opposition among the non-Mormon population in Utah. That a people should settle differences and disputes in private, that reputable citizens should freely give their time to act as referees, and that the entire community should consequently move on harmoniously and united, fills the average mind with astonishment, and the lawyer with disgust. And yet with such a system as has been described in the foregoing example, why should not unity of object and action prevail among the Mormons? With the absence of litigation there is at once removed the fountain head of most of the heart-burnings, passions, and recriminations which infect social relations. The very existence and general adoption of such a system must necessarily throw a barrier between the people and those who refuse to acknowledge it; a wall far more adamant than mere difference in belief in creed or religious observances. Even with the elimination of polygamy, or the incarceration of the 2,000 polygamist husbands, a majority of whom became such before it had been declared illegal, there could be no hearty alliance between communities acting from such fundamentally different motives.

It is folly to charge that Mormons are driven by priestly terrorism from our civil courts to a free court of conciliation and equity in view of the above *facts*. Beside such a method of adjusting disputes what superior advantages can our complicated system of jurisprudence offer? The charm cannot lie in the pleasure of seeing a lawyer who offers the use of his brains to the first comer, or in popular confidence in the integrity of our judges. Either suggestion would alike give occasion for a smile of derision. For over fifty years this system has stood, and that it commands the confidence and respect of the Mormon people is evidenced in the fact that the records of the much vaunted superior civil courts show hardly a case of Mormon suing Mormon. They are self-imposed and self-endured, and the uniform practice of the Mormon people sufficiently show that they meet all the requirements of social life. To strike down Mormonism, then, is to strike down, not alone Co-operation, but the principle of Arbitration as well; and for what? To foster a narrow

selfishness in trade, to increase the power of monopoly and widen the already extended horizon of legally enforced destitution and misery. It is to strike a blow at the peace of society by supplanting the spirit of conciliation and equity with the fell spirit of discord and strife that perennially blossoms on the tree of legal litigation. Whether priestly or secular, arbitration commends itself to every candid mind, and a community in which the grasping monopolist and the fee-seeking and strife-producing lawyer are alike ineligible to membership, is one which should awaken interest in the bosom of every intelligent producer.

While differing from the Mormons widely in their religious tenets, I will not be behind them in liberality and toleration. As a social system it has my warmest admiration, and I cordially indorse the views of a Mormon friend who writes to me in these words:

If the United States were to take pattern by the "Mormons" in these matters it would rid the country of an army of unrighteous and unjust judges, and a horde of legalized robbers known as lawyers, who feed on discussion and get rich on other people's means. If such principles as are in vogue among the "Mormons" were to prevail among the various nations, what an immense amount of treasure could be devoted to the service of the race, to say nothing of the millions of valuable lives sacrificed, to satisfy the ambition of kings and rulers, that could be saved to devote their lives to more useful pursuits. It would curtail expenses and save the taxpayers much means thrown away to prosecute legalized murder, etc.

CHAPTER VI.

MORALITY AND EDUCATION.

WE have seen that the Mormon community is essentially based upon co-operation in business and arbitration in differences; that the arm of the law is never invoked to settle internal disputes, although living in a country where land claims and water rights are never-failing causes of contention among their Christian neighbors. We have seen that the Church by its constitution provides for the impeachment and overthrow of their unsalaried priesthood, whenever they subordinate social requirements to private ends, and thereby lose public confidence. Confidence under these conditions can only result from merit.

A fair and considerate person, hearing a glowing description of a Mormon bishop presenting an inordinate long bill of advances made to the prosperous farmer, would be tempted to think that he must have owed his success in life to this generous aid, that his prosperity was the direct result of wisely directed social effort, and he would see nothing strange in the representative of the Church, the only organization of moral forces in the Territory, presenting the account and demanding of him, for others, like aid. Yet men who claim to be exponents of a religion professedly based on the Golden Rule call this practical illustration of their theoretical profession—tyranny! How much injustice lies in the claim we have already incidentally seen in showing the generous action of the Church in remitting one half of the indebtedness, and further that in such trials as may arise for non-payment the defendant is really before a court in equity where all are heard on their declarations of honor. The pure egotist, the grasping selfish schemer who wants to get all he can, take all if not more than is given to him, and hold all that he has, who knows nought of *duty* and insists on his *rights*, who will acknowledge no obligation not backed by legal authority, cannot understand an account appealing to a sense of duty or personal honor, and deems it a flagrant violation of his personal independence. Nor can he realize the fact that any men will give their time, without other remuneration than a sense of well-doing, for the settlement of others' disputes. But I do not propose to rest the case upon inference, or by appeal-

ing to motives and sentiments that may not be understood. Let us again appeal to the *facts*.

In the anti-polygamy law of 1862 it was provided that no church in any territory shall acquire property exceeding in value the sum of \$50,000. But, it is still urged, this law could not have a retroactive effect and the Church could still hold the immense tracts already acquired. The census for 1870 gave only three estates in all Utah as exceeding 500 acres! The truth is that the whole extent of Church property, the great monopoly of land enjoyed by the Mormon theocracy, is limited to a ten-acre lot in Salt Lake City—the Temple lot. In brief, land is procured in Utah just as it is in any other Territory, and ninety-five per cent. of the Mormon population live in their own houses, on their own land, to which they hold deeds in their own names. So that if ownership of a home is one of the pre-requisites of a moral community, Utah stands well in the list.

Nor will the census of 1880 exhibit any figures to the discredit of Utah. Remembering that the tendency to increase large holdings in land has been very marked of late years, and that Utah is open to all, let us look at the census reports.

ESTATES OF 500 ACRES AND OVER IN 1880.

Territories.	Farms.	Over 500 acres.	Percentage.	Population.
Arizona	767	27	3.5	40,440
Dakota.....	17,435	320	1.8	135,177
Idaho.....	1,885	48	2.5	32,610
Montana	1,519	113	7.4	39,159
New Mexico.....	5,053	99	1.9	119,365
Utah.....	9,452	45	.4	143,963
Washington	6,529	3,100	47.7	75,116
Wyoming	457	52	11.3	20,789

When we couple this with similar statistics from the three States west of Utah, the effect of the "theocracy" upon large estates is still more marked.

ESTATES OF 500 ACRES AND OVER IN 1880.

States.	Farms.	Over 500 acres.	Percentage.	Population.
California	35,934	5,939	13.7	864,694
Nevada.....	1,404	281	20.+	62,266
Oregon	16,217	1,632	10.+	174,768

These figures need no comment. Self-supporting and self-reliant the Mormons have been saved from the plagues attending land monopoly, and of the few large estates given in the census, some are merely held for actual settlers, not for individual aggrandizement.

Let us now look at the subject in another phase and see whether a people exhibiting such material prosperity can be accused of illiberality and bigotry. The population of Utah, by the census of 1880, was then about 144,000, divided as follows:—

Mormons	120,283	
Gentiles	14,155	
Apostate Mormons.....	6,988	
Josephite “	820	
Doubtful	1,716	23,680
<hr/>		
Total	143,963	

It will be seen that the “Gentiles” constitute only ten per cent. of the population, yet from this small minority are taken the incumbents of nearly every position of influence and emolument. They have the Governor, with absolute veto power, Judges, Marshals, Prosecuting Attorneys, Land Register, Recorder, Surveyor-General, Clerks of the Courts, Commissioners, Post Office, Mail Contractors, Postal Agents, Revenue Assessors and Collectors, Superintendent of Indian Affairs, Indian Agencies, Indian Supplies, Army Contractors, Associated Press Agency, and on every question affecting polygamy, all the jurors; in fact, about every territorial position not elective.

Take one of our small cities of equal rank in population, Oswego, N. Y., or Springfield, O., for instance, and imagine that there were in either city a small minority like that of the Gentiles in Salt Lake City, the capital of Utah, having the same privileges. In addition, to make the parallel more complete, imagine this minority non-Christian, say Jews, Infidels, and Pagans, and that they should continuously denounce their Christian fellow-citizens as knaves, as frauds, as whore-mongers, their wives as prostitutes and their children as bastards. To make the comparison still closer, we must further imagine that in this small minority there were comprised all the gamblers, all the land-sharks, all the rum-sellers, all the public prostitutes, together with all their patrons. What exhibition of Christian meekness would you look for from Oswego or Springfield Christians?

But again to the *facts*?

Every denomination of religion is guaranteed the fullest protection by Mormon law, and their Church edifices exemption from taxation. At the first annual celebration of their arrival in Utah, called the harvest feast, July 24, 1848, they sang a hymn of which the following is a portion:

Come, ye Christian sects and pagans,
 Indian, Moslem, Greek and Jew,
 Worshippers of God or Dagon,
 Freedom's banner waves for you.

Brigham Young gave over one thousand dollars to the erection of non-Mormon Churches in Salt Lake City. He gave five hundred dollars for this purpose to the Catholics, liberally to the Episcopal chapel, and a plot of land to the Jews for a cemetery. When divines of reputation visit Salt Lake City they have been invariably offered the pulpit of the Tabernacle. R. N. Baskin, ex-U. S. Prosecuting Attorney, and well known as an anti-Mormon and persistent "turf-hunter," testified as follows before the House Committee on Territories, January 21, 1870:

I have been for five years a resident of Utah. I must do the Mormons the justice to say that the question of religion does not enter into their courts, in ordinary cases; I have never detected any bias on the part of jurors there in this respect, as I at first expected; I have appeared in cases where Mormons and Gentiles were opposing parties in the case, and saw, much to my surprise, the jury do what is right.

From a pamphlet issued in 1878 by A. Milton Musser, a "Mormon Elder," I make the following extract, and from my personal experience in the Territory since my first visit there, in 1879, I honestly believe that his proud boast is the absolute truth:

Out of the twenty counties in the Territory, most of which are populous, thirteen are to-day without a dram shop, brewery, gambling or brothel house, bowling or billiard saloon, *lawyer, doctor, parson, beggar, politician or place-hunter*, and almost entirely free from social troubles of every kind, yet these counties are exclusively "Mormon," and, with the exception of a now and then domestic doctor or lawyer, the entire Territory was free from these adjuncts of civilization (?) till after the advent of the professing Christian element, boastingly here to "regenerate" the "Mormons," and to-day every single disreputable concern in Utah is run and fostered by the very same Christian (?) elements. Oaths, imprecations, blasphemies, invectives, expletives, blackguardism, the ordinary dialect of the anti-"Mormon" were not heard in Utah till after his advent; nor, till then, did we have litigation, drunkenness, harlotry, political and judicial deviltries, gambling and kindred enormities.

Extortion and excessive usury are forbidden. A "Mormon" merchant would at once jeopardise his fellowship if he made a "corner" on any article found only in his store, no matter how great the demand. We never go to law except when we are forced to.

We are taught to treat the Indians with kindness and consideration, and never to take advantage of their ignorance in purchasing their land claims, robes, buckskins, or furs. We have lived among them for thirty years, with comparatively little bloodshed or trouble.

Our course has always been to feed, clothe, and teach them the arts of civilization, and to school their children. *No half-breed "Mormon" Indian children are found in all our borders.* In the constitution of the State of *Deseret*, in which name Utah hopes soon to be admitted into the union of States, the "Mormons" further exhibit their liberality by inserting a clause in favor of *minority* representation in our political assemblages, notwithstanding the number of anti-"Mormons" is not over seven per cent. of the entire population. These are but a very few of the evidences of "Mormon" generosity to non-"Mormons" and their institutions.

Do you say that this broad liberality—giving use of public halls free of rent to weak religious societies, or money to aid them to build antagonistic Churches, and careful provision for minority representation, is but crafty "policy?" Granted; but in that case bear in mind that the second generation of Mormons is now on the stage, and the third is growing up, then tell us how many generations can be brought up under this "policy" without being governed by it and permeated with its spirit. Nor need we cross the Rockies for an illustration of illiberality. In Vermont the State represented by Mr. Morrill, father of the anti-polygamy law of 1862, Mr. Poland, and Mr. Edmunds, each authors or sponsors for bills of still more sweeping nature, the overwhelming majority of the voters are Republicans, and inherit their Whig fathers' aversion to Democrats. How have they used this great preponderance in numbers? Let me recall an instance falling within my own knowledge. In most of the smaller New England towns the use of the Town Hall is given to each political party for their meetings without charge. During our Civil War in some of these towns the Democrats were refused the use of the Town Hall upon the ground that their party was a "disloyal" organization; and even as late as the campaign of 1868, in Springfield, Vt., the same rule was rigorously enforced!

In view of the facts I have given, if we were to look for advocates of the American principles of toleration and equal justice, together with recognition of minority rights, should we look to Vermont for the supply and to Utah for their field of operations, or *vice versa*?

Let us now consider more closely the moral condition of the Mormons as evidenced in the criminal records. *Facts* are worth more than assertions, and there is probably no subject before the American people concerning which so much is said, in which there is such widespread ignorance of facts as in the Mormon question. It is our duty to study all sides of it in order to deal with it dispassionately.

In Salt Lake City there are about seventy-five Mormons to twenty-five non-Mormons. In Salt Lake County there are about

eighty Mormons to twenty non-Mormons. In 1882 the jailor of the County prison stated that the convicts for the five preceding years were all anti-Mormons except *three*.

In Utah we have seen from the report of the United States Census that the proportion of orthodox Mormons to all others is as eighty-three to seventeen.

In the winter of 1881-82, just previous to the operation of the Edmunds law, there were in the Utah penitentiary fifty-one prisoners, only five of whom were Mormons, and two of the five were in prison for imitating Abraham in their domestic *ménage*. So that the seventeen per cent. "outsiders" had forty-six convicts, while the eighty-three per cent. Mormons had but five! The total number of Utah lockups, including the penitentiary (covering twenty counties), was fourteen; these aggregated one hundred and twenty-five inmates. Of this number not over eleven were Mormon, several of whom were incarcerated for minor offences and polygamy.

The arrests made in Salt Lake City during 1881 are classified as follows:

Men	782	
Women.....	200	
Boys	38	
Total.....	1,020	
Mormon—Men and Boys	163	
“ Women	6	169
Non-Mormon—Men and Boys.....	657	
“ “ Women.....	194	851
		<hr/> 1,020

A number of the Mormon arrests were for petty offences and water trespass. The arrests of the non-Mormons were largely for drunkenness, prostitution, gambling, exposure of person, unlawful dram-selling, assault and battery, attempt to kill, etc.

If the seventy-five per cent. Mormon population of Salt Lake City had been as lawless and corrupt as the record shows the twenty-five per cent. non-Mormons to have been, there would have been 2,443 arrests from their ranks during the year 1881, instead of the comparatively trifling number of 169 shown on the record; while if the twenty-five per cent. non-Mormon population (embracing the full membership of the various churches in that city) had been as law-abiding and upright as the seventy-five per cent. Mormon population, instead of the startling number of 851 arrests, they would

have furnished but 56 ! Thus with three quarters of the population, the Mormons furnished less than one-sixth of the arrests.

The criminal statistics of Utah are kept with more than customary precision and care, and furnish an accurate record of the belief as well as the crime of the prisoner. The statistics for 1882, the first year of the *moral* crusade inaugurated by the fervid zeal of our own St. Jerome, furnish equally interesting data. Taking in all the populous districts of the Territory, the total number of arrests for crimes and misdemeanors in these localities during the year 1882, was two thousand one hundred and ninety-eight, of which the Mormon population furnished three hundred, and the non-Mormon minority one thousand eight hundred and ninety-eight.

Taking the whole number of arrests reported in the Territory, we find the vastly preponderating number of Mormons contributing but one-eighth of the cases recorded, and the non-Mormons seven-eighths !

A writer in the *Chicago Times* from Salt Lake City, under date of January 24, 1884, commenting on the above, remarks:

The number of brothels throughout the Territory was twelve, all kept by non-Mormons; number of inmates not given.

The criminal record of Salt Lake City, for 1882, shows that in a population of about twenty-five thousand, divided between Mormons and non-Mormons as nineteen to six, the total number of arrests was one thousand five hundred and sixty-one, of which one hundred and eighty-eight were Mormons, and one thousand three hundred and seventy-three non-Mormons. Classed by sex, the number of Mormon men and boys was one hundred and seventy-seven; non-Mormon, one thousand two hundred and seventy-one; Mormon women, eleven; non-Mormon, one hundred and three. Of the sixty-six houses where beer and liquor were retailed by the glass, sixty were kept by non-Mormons, and the remaining six, nominally Mormons, were not entitled to participate in the sacraments of the Church by reason of their calling. The fifteen billiard rooms and bowling alleys and the seven gambling houses were all kept by non-Mormons. The six brothels had non-Mormon proprietors, and they were filled by thirty-one non-Mormon inmates.

If it should be suspected that these territorial and city exhibits show an unfair discrimination in favor of the Mormon population, through the sympathy of the Mormon police officers and magistrates such suspicion will be removed by the summary of the records of the territorial penitentiary for the same year. It will be recollected that for the conviction of this class of criminals, the whole machinery of the law, judicial and ministerial, is in the hands of the Federal government. The number of penitentiary convicts for the year was twenty-eight. Of these but one was an orthodox Mormon, and she a woman, confined for one day for contempt of court; five others

were Mormons only by reason of their parentage, and the remaining twenty-two were eight Catholics, four Methodists, one Jew, one Adventist, one Presbyterian, and seven of no religious faith.

The tabular statement of the arrests throughout the Territory for 1882 furnishes food for varied reflection. One application only will be made. If those practicing polygamy are, as a class, actuated by the licentious motives with which they are charged, why is it that the affiliated crimes of prostitution, brothel-keeping, lewd conduct, insulting women, exposing person, attempting rape, and obscene and profane language, occasioning in all one hundred and seventy-nine arrests, are so nearly monopolized by the non-Mormon element that the proportion should be thirty-five to one? Crime breeds its congeners; and does not this table of crime furnish proof of the general honesty of those who enter the polygamic state?

While perhaps sufficient evidence has been produced to show how little danger there is of *our morals* becoming perverted by association with the distant Mormons, still, to make the record complete I cite the criminal statistics, hitherto unpublished in detail, for the year 1885. Taken in connection with the above extract on a detailed statement of crimes for the year 1882, it will furnish suggestive reflections. These figures are official, having been taken from the city records. They are as follows:

CRIMINAL STATISTICS OF SALT LAKE CITY FOR THE YEAR 1885.

Estimated population of the City 26,000, one fifth of whom are estimated to be non-Mormons, or Gentiles as they are called.

	Mormons.	Non Mormons.
Assault with deadly weapons with intent to kill	8	112
Assault and Battery		
“ Provoking		
Assaulting Officers	0	19
Burglary		
Counterfeiting		
Contempt of Court	0	2
Concealing stolen property	0	1
Drunk and disorderly	41	474
“ “ profane		
“ “ trespass		
“ “ vagrancy		
Destroying property	1	12
Disturbing the peace	10	65
Discharging fire-arms	2	2
Doing business without license	2	15
Desertion from U. S. Army	0	3
Exposing person	0	3
Embezzlement	0	5

	Mormons.	Non-Mormons.
Forgery	0	4
Fighting	5	27
Gambling and keeping gambling houses ...	0	44
Highway robbery.....	0	4
House-breaking	0	3
Ill-fame house keeping	0	12
Inmates of "	0	41
Insulting ladies.....	0	6
Opium house keeping.....	0	3
Disorderly house.....	0	1
Lewd conduct.....	0	16
Larceny, grand and petit.....	7	79
Murder.....	0	1
Obtaining goods under false pretences	0	9
Prostitution	0	3
Profanity and obscenity.....	3	20
Rape, intent to commit.....	0	2
Resisting officers.....	3	4
Stealing railroad rides.....	0	22
Selling liquor without license to Indians, on Sunday, etc.,.....	0	3
Threatening violence, and to kill.....	0	12
Trespass.....	1	39
Vagrancy	0	51
Miscellaneous, or minor, offences.....	13	49
Total No. arrests.....	96	1,180
		96
Grand Total No.....		1,276
Adults Males.....	1,136	
" Females.....	134	
Boys under 10 years old.....	16	1,276
Total estimated population.....		26,000
Mormons.....	20,800	
Non-Mormons	5,200	26,000
or 5 Mormons to 1 non-Mormon.		
The 20,800 Mormons produce arrests...		96
The 5,200 non-Mormons " " ...		1,180
or 1 to 12 $\frac{1}{3}$!		

Most all the vilest, vicious and infamous crimes were committed by the non-Mormons. Among the arrests for *lewd and lascivious cohabitation* were U. S. Deputy Marshal Oscar Vandercook; Ass't. U. S. Deputy Jos. Bush; Ass't. U. S. Deputy Prosecuting Attorney S. H. Lewis; Ex-U. S. Commissioner Charles Pearson, and other prominent anti-Mormons. Many of the complaints lodged at Police

Headquarters against the Gentiles arrested were made by Gentiles. Every other town, city and county, being less affected and influenced by outside influence, and all the jails and the Utah penitentiary, show a much cleaner record in favor of the Mormons, compared with the anti-Mormon record, than the foregoing record of the capital city portrays.

The following are the numbers of arrests made by the city police during the first four months of the current year, viz: 1886:

	Mormons.	Non-Mormons.
January	9	34
February	4	54
March.....	4	74
April	6	87
Totals	23	249
Mormons		23
Non-Mormons.....		249
Grand Total.....		272

1 Mormon to 11 non-Mormons for the four months.

That Mormon judges are impartial and fair in dealing with all classes of criminals, is fully attested by the following certificates from a rabid anti-Mormon source:

No more just or better man sat on the bench of the police court of this city than Justice Spiers. * * * Justice Spiers is one of the best, if not the best, man on the whole People's ticket.

Salt Lake Daily Tribune, Feb. 8, 1884.

At another time the same paper referred to the late alderman Pyper in even stronger terms of commendation than the foregoing. For years past Aldermen Pyper and Spiers have been the principal justices under whom the municipal prosecutions have been conducted in Salt Lake City.

We need not be surprised, then, in view of the appalling criminal record above disclosed of the non-Mormon population, that a Mormon friend, in writing to me, should make use of the following expressions:

If the local enemies of Utah had such a showing to offer, they would never cease referring to their comparatively clean record. The pulpit and press would bull the refrain from river to ocean, and Talmadge, Cook, *et al.*, the anti-Mormon rabbis of clean Brooklyn and cleaner Boston, would go fairly wild over the discovery. Day and night the local cabal would laud and extol themselves and theirs

as the veritable Saints juxtaposed by the side of the Mormons, and if the Mormons would not purge themselves of their uncleanness, they would be driven into Salt Lake *volens volens*.

President Taylor and Geo. Q. Cannon, in their "Epistle of the First Presidency" to the Annual Conference at Provo City, April 6th, 1886, make use of the following language, which can be contested by no one familiar with this subject-matter:

There are now in this city some six brothels, forty tap-rooms, a number of gambling houses, pool tables and other disreputable concerns, *all* run by non-Mormons. But for the presence of those who are constantly making war upon us, our city would be free from the contaminating influences of houses of prostitution, gambling houses, dram shops and other such death-dealing concerns, and the taxes would be greatly reduced. But, as it is, the Mormons are forced to pay a liberal tax in support of the laws against the lawlessness of their non tax-paying enemies. Every other town, city and county in the Territory, and all the jails and the Utah penitentiary, show even a much cleaner record in favor of the "Mormons" than the foregoing exhibit portrays.

If it should be said that these convictions were made by "Mormon" judges and justices, it must also be remembered that the District Court always stands open and gladly extends relief to any who consider themselves wronged by "Mormon" officers.

We have seen that the Mormons are a prosperous, well-to-do people, believing in co-operation, and averse to litigation as a means of settling disputes. The *à priori* conclusion that such a people would naturally incline to moral paths and rectitude of character, we have seen signally borne out by the facts. Can such a people be steeped in gross ignorance? Again we must appeal to the *facts*.

We hear among other methods advised for "wiping out" Mormonism, some of the effects of which we have been considering, that of education. In presenting some statistical information upon this subject, let us bear in mind the peculiar circumstances under which Utah is placed. Her population is not recruited from the schools and colleges of free lands; their growth, like that of another Church in the first century, is not the result of drawing-room *soirées* or social patronage. The Mormon population came largely from countries where the peasantry are not the most cultured and enlightened; persons who never studied in the Oscar Wilde school of esthetics, or danced attendance at the doors of a green-room to catch a smile from Lily Langtry; and who, either from past poverty or present isolation have not had the advantages enjoyed by us.

A recent article in *Harper's Magazine* cavalierly described the

bulk of the Mormon "peasantry" as "low, base-born foreigners," thereby implying as a reproach the semi-serfdom in which they had been so long enthralled in the Christian countries which they gladly left for a home of their own in the West. Before citing the census reports of 1880, let us take that of 1870 and compare Utah with some of the more favored States, when Utah was even more decidedly Mormon than to-day.

COMPARATIVE STATISTICS.							
	School attendance, 5 to 18 years.	Illiteracy; can't read or write, 10 years and upward.	Paupers.	Insane and Idiotic.	Convicts.	Printing and Publishing Establish'm'ts.	Church Attendance.
Utah.....	35	11	6	5	3	14	19
United States.....	31	26	31	16	9	6	17
Pennsylvania.....	30	10	45	17	9	9	14
New York.....	21	9	59	20	12	7	12
Massachusetts.....	25	12	55	23	11	11	12
Dist. of Columbia.....	27	40	23	35	9	11	8
California.....	24	10	41	22	19	14	9

A Church emigration agency was established in Liverpool as long ago as 1840, and since that time upwards of 80,000 persons have availed themselves of the advantageous rates secured thereby to emigrants from Europe. A very large proportion of these have been assisted either by the P. E. Fund, established for that purpose, or by means which relatives in this country have forwarded to them. They are most generally from the northern portions of Europe, from those hardy races in which freedom first arose and has been most stubbornly defended. A shipping agent for a line of steamers from Liverpool says: "The class of persons in the Mormon emigration are generally intelligent and well behaved, and many of them are highly respectable. The means taken by this people for the preservation of order and cleanliness on board are admirable, and worthy of imitation. It is a general complaint with captains that the quantity of luggage put on board with Mormons quite takes them by surprise, and often sinks the ship upwards of an inch deeper in the water than they would otherwise allow her to go."

The amount invested in school property was returned as being about eighteen and one half dollars per capita of the school population. In contrast with this take the amount per capita of their school population which some of the States have invested in school property: North Carolina, less than 60 cents; Louisiana, \$3.00; Virginia about \$2.00; Oregon less than \$9.00; Wisconsin less than

\$11.00; Tennessee, less than \$2.50; Delaware, less than \$13.00. In respect to the amount per capita of its school population which Utah has invested in school property, it exceeds that of several other Southern and Western States, is in advance of the great States of Indiana and Illinois, and in excess of the general average of the entire Union.

In the matter of education, Utah stands ahead of many old and wealthy States, and of the general average of the United States in three very important respects, namely, the enrollment of her school population, the percentage of their daily attendance at school and the amount per capita invested in school property. When it is remembered that in nearly every State in the Union, vast sums of money derived from the sale of lands or from the establishment of special funds are devoted to school purposes, and that these sums amount to tens or hundreds of thousands of dollars annually, in many of the States, while the schools of Utah have never yet received any assistance whatever in this manner, the fact that the Territory occupies its present advanced position in respect to education, speaks highly in praise of its legislators. A Territorial tax equal to that from which the entire revenue of that country is derived is annually assessed, collected, and disbursed exclusively for payment of school teachers in district schools, open to the children of all citizens, irrespective of creed or color, no religious tenets being incorporated in their text books. Further, a local option law permits a tax not exceeding two per cent. for general school purposes to be annually assessed in the district where the people so elect by popular vote.

The school age is from six to eighteen, and the school population in 1881 was 42,353, with an average daily attendance of 44 per cent. The number of schools in 1879 was 373; in 1880, 374; in 1881, 395; and in 1883, 411.

In the average amount paid monthly per teacher for services, Utah stands ahead of not only the general average, but of many States and some of the Territories. The general average is \$36.21; Utah, \$42.48; the lowest being \$21.27. And in this connection the census shows that the State which produced Utah's most inveterate enemies, Vermont, regards the value of school teachers to a community at the low figure of \$21.81 per month.

A special committee of the Nevada State Senate several years since in a report, praised the school system of Utah as "unsurpassed in its adaptation to the wants of the masses." The Constitution adopted by the people when seeking admission into the Union as a State, and framed entirely by Mormon delegates, contains the following:

"ARTICLE XI.

"*Section 1.*—The legislature shall provide for a uniform system of public schools, and may establish free schools, *provided* that no sectarian or denominational doctrines shall be taught in any school supported in whole or in part by public funds.

"*Sec. 2.*—All legislation in regard to education shall be impartial, guaranteeing to all persons, of every race, color and religion, equal rights and privileges.

"*Sec. 3.*—No religious sect or denomination shall ever control or appropriate to its own use any of the public school or university funds of the State."

Henry Randall Waite, Statistician of the Tenth United States Census, has publicly made the following charge against the people of Utah; "We find a system of public schools established under laws whose provisions are capable of being so construed as to debar non-Mormons from becoming teachers, and which in violation of a fundamental principle of our government are used for the propagation of religious tenets."

In reply to this statement it will be sufficient to cite the following official list of

Text books in use in the District Schools.

Independent Series of Readers.

Watson's Complete Speller.

Ray's New Elementary Arithmetic.

Ray's New Practical Arithmetic.

Appleton's Standard Elementary Geography.

Appleton's Standard Higher Geography.

Swinton's New Language Lessons.

Spencerian System of Copy Books, Writing and Penmanship.

Anderson's Popular History of the United States.

Krusi's System of Drawing.

From the report of the Chancellor of the University of Deseret, which institution has about 300 students, I make the following extract:

"The University has now within itself many elements of prosperity; it only needs the sustaining power of the Legislature to make it adequate to meet the increasing educational requirements of our prosperous Territory. It is, so far as an institution within its scope of patronage can be made, a practical institution; *it is also non-sectarian* in its character and conducted in such a manner as to avoid

giving a bias in the pupils' minds in favor of any particular form of religion. The fact that it has been non-sectarian has been, in the minds of some of our citizens, an objection to the institution. The charge has been made that the tendency of its teaching has been to favor infidelity in religion and doubts respecting the existence of God. The University has had this prejudice to contend with, and on this account many have felt some reluctance about permitting their children to become its pupils. Such persons have not clearly understood that the character of the institution did not permit religious instruction, and because religious teaching was not imparted in its classes, the conclusion has been jumped at that its influence must necessarily be in the direction of infidelity. I scarcely need say that this feeling has no basis of truth for its support. While avoiding all sectarian teaching the Chancellor and Board of Regents have been careful to impress upon the President of the institution the importance of not permitting any books to reach the pupils or any teaching to be imparted to them that would have the effect, in the slightest degree, to weaken their belief in and reverence for the Supreme Being or the cardinal truths of Christianity universally accepted throughout Christendom. They have felt that while it was not proper, under the circumstances, for religious instruction to be given within the institution, neither was its province to teach infidelity. The true character of the institution is now better known, and parents in sending their children to be taught have done so with the understanding that they are to be instructed only in those branches which belong to a school of this character. The studies are so conducted that the children of parents, of all sects or of no sect, can share in them with the utmost propriety and freedom.

A few extracts taken from the census of the United States for 1880, pertaining to Utah, showing a comparison of illiteracy, etc., with several states of the Union, and the United States, may be of interest.

Of the population of Utah one quarter are under eight years old, one third under eleven, and one half under seventeen. Utah has more children under five years old, in proportion to its population, than any other division of the country, but Arkansas is very nearly abreast of her, for Utah has 1776 children under five years old in every 10,000 of the population, while Arkansas has 1775 in the same number. When we reach ten years Utah loses her supremacy. At this point the number in each 1000 souls is—Arkansas, 337; Mississippi, 333; Texas, 331; Alabama, 325; Utah, 324; Georgia, 319; the whole of the United States, 267. Per contra we will take some of the United States where the proportion is below the average—New York, 216; Vermont, 205; Massachusetts, 205; Colorado, 185.

NUMBER OF ADULTS, MINORS, AND MINORS OF LEGAL SCHOOL AGE,
IN EACH 100 INHABITANTS, 1880:

	Adults.	Minors.	Minors of legal school age.
Montana.....	69	31	24
Nevada.....	67	33	16
Vermont.....	58	42	30
New York.....	57	43	33
Maryland and Ohio.....	51	49	34
New Mexico.....	51	49	24
United States.....	50	50	32
Virginia.....	46	54	39
Tennessee.....	44	56	37
Utah.....	43	57	30
South Carolina.....	43	57	26

There were in 1880 in:

	Schools.	School buildings.	Valued at
Utah.....	383	334	\$372,273
Nevada.....	185	93	282,870
New Mexico.....	162	46	13,500
Arizona.....	101	84	113,074
Idaho.....	127	112	31,000
Wyoming.....	55	29	40,500

Races in school population, of legal school age:

Utah.	Males.	Females.
Native.....	16,659	18,937
Foreign.....	2,312	2,324
Colored.....	148	134
	<hr/> 22,119	<hr/> 21,395

And in this connection I would correct an erroneous impression that the great bulk of the Mormons are foreign born. In Utah and the adjacent States and Territories it is probable that the Mormons number nearly 250,000. We have seen that the total immigration for forty years past, has amounted to about 80,000, living and dead.

According to the U. S. Census of 1880, the following States and Territories have a larger proportion of foreign-born population than Utah:

	Native Born.	Foreign Born.
California.....	571,820	292,874
Arizona.....	24,391	16,040
Dakota.....	83,382	51,795
Minnesota.....	513,697	267,676
Nevada.....	36,615	25,653
Wisconsin.....	910,072	415,425
UTAH.....	99,969	43,994

Some other States and Territories have nearly as large a percentage of foreign born. Even New York having 1,211,389 foreign born as against 3,871,492 native born.

STATISTICS OF ILLITERACY, AS GIVEN IN THE CENSUS OF 1880.

	PerCent UTAH.	PerCent RHODE ISLAND.	PerCent UNITED STATES.
Persons of 10 years and upward, who cannot read.....	5.0	7.9	13.4
" " " " " write.....	9.1	11.2	17.0
Whites " " " " ".....	8.5	10.9	9.4
Native whites, of 10 years and upward, who cannot write...	5.9	2.9	8.7
Foreign " " " " ".....	11.8	27.3	12.0
Whites, 10 to 14 inclusive, who cannot write.....	10.7	8.3	11.9
" " " " " Males.....	11.9	9.0	13.0
" " " " " Females.....	9.5	7.6	10.7
" 15 to 20 " " " ".....	4.9	9.1	7.2
" " " " " Males.....	5.8	9.5	7.8
" " " " " Females.....	3.9	8.6	6.7
" 21 and upward, who cannot write.....	8.9	11.7	9.4

I have taken Rhode Island because it is a typical manufacturing State, and, like Utah, has a large foreign-born population. Of the forty-seven States and Territories enumerated in the Census returns, twenty-six (including Massachusetts) exhibit a higher percentage of total population over ten years of age unable to read, and twenty unable to write. The State having the highest percentage is Alabama, where Mormons have been mobbed. That State shows a percentage of 43.5 unable to read, and of 50.9 unable to write, or over half the population in a State where the colored people are in a minority of over 60,000.

Thus we find the average illiteracy in Utah, among persons of all ages, is less than the average of the country, as a whole; and leaving out both the colored and foreign-born population, and taking only the native whites of ten years of age and upwards, Utah's percentage of illiteracy is exceeded in twenty States and Territories, Indiana being one of the number. The percentage of lunatics, paupers and criminals is also much lower than the general average.

In view of these *facts*, is it not well for us to pause before we join in the wholesale denunciation made by Christian ministers concerning the ignorance prevailing where a "priesthood" is alleged to dominate? In thrift and enterprise; in social well being; in social checks to the development of greed; in the cultivation of amity and the elimination of the monopolist on the one hand and the strife-breeding lawyer on the other; in the peaceful possession of unmortgaged homes; in general morality and care taken to extend the

blessings of education, where is there a Christian community in all our broad land that can hurl the first stone at the sober, industrious and peace-loving Mormon. A calm investigation of *facts* is alone sufficient to show that the animus of the crusade on the Mormons is *plunder*. The following are the kinds and percentage of taxes imposed by law on the people of Utah, and the taxes of no other Territory or State can make as favorable an exhibit:

Territorial tax.	3	mills on the dollar.
County	"	.	.	.	6	" " "
City	"	.	.	.	5	" " "
School	"	.	.	.	3	" " "

Only 17 mills on the dollar including City tax. Outside of city limits the tax is but 12 mills on the dollar. Every unprejudiced person in Utah knows that if the anti-Mormons were in control of the Territory, as they are scheming in Congress to be, that the Territory, and every county and city, would soon be overwhelmed with debt, and taxation under carpet-bag rule would soon become decupled.

We have seen the cause of the opposition of the commercial monopolist and of the legal fraternity; we now see why they have enlisted with them the political gamblers and governmental prostitutes, who scent in the air not only prospective offices, but plunder of as mean and despicable a character as ever disgraced a Roman consul in the later days of the Roman Republic. Adroitly fanning the spark of religious bigotry in the breast of the straight-laced Evangelical proselyter, ever ready to burst into flame, our Protestant pulpits throughout the land offer their prayers and "pass the plate" to hasten the day when Christian civilization shall break down the wall of social co-operation against which it is surging, when the proselyting dominie and the bedizened harlot, the rumseller and the pettifogger, the gambler and the long-faced hypocrite, may enter arm in arm to divide the spoils. Is it worth our while to break down this system for the inimitable privilege of extending Christian churches and hellish brothels; of erecting by the side of the school-house a gin mill with a faro-table accompaniment; of introducing the extortioner and usurer to fatten on the industry of unburdened farmers, and increase the business of the sheriffs at their expense; to convert peaceful hamlets into mining camps, and offer a premium for the importation of broken-down political adventurers rejected at home? The whole crusade is but a huge adventurer's raffle, in which prizes can only be won by ruthlessly trampling upon all moral decency and

natural right, in which the sleek hypocrite and the unblushing harlot jostle each other in their avaricious race for spoils, and push the soulless adventurers on with prayers and favors.

This crusade upon the peaceful and law-abiding inhabitants of Utah is only paralleled in modern history by the "No-Popery" madness of our English ancestors, when crowds went wild with joy when a Catholic was sent to the scaffold; when test oaths were framed by jurists to fan the flame of religious bigotry, ostensibly in the interest of the State, but really for the personal aggrandizement of political prostitutes whose sole idea of heaven was the enjoyment of office and perquisites; when human vermin like Titus Oates, reeking with slander and falsehood, were honored and revered; when judges in the interest of the abstraction—the general will—trampled upon and derided every individual right and grew rich from harvesting where they had not sown. Judges, like Sir Thomas More, have sat on the bench and condemned poor old women to the stake for the imaginary crime of witchcraft to defend an equally imaginary *social* morality. Again, judges, like the infamous Jeffries, in the name of law and with the support of a hireling judiciary, have sent school-girls to prison and innocent men and women to the gallows, "general repute" being sufficient evidence in the eyes of bigoted or professional jurors.

America, like England, has her Tories. The fiction of "divine right to govern" is still loudly asserted by modern Jeffries, relying on modern Titus Oates and professional jurors, though the somewhat threadbare mantle of grace has been stretched to cover with its folds the hungry and ambitious pettifoggers we permit to misrepresent us in the halls of Congress. The same persecuting spirit that overflowed the narrow soul of the religious bigot in the interest of a Protestant State, to-day is rampant in equally contracted souls in the interest of the Commercial State. The penny-pinching trader, the strife-begetting pettifogger, the political prostitute and spoils gambler, flanked by various grades of Salvation Army exhorters and shameless harlots, with shrill and discordant voices cry out in the name of law to stifle liberty because, like their illustrious prototype Demetrius, the silversmith of Ephesus, "this our craft is in danger to be set at nought!"

CHAPTER V.

PLURAL MARRIAGE.

BEFORE entering upon a discussion of the methods adopted by the Government in Utah to suppress unlawful cohabitation, under what is known as the Edmunds act, it will be well to first obtain a somewhat clear and definite idea of what polygamy is in its American, or Mormon, form, and the reasons why a whole people cling to it with such tenacity. I have stated that I did not regard polygamy as the real issue, and have given reasons to show that the governing motive was at bottom an economic one, a desire to break down a social system founded upon co-operation and arbitration. In such a work it is not strange that facts should be distorted and gross misrepresentations should abound. It is not my purpose to enter upon the legal aspect of polygamy, or the abstract right or wrong of the institution, but merely whether it is such "an overt act against peace and good order," as to warrant the general crusade inaugurated. All we have here to consider is if Mormon plural marriage can be so designated.

The Colonial Congress which met in September, 1774, set forth their grievances in language so appropriate to the present state of affairs in Utah, that I must call the attention of the reader to their statements:

Resolved: I. That they are entitled to life, liberty and property, and have never ceded to any sovereign power whatever a right to dispose of either without consent.

II. That our ancestors were at the time of their emigration from the mother country entitled to all the rights, liberties and immunities of free and natural-born subjects within the realm of England.

III. That by such emigration they have neither forfeited, surrendered nor lost any of those rights.

IV. That the foundation of English liberty, and of all free government, is a right of the people to participate in their legislative councils.

V. That, therefore, the exercise of legislative power in several colonies, by a council appointed during the pleasure of the crown, is unconstitutional, dangerous, and destructive to the freedom of American legislation.

Our forefathers in adopting these resolutions were not deterred

by the Tory charge that they were assailing "the sacredness of law," but firmly placed themselves on natural rights, and became rebels to sustain them. Here the parallel ends, for the citizens of Utah have not, nor do they propose to, array themselves by overt acts against even unjust and tyrannical laws.

Let us also bear in mind that the practice has the sanction of the Old Testament and is nowhere condemned in the New; and that when entered into upon religious grounds the question under our laws is whether the relation in itself is such as to warrant extreme measures for the protection of society. This can only be determined by again appealing to the *facts*.

Taking the census of six years ago as basis for numerical statements, Utah had far more than double the population of Nevada, a State, and more than that of Kansas and Nebraska combined when they were admitted into the Union. How many women are there in what popular imagination pictures as a vast harem? In 1880 Massachusetts had a surplus of females of over 64,000. Over 64,000 condemned to be old maids and fail to fulfil the law of their being, or to fill the ranks of prostitutes crowding the streets of our cities. The census returns show twenty-two States having a surplus of females, while in Utah there are and always have been more males than females. The number of Mormons living in plural marriage does not exceed two per cent. of the entire male population. Emigrants are invariably sought in families, and if the statistics of Castle Garden are obtainable it will be seen that there is no difference in this respect between Mormon immigrants and others.

Is it then true that this minority of polygamists constitute an aristocracy, a new "slaveocracy," holding free expression of opinion in abeyance? So far from this being true, we have seen the liberality of their legislation. Further, the Mormons have established woman suffrage, and as the new Edmunds bill now before Congress abolishes this right, ostensibly in the interest of women, I will cite certain sections from the Utah election laws.

In section 1 the following form of oath or affirmation is given:

TERRITORY OF UTAH, }
COUNTY ———, } ss.

I, ———, being first duly sworn, depose and say that I am over twenty-one years of age and have resided in the Territory of Utah for six months and in the precinct of ——— one month next preceding the date hereof, and (if a male) am a ("native born," or "naturalized," as the case may be) citizen of the United States, and a tax payer in this Territory; (or, if a female), I am

"native born," or "naturalized," or the "wife," "widow," or "daughter" (as the case may be) of a native born or naturalized citizen of the United States.

Subscribed and sworn to before me this — day of —, A.D., 18—.

—, Assessor.

Section 13 provides that the voter shall, "on the name of the proposed voter being found on the registry list, and on all challenges being decided in favor of such voter," present his or her ballot to the proper official who shall deposit it in the ballot box, but that if "any mark whatever" be found thereon, it shall be rejected, thus impartially preserving and protecting the secrecy of the ballot. The statement that a female who is a minor and an alien can vote under the laws of Utah, or that any mark or indorsement on a ballot is permissible, is utterly baseless and untrue.

The Utah Legislature, in their Memorial to Congress in 1882, state:

When accused of exercising undue influence over the female portion of the population, and the idea was advanced that if the women in Utah were granted the right to vote, a remedy would at once be found, the Territorial Legislature promptly anticipated the proposed action of Congress, and passed an act conferring upon women in Utah, over twenty-one years of age, and with other proper qualifications, the elective franchise.

Again, when accused of making the Church dominate the State, by permitting ecclesiastical influence or priestly authority to assert influence at the polls by means of the marked ballot—which had been approved, and which many still believe to be the cheapest and best means of preventing illegal votes—the Legislature enacted a law providing for the registration of voters, repealing all election laws requiring numbered or otherwise marked ballots, and making them *strictly secret*.

So far is it from being true that undue influences exist at Utah elections, their law is far more liberal than that of many States. And the denial of all civil rights to polygamists can have no other effect than the disqualification of the prosperous well-to-do class, who in having the heaviest investments at stake are certainly conservative.

One feature of this perplexing question that should always be borne in mind is that it has its most ardent supporters among women. I assert that the most intellectual, the most moral, the most untrammelled of Mormon ladies indorse the system. And I assert this, knowing that Utah is the peer of any State in noble-minded women; women of culture and refinement constantly engaged in active work

through the press, the Relief Societies, the Mutual Improvement Societies, and other agencies of benevolent action which abound wherever a Mormon settlement is found.

Here is a Territory having more males than females, yet public opinion, enlightened and religious, freely accepting polygamy as not only a divine institution, but carrying with it its own justification. The Mormon holds that God never gives a revelation without some specific end, and they believe that in polygamy lies the cure for social evils, which have made our civilization a stench in the nostrils of every moralist. Many of these ladies—some living in affluence and ease, tender mothers and loving wives, writing for and editing periodicals and shining in social circles with unaffected grace, with full liberty to follow the dictates of their own hearts—make no appeal for aid, no cry for redress, save from the tyrannical action of oppressive laws.

All over this broad land are thousands of wives broken in health and suffering from chronic diseases having their rise in sexual complications, yet who stand aloof in holy horror from a social system in which the wife and mother has more absolute control over her own person than under any system heretofore existing. The Mormon wife is taught that during the formation and growth of the embryo child, to use the words of a Mormon woman, "her heart should be pure, her thoughts and affections chaste, her mind calm, her passions without excitement, while her body should be invigorated with every exercise conducive to health and vigor, but by no means subjected to anything calculated to disturb, irritate, weary, or exhaust any of its functions. * * * Polygamy, then, as practised under the patriarchal law of God, tends directly to the chastity of women, and to sound health and morals in the constitution of their offspring."

Nor does abstinence rest here but extends over the whole period of gestation and lactation, thus comprising about two years. Remember that this is a religious belief; and I have the assurance from a lady physician of high social standing and extensive practice in Utah—a graduate of one of the best colleges in the East, and who passed several years in the hospitals of England and France—that the women of Utah are singularly free from the chronic complaints with which so many of their Eastern sisters are affected, and that their children will bear comparison with those of any other country on earth. Therefore, these healthful women smile at the epithets "misguided" and "degraded" heaped upon their heads by less healthful and less free married sisters.

Dr. Romania B. Pratt, at the Mass Meeting of Mormon women

which filled the Salt Lake Theatre on March 6, 1886, used the following language:

Our faith and confidence in the chastity and pure motives of our husbands, fathers, mothers and sons are such that we challenge the production of a better system of marriage and the records of more moral or purer lives. Hand in hand with celestial marriage is the elevation of women. In church she votes equally with men. Rights of property are given her so that she, as a married woman, can hold property in her own individual right. Women are not thrown off in old age as has been most untruthfully and shamelessly asserted. There is nothing in our plural marriage system that countenances any such thing. The very nature of the covenant forbids it. It is binding through all time and lasts throughout eternity. If any woman at an advanced period of her life wishes in a measure to retire from her husband's society with his consent, this is her own individual privilege with which no one has the right to interfere. Instances of wrong-doing may be found in families of plural households, but the exceptions are not the rule; the weight of good results of the *majority* should be the standard of judgment. It cannot be true, as asserted, that plural marriage is entered into as a rule from sensual motives. It is self-evident that it is not the case with women, and it is unreasonable to suppose that men would bring upon themselves the responsibilities, cares and expenses of a plural family, when they could avoid all this, yet revel in sin, and, in the language of a distinguished man of the world, "be like the rest of us."

We must bear in mind three fundamental facts in considering plural marriage as existing among the Latter-Day Saints:

1. The marriage is not merely for time, "till death do you part," but is a solemn covenant entered into, believed to last throughout eternity.
2. A plural marriage cannot be contracted without the consent of the first and other wives, if more than one; further that the obligation of chastity in all Mormon communities is held to be as rigorously obligatory upon the man as upon the woman, society visiting its infraction by a man there, as we would that by a woman here.
3. The responsibility is heaviest upon the man, he having no avenue of escape, while the plural wife may obtain a separation if she finds further union undesirable and unbearable.

Let us ever bear in mind that the question for us is not whether the better system prevails in Utah, but whether holding such views and refusing to disavow solemn covenants entered into by mutual consent of all parties concerned, is a just and sufficient reason to outlaw men and women from all civil rights?

Elder A. M. Musser, in describing polygamy, says:

The prevailing idea that its practice encourages excess and license, is a great mistake; the opposite to this obtains. The re-

straints of our religion are rigid and inexorable. In the rare examples of infidelity that arise in our midst, as a rule, we load most of the responsibility on the man and make him assume most of the odium which attaches to the sin. The helpless woman is not tabooed and cast off with her innocent child, homeless and friendless, to wander of necessity into deeper infamy and shame, and the man turned loose to make other victims; he is made to take her, provide for her, live with and respect her as he agreed to before her humiliation.

The Mormons have no poor in Utah, going about unfed, unclothed, unschooled, or unhoused. Until the *anti*-“Mormons” came among us we had no organ-grinders, monkey-showmen, houses of prostitution, dram-shops, bowling saloons, and indeed but very little of the general make-up of civilized (?) communities.

Our wives, about whose duress so much is said, enjoy greater freedom and more franchises than any other women of the United States. They vote on all political, social, religious, domestic, and other general questions,—and they vote just as they please, without let or hindrance, just as men do. [Further, they have the privilege of nominating their husbands, and if their husbands maltreat, neglect, or in any manner abuse them, *on their own individual application*, without feeing a lawyer, or other expense, they can obtain a separation from them, retaining the minor children, with ample dower for their mutual support, while their husbands *cannot divorce* their wives except for the violation of the seventh commandment.] No woman in Utah is barred—except by nature—the honorable and enviable privilege of becoming a beloved wife and doting mother, which Gail Hamilton says “is the sole, complete elysium of woman, and there is not one woman in a million who would not be married if she had a chance.”

We maintain that women have just as much right to enjoy the blessings of marriage and maternity, as man has to become an honored husband and father; and as long as there is one redundant marriageable woman in all the land, it is ungenerous, ignoble, and cruel in man, by the proscriptive laws he ordains and enforces, to deny her the inestimable privilege. With us marriages are consummated for eternity, as well as time. There is no marrying in the resurrection; it must be attended to here, the same as baptism, etc. Godly marriage, plural or single, means healthy, beautiful offspring, and never-ending companionship. Our system is scriptural, natural and logical. It effectually bars the social evil, promotes longevity, gives *every* woman a husband and a home, and multiplies the “noblest work of God” by filling the earth with joyous, robust children.

President Geo. Q. Cannon has stated the Mormon view on this point very clearly, and as it may be regarded as official, I will cite his words. He says:

There is an impression among the uninformed that the man who enters into patriarchal marriage in Utah has but little, if any,

responsibility connected with it; that upon his partners rest all the burdens and unpleasant features of the relationship; that they, in becoming his wives, become the creatures of his will, and that, therefore, their civil rights are interfered with. This view is wholly incorrect. It is the women, under the system of patriarchal marriage, who have liberty, and not the men. When once marriage has taken place between the parties, be the woman ever so poor and friendless, ever so much an unprotected stranger in the land, the man who knows her takes upon himself a life-long obligation to care for her and the fruit of their union. For a man to seek for a divorce is almost unheard of, the liberty upon this point rests with the woman; and as regards a separation, if her position should become irksome or distasteful to her, even, and she should desire a separation, not only is the man bound to respect the expressal of her wish to that effect, but he is bound also to give her and her offspring a proportionate share of his whole property. They are no longer under his yoke; but while he and they live, they have a claim upon him from which he is never completely absolved.

Surely it must be religion which prompts the Latter-day Saints to incur such serious responsibilities at the risk of being pronounced felons, and being stripped of property and citizenship by being incarcerated in the penitentiary.

Emmeline B. Wells, in a letter to the Women's Great Mass Meeting, writes:

That greater liberty has been given to women in our Church than elsewhere is indeed true; that now equality of sex prevails is undeniable. That men and women have always voted equally upon all ecclesiastical matters is a well-known fact, and the utmost freedom of speech has been the right and privilege of women in the Church from the first. That all this has been elevating in its tendency, and educational to woman, every careful observer must readily perceive. The aim and object of our institutions has been to lift women up to a higher standard of thought and intelligence, to protect and guard virtue, to promote self-reliance and individual development; and it is a privilege of our religion to teach our girls, as well as our boys, self-protection, and to instruct our boys, as well as our girls, that virtue and chastity are just as essential in man as in woman.

Mrs. Marilla M. Daniels, in her speech on that occasion, said:

We desire to express our indignation against the insults that are offered to our sisters that are brought before the courts and grand juries, and made to answer indecent questions or be fined and imprisoned for contempt. One is righteously indignant to think they will so far forget themselves and so dishonor their manhood as to insult defenceless women and children. Some of our sisters have been brought to untimely graves in consequence of such treatment; delicate and refined women have been made to suffer the keenest torture of mind through their insolence. What would they

think if their wives, mothers, sisters, or daughters were treated in such a shameful manner? They seem to think they can insult a plural wife with impunity. There is in their estimation, no law to protect her; she has no rights.

Senator Edmunds once said that the very nature of every virtuous women revolted against polygamy and all its influences. There are thousands of my sisters in Utah and elsewhere who will bear me witness that this is not true of "Mormon polygamy." I can speak from a practical experience of over forty-one years. Our husbands, the fathers of our children, hold sacred their marriage covenants, and heaven's best blessings are a virtuous husband and good children. My father had born to him fifty-six children in the new and everlasting covenant. Many of them are now married, having families of their own, living in this and the adjoining Territories; and I venture to say they will compare favorably with any in the land for honesty, morality and integrity.

Whole pages could be filled with similar testimony from women who are the peers of our own mothers in every Christian grace and virtue, whose souls are unclouded by impurity and whose lives are fragrant with loving-kindness and good deeds; and despite the official utterances contained in congressional speeches and the President's message, I decline to join in the pharisaical prayer: "I am holier than thou!"

The recent official profession of faith on the sanctity of the legal marriage by the president, in his message, is a suggestive one. The solicitude of our [then] bachelor president for the sanctity of our homes, the regard for the mothers of our land, each "secure and happy in the exclusive love of the father of her children," (or compensated in a legal equivalent therefor), and the pride with which he argues that our best citizens are "the fathers of our families," are really touching. Inferentially we are informed that the man who is not surrounded in his single home with his wife and children, has no "stake in the country, respect for its laws, (or) courage for its defense."

A new convert is always superzealous. Though we can hardly assume that this profession of faith is to be considered in a Pickwickian sense, we must certainly regard it as official only; and as he stated, when last visiting Buffalo to vote, that he had left the president at Washington, we are warranted by both present logic and ancient history in considering it as the official belief of the president rather than that of the Buffalo bachelor.

On reading it I recalled my last visit to Utah. I spent several weeks in Southern Utah, but will recall here only one town, Provo, the largest south of Salt Lake City. Making myself comfortable

under the hospitable care of my Mormon host of the Excelsior Hotel, I there, as in our Eastern villages, found the most enterprising of the citizens looked upon as the leading man, politically, morally, socially; leading and giving tone to "society." But there they called him Bishop instead of 'Squire. In Provo this individual was a Mr. S., who had lived there for years; been identified with its prosperity; had occupied high positions in the Territorial Legislature; had been one of a committee of three to codify the Territorial statutes, which were approved by Congress; had contributed freely to its institutions; had assisted to erect a fine opera house for the Provo Dramatic Club and visiting theatrical companies; had been particularly active in securing a really fine race track, where racing was *not* masked as an "Agricultural and Cattle Show;" besides assistance in building up home industries, etc. Provo contained from five to six thousand inhabitants, and Mr. S. was the peer of the 'Squires of our towns in every respect.

But I found that on his lot were three fine residences, and in each of them was a family calling him father. I was in a community where Mrs. Grundy threw no stones at this state of things; where plural marriage brought added social importance, to say nothing of the increased social standing, so to speak, as a wife of a patriarch in the Heavenly Zion; where every additional marriage can only be performed with the consent of the other wife, or wives; where children had grown to maturity, been tenderly and lovingly reared, their father and mothers respected, under a system where full as much loving care was bestowed on the guidance of youth as that displayed (officially) by Grover Cleveland.

One good old lady remarked to me: "Ah! it takes a sight of grace in a man to get on as harmoniously as they do with so many added cares." As I was a married man myself, I did not feel disposed to contest the point, for I knew I would be deficient in *grace*. "Parental care, authority and love," to all appearance, seemed to be regnant there.

I found in Mormondom no huge tenement houses, filled with families of overworked fathers, mothers, and children; no locality exhibiting the Avenue B side of civilization; no growing sons and daughters living and sleeping in a common family room, where the instincts of modesty are trampled upon under economic necessities, and vice proffers the bread which virtue denies. No, "these are not the homes of polygamy."

I found there no polygamic mothers, willing to barter their daughters' happiness, or wink at moral delinquencies, for the sake

of ease; no mothers toiling for bare subsistence at starvation rates; no mothers forsaking their children to seek bread in prostitution. No, "these cheerless, crushed, and unwomanly mothers" were not the mothers of Utah.

I found there no polygamous fathers who never see their children awake on week days; no fathers doomed to a treadmill round of unremunerative toil, to whom every added birth added wrinkles to their brows; no fathers to whom children bring the expense of "hush money;" no fathers who look upon their children's coffins with that horrible complacency Christian civilization has instilled into the parental heart. No, "these are not the fathers of polygamous families."

Holding, as Mormons do, that cohabitation involves perpetual obligation, that the woman who gives her honor into a man's keeping has an endless claim upon him for support, and that plurality of wives, no more than plurality of children, requires a division of affection, they obstinately refuse to adopt the Eastern, and more civilized, plan in such cases made and provided by custom. Under the recent decision of Judge Zane a man may respect the law so far as to forego intercourse, yet if he recognizes the obligation solemnly covenanted, if he refuses to disavow the relation, turn her adrift, and brand their children as bastards, he is criminal.

Let me cite an instance. Geo. Q. Cannon had four wives, three of whom are still living. These women he married by mutual consent before the passage of the Edmunds law—1882—which made it a crime to live with more than one wife. He believes that he cannot in honor disavow connections nor restrict parental love for the children they have borne him to those Congress in its wisdom may select as alone legitimate. Yet he is a fugitive for this "crime" under the recent interpretation of the law. The late ex-Mayor Jennings once had two wives. The first died years ago; he remained content with the *ci-devant* No. 2. Though living in the single family relation for which our bachelor president had such (officially) unbounded admiration, both he and his wife were disfranchised.

Judge Zane's opinion has recently been officially promulgated by the United States, as henceforth the legally revised definition of "cohabitation." Thus, by a singular coincidence, Grover Cleveland becomes the official representative of the doctrine that "cohabitation" becomes "illicit" when you continue to support the mother of your "illegitimate" child under the alleged sanction of moral obligation. Consequently, to repudiate the mother and your covenants with her, and rear the child as a bastard, is now officially

declared to be the straight and narrow way by which even a Mormon Elder may entertain reasonable hopes of entering into the gates of the White House.

In Utah, out of a population about three times greater than that of the State of Nevada enjoying home rule, there are twelve thousand disfranchised. But, as women are voters in Mormondom the population of "polygamous fathers" cannot exceed four thousand, and must be far less. Yet their children, their neighbors and friends, have made their cause their own and returned a unanimous Mormon Territorial Legislature. The anti-Mormons are not shrieking for individual or "minority rights," but to force their views on nine-tenths of the people. To the Mormon, government is a central authority two thousand miles away, and known only in the character of the men sent there, who are now fighting to keep their places. In Provo, a prominent court official loudly bewailed to me the benumbing influence of Mormonism in depreciating the sanctity of law, yet evincing his own disregard for law by swelling his legitimate income from the sale of drugs by the illegitimate sale of spirituous liquor to Mormon youth.

The president winds up his (official) declaration of faith that the safety of the country lies with the legal fathers by adding these words:

Since the people upholding polygamy are reinforced by immigration from other lands, I recommend that a law be passed to prevent the importation of Mormons into this country.

Shade of Jefferson! In view of these *facts*: 1, That every Mormon missionary goes out at his own expense, receiving no salary; 2, That plural marriage cannot be contracted till arrival in Utah; 3, That the converts are made in Christian lands among people taught to believe in the old-time sanctity of polygamous marriages, and that through their adherence to this creed, they rise from hopeless toil to independent farmers; 4, That polygamy is not obligatory, but a matter of mutual consent, the great majority not being polygamists and the male population being always in excess in Utah—in view of these facts, can a law be passed which does not aim at beliefs?

If we were going to embark in the preventive business and compel obedience to our views, we would modestly suggest that a law compelling fathers to marry the mothers of their children, rather than one offering a premium on disowning them, would be more creditable to the executive imagination, to say nothing of the Congressional conscience.

But, some one asks, "Then you indorse polygamy?" Not at all. I simply deny the moral right of law to enforce opinion, and, in this case, against the protest of a whole people. I deny the right of the sixty thousand surplus females in Massachusetts, animated with the virtuous indignation that ever influences the elderly maiden heart on hearing that others enjoy "illicit cohabitation," to raise their shrill voices and demand the extinction of those who are more fortunate or unfortunate than they.

There is but one ray of hope which will meet the demands of Law and Gospel. Let them cast off the sense of obligation, or buy the mothers off, let them adopt the customs in vogue in New York, where fornication is not a crime: or imitate puritan Massachusetts, where the "age of consent" is ten years; let them proclaim their children bastards in the sight of the Lord and the Law, let them abandon the women who trusted them to the operation of the almighty law of demand and supply,—and we warrant that the nation will hear no more recommendations from the President "for such further discreet legislation as will rid the country of this blot upon its fair fame." The same sentiment moved Louis XIV. when he repealed the Edict of Nantes to drive Protestants out from France, where they offended the Catholic majority. And yet a so-called representative of Jeffersonian Democracy, two centuries later, has not arisen above the cry of the crowd-made conscience, and would pose as the (official) defender of the marriage relation. He would have a legal crusade in behalf of monogamy, because the crowd-made conscience holds it alone to be right. I am not willing to enforce my belief on others, or indorse a new tyrannous edict to not only imprison, or drive out, but to keep out, Mormons from a country that has been poetically, not officially, called "the land of the free and the home of the brave."

A decision of the Supreme Court has not always been held as sacred by the people. The Mormons in denouncing the tyrannical character of our laws are but imitating the New England clergy who once had their moral sense similarly outraged in the Dred Scott case. If they have no longer any confidence in the corporation attorneys who sit on the Supreme Bench, and regard it as a partisan body, that loss of confidence will be found to date back to the Electoral Commission of 1877. This blow at popular esteem for the judicial ermine came from the Court itself, and the Mormons can hardly be deemed disloyal for sharing a feeling that later judges in Labor matters have made common to the entire country. Some men are so constituted that they cannot mingle with even refined ladies with-

out having their low natures excited by erotic desires; but shame, eternal shame, on the clergymen who, imitating the moral outlaws of our cities, invariably associate Mormon wives and Mormon homes with the thought of prostitution and promiscuity.

Four years ago I concluded my "Utah and its People" with words that the rapid progress toward centralization of power render more and more pertinent and impressive. They were as follows:

Polygamy in Utah is the consecration under religious obligation of the sexual relations, yet the Edmunds act assumes that it is identical with bigamy, or the betrayal and desertion of a woman through false pretenses!

This act not only brands men as criminal for following out their connections, in which woman's consent is a pre-requisite, but disfranchises even those who contracted plural marriage *before* Congress declared it to be a crime.

But in what does their crime consist? It is time to cease indulging in mere assumption, in appeals to passion and religious bigotry. In New York there is no law on the statute-book defining *fornication* as a crime, and all our pulpits are silent! You may, if unmarried, enter into sexual relations with a dozen women, so long as you do not represent them to be wives. Call them your harlots, your concubines, anything but wife, and you are guilty of no criminality.

Would it follow that if the miserable fanatic, the Mormon, could be induced to strike down the sacramental relation in which he holds marriage, if he should cease to give guarantees to both the woman and society, to stand by the results of this relation, he would be less open to clerical rebuke? If he adopted the suggestion of the Salt Lake *Tribune*, and recognized prostitutes as social missionaries, basing his sexual relations merely on animal passion, following New York rather than Biblical precedents, and lived in open and admitted fornication, there would be no law especially drafted to meet his case, the pulpit would be estopped from censure, and Christian society compelled to look elsewhere for its sacrificial goat!

If polygamy be barbarism, our superior civilization will crush it out. But right or wrong, be careful how you deny to even a "deluded" people the right of self-government, brand their children bastards, and turn them over for relief to the sense of equity possessed by a board of politicians. We tolerate the Shakers in seeking to prohibit and prevent marriage—certainly necessary to social existence. Let us endeavor to tolerate the men who regulate marriage on a religious belief, and who invariably discountenance and condemn every plural marriage by an apostate as wanting in that consecration which can alone sanctify. A crusade against those who refuse to recognize civil marriage, as the Catholic, is full as legitimate, and would be attempted, were their property centralized in a Territory.

We have learned to tolerate the religious heretic—in law, at least—but not the *social heretic*, and the Mormon problem brings

before us a test which will try our boasted liberality to the utmost. When we, as a people, go two thousand miles to deny the right of self-government, because the *letter*, not the *spirit*, of law permits it; when we deprive citizens of the rights of franchise for acts of which those interested do not complain, but indorse, and which involves no moral criminality; when we do this to a people upon whose moral character the only blot is in the non-Mormon portion, we strike a blow at the American idea of liberty and toleration that might well arouse Thomas Jefferson from his tomb.

Whatever we may *think* of polygamy as a social system, let us be careful how we *act*, and not *fashion a handle for an axe which may one day strike nearer home when wielded by other passions*. Are there none of our statesmen who can rise above the fogs of prejudice and see the danger coercive measures must lead to? If moralists choose to ignore the Golden Rule, a statesman should not be blind to the peril involved in following a course mapped out by a few political adventurers in Utah. Leave to clergymen the honor of glorying over the possible apostacy of a few thousand Mormons from a faith which has kept them from profligacy and vice, or in their emancipation from moral control, and view the subject in a far broader sense. The Mormons point to the prophecy of Joseph Smith, that the time was not far distant when they alone would be the defenders of the great principle of religious liberty; shall the fulfillment of this prophecy come through the act of the representatives of a Republic founded by Jefferson and his colleagues?

If the Mormon home is not the childless home of the Eastern capitalist, nor the home of the factory operative, in which the belt of the mill connects with the cradle and weaves human lives into manufactured fabric, it is none the less a *home* consecrated by family love and sanctified by religious observances, where the mother's devotion guides the feet of loving children.

You know the Golden Rule, apply it in this case, or answer why not!

CHAPTER VI.

THE MORAL CRUSADERS.

THE theory of republican government is that it is with and by the consent of the governed. The *practice*, as prevailing in the Territories, is to govern without the consent of the governed, where certain social heretics are not even tolerated, their lives only being spared; and where loyalty is supposed to consist in open denunciation of men who furnish nearly all of the taxes and comparatively none of crime.

On the other hand we have seen that the alleged "theocracy" has mortally offended our tradesmen—as true to the instincts of his class to-day in America, as was his more ancient Pharasaic brother in Jerusalem—by inaugurating co-operation in both production and distribution; has revolted the tender consciences of the lawyers in Congress as well as out—unable to see beyond the text of what is written as ever were their Levitic prototypes—in dispensing with legal fees and their inestimable privilege of fomenting social discord; has shocked the moral sense of our great army of theologasters by requiring every member of the "priesthood," from the President down to the humblest Deacon, to labor for a living; and have blasted the hopes of political barnacles and sycophants by forbidding any man to hold office in its ecclesiastical organization without the consent and expressed approval of those among whom and for whom he is to exercise the functions of his office.

Could difference be more radical? The government, located twenty-five hundred miles distant, encroaching upon monarchical privileges, appoints the refuse of political conventions, or defeated candidates who have failed to secure support at home, without reference to the feelings or wishes of those to be governed. The "Theocracy," in precept and practice, making general acceptance so prominent a feature that no Mormon could be found mean enough to solicit an appointment to exercise authority over an unwilling people; where even the thearchs have no right to foist themselves or others into any position of honor or profit.

What the Mormons are we have seen; let us now glance at the

character of some of the past officials dumped upon Utah, and the acts of some of the present incumbents.

I have before me a circular issued in May, 1877, and signed by *A. Milton Musser*, "*Mormon*" Elder, a gentleman whom I have reason to know to be the peer in moral character and general attainments of any man in Utah of my acquaintance, and worthy of recognition in any assemblage of ladies and gentlemen as in every respect an honorable and truthful man. He said:

The red hot feeling now kindled against us is entirely unwarranted. I speak from the record, having been identified with the "*Mormons*" since 1846. I *know* that the excitement and consequent prejudice periodically fanned to blood heat against our citizens is made to promote the personal interests of very bad men. We have had, and now have in Utah, such frauds as Eliza Pinkston, J. Madison Wells, and Returning Boards by the score. To prove this I need but state that out of the appointments made by ex-President Grant, during the eight years of his incumbency, to places of trust in Utah, he was obliged to remove *forty-five* of them because of their dishonest, unlawful and rascally acts. These recalls were Governors, Acting-Governors, Secretaries, Judges, Land-Officers, District Attorneys, Marshalls, Special Mail Agents, and the like.

Let us glance at some of the "*petty vices*" of these official regenerators of Mormondom. The Judge through whose misrepresentation President Buchanan was induced to send an Army to Utah, leaving his wife and children behind him, brought a courtesan with him west, who sat by his side on the judicial bench! Another official, soon after his arrival, made improper advances to a respectable lady, whose sons, it was said, overtook him in his flight to the East, and for the gross insult to their mother deprived him of virility. Another, who received the appointment of Governor, with his son became the joint father of a waif, whose sorrowing mother on oath could not say whether the Governor was father or grandfather! Another Governor was not long there till he was discovered in a drunken debauch with an imported harlot, both of whom were in a state of primitive nudity! Still another—who was so greatly exercised at the Mormons because of their religious marriages that he never lost an opportunity to denounce them—was so incautious as to permit the embarrassing discovery of *hair pins* in his bed while his wife was thousands of miles away; a discovery which so digusted his Gentile hostess that she quitted the place without notice.

Again, another with his carpet-bag arrived to overshadow Utah with his stately presence. He was a leader in a bible-class on Sundays. Week days he varied the duties of his position by stump

speeches in mining camps against the vileness of plural marriage. For unlawful and questionable acts his gubernatorial career came to a sudden end. The Utah report says: "On the way to the Pacific slope this spotless anti-'Mormon' scripture reader for a whole night contested the right of possession to a sleeping berth on a Pullman car with a woman not his wife, and neither being willing to surrender to the other, a joint occupancy was maintained the entire night."

Another, afterward convicted of malfeasance in office and removed, incited the only election riot Utah had ever know while grossly intoxicated, but produced the Governor to give sworn testimony that he was sober, when it was a matter of common notoriety on the streets that if sober it was an abnormal condition.

Without extending the list to an unnecessary length, I ask attention to the following extract:

We once had a judicial luminary that would not keep in his family's employ a servant-girl or washerwoman except on special personal considerations. Some years ago his wife and other ladies, of the same faith, sent East a piteous petition to the lady members of the same church for a Christmas gift of five dollars each, for the erection of a church in Salt Lake City, looking to the "amelioration of the Mormon women." Soon after the petition was made public one of the principle "lady" singers was fined for keeping a house of prostitution.

Many of our past officials have in every possible manner, by their judicial, official, and other acts, encouraged and screened prostitution and drunkenness. The pimp, harlot and rum-seller would draw on them at sight, and they were ever ready to honor their drafts and aid in crippling the local officers of Salt Lake City, and other places, with writs, injunctions, etc. Once upon a time a "Mormon" was sent to the penitentiary for a term of years and fined \$300 by a "mission" judge for openly maintaining two wives and their children. When the Supreme Court of the United States set aside his extrajudicial proceeding, and released the "Mormon," an officer and a harlot rode out in a carriage to open the prison door, and while *en route*, it is said, they maintained the relation of married people.

Among the most ardent, but pitiable, would-be regenerators was a man whose ambition centred in subjugating the "Mormons," freeing Ireland from British rule, drinking whiskey, and making love to a subaltern's wife; while his own wife and children were off on a visit, he took as kindly to the proxy as measles takes to children.

The god-fathers of the anti-polygamy bill—a once highly respected government official, now an humbled citizen of Indiana; a man of New York City who free-loved his neighbors' wife and was shot by the outraged husband; and a would-be popular actress—all bitter enemies to our day-light, healthy and beautiful children-

increasing marriages—have gone and are going into ineffable disgrace.

The story about one of Utah's carpet-bag anti-Mormon Judges selling out his unexpired term of office, with its "good will," to a fellow of his own stamp, for \$2700, must be fresh in the minds of many. The buyer gave his note for the sum, which is not yet paid, notwithstanding his reported large special income, while on the judicial bench, from those interested in valuable mines. He too was one of the illustrious *forty-five* fire-eating, anti-"Mormons," General Grant was forced to cut out of Utah's official circuit.

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This list is already offensively long. Money could not have tempted me to give so much publicity to such doggerels of humanity, but for their persistent, shameless and vile attempts to blacken the character of the unoffending people of Utah, by using their official positions and patronage to cover us with wide-spread and bitter odium, so as to justify their mobbing us from our mountain homes, which we have so dearly earned at a cost of many millions of dollars and thousands of lives. This is my only apology for obtruding these *facts—facts* which are notoriously true in the great West, and which are tacitly *confirmed by their removal from office* by the general government for their villainous practices. I might add a painful list of cases where gamblers, rum-sellers, thieves, renegades, lechers and harlots have been habeas-corpused, and the local civil authorities enjoined by "Mission" judges, and others holding carpet-bag Commissions.

Nor has the gubernatorial record in late years been a savory one. The Mormons under the rule of Gov. Murray have again been nauseated with the usual scandals. They have seen his carriage followed in a Fourth of July procession by that of a woman of notorious moral profligacy, without protest, and have seen him intoxicated on the streets, the associate of sporting men and gamblers. They have watched his wild-cat mining business, as President of a Company that never owned a dollar's worth of property, but which needed a "live" man to unload its stock. Last year he prevailed upon the President to send troops to Salt Lake, just before Congress met, to influence public opinion against the Mormons and secure his own retention in office. But it having been demonstrated that no thought of resistance was entertained, that the only plot existed in the fertile imagination of the mendacious Eli, and his high-handed and arbitrary proceedings having left the Territory deficient in means to meet many current expenses, Mr. Cleveland has been forced to apply the official boot, and send him to join the grand army of his libidinous predecessors.

In the judicial proceedings against "illegal cohabitation" there are certain features which deserve attention of every thoughtful man

who would not have prosecution identified with persecution. The third section of the Edmunds' law reads as follows:

That if any male person, in a Territory or other place over which the United States has exclusive jurisdiction, hereafter cohabits with more than one woman, he shall be deemed guilty of a misdemeanor; and on conviction thereof shall be punished by a fine of not more than \$300, or by imprisonment for not more than six months, or by both said punishments, in the discretion of the court.

At first blush this would seem to be intended by our virtuous law-makers to strike at unlawful cohabitation *in any form*, whether practiced by Mormon or Gentile, in a western Territory or in the District of Columbia. But, bless your innocent heart, whatever may have been the intention of the legislators, the judiciary stood ready with a convenient definition. The first move was in the form of oath prescribed by the so-called Utah Commission, appointed under the Edmunds' law, and required to be taken by legal voters before they could register or vote, in which occur these words:

That I have not violated the laws of the United States prohibiting bigamy or polygamy; that I do not live or cohabit with more than one woman *in the marriage relation.*"

Consequently cohabitation *outside* of the marriage relation did not disqualify anyone. Every pimp was admitted into full civil fellowship with the most saintly Gentile. The churches and slums rejoiced together, victory was theirs. But lo! when the election returns were received, it appeared that while all polygamists were debarred from voting or holding office, the Legislature were all Mormons. The Utah Commission, in their report for 1884, are compelled to make the following admission:

Three fourths or more of the Mormon adults, male and female, have never entered into the polygamic relation, yet *every* orthodox Mormon, *every* member "in good standing" in the church, believes in polygamy as a divine revelation. *This article of faith is as much an essential and substantial part of their creed as their belief in baptism, repentance for the forgiveness of sins, and the like.*

Consequently it became difficult to secure witnesses, and in fact there have been but very few convictions under the act for polygamy. Many Mormons determined to obey the law relating to cohabitation, and lived henceforth with one wife only. But *law*, the "sanctity of law," must be enforced even if it were necessary to give a new meaning to the words used in the act. The court not only held that the intent of the act was solely to reach the Mormons, but they

gave a new definition of the word "cohabit." Judge Zane, in the Angus M. Cannon case, gave the following decision, which has since been confirmed by the Supreme Court, namely:

I am of the opinion that it is not essential to constitute an offence against this law, to show sexual intercourse. It is sufficient to show that a man lives with more than one woman, cohabits with them, and holds them out to the world as his wives. That being so, that he did not have sexual intercourse with them, or occupy the same bed with *either* of them, is no defense and is immaterial, so far as the jury is concerned.

Under this ruling all evidence as to abstinence from cohabitation in the common, or "vulgar," not legal, acceptation was excluded. In his charge to the jury the Judge again laid down the law in these words:

If you believe from the evidence * * * that he *held them out* to the world by his language *or conduct*, or by both, as his wives, you should find him guilty. It is not necessary that the evidence should show that the defendant and these women, or *either* of them, occupied the same bed with the defendant, or slept in the same room. Neither is it necessary that the evidence should show that, within the times mentioned in the indictment, he had sexual intercourse with either of them."

Hence the criminality of cohabitation, in Utah, is by refusal to deny, or even by conduct to give rise to "reasonable belief" in the minds of bitter, unreasoning partisans, that they may be married. And for this end an army of sneaks and informers, with authority of inquisitors to intrude into the privacy of domestic relations with indecent questionings of children and women, becomes a necessity to maintain the "sanctity of law!" If a man "holds out" a woman as one with whom he has entered into solemn covenants not to abandon, even though he remains practically a stranger to her sight; or if he supports a woman in a distant county or territory, and thus gives rise to the suspicion of the horde of spotters, ever eager to pry into the affairs of their neighbors with prurient curiosity that there must be a plural marriage concealed in the relation, he is at once indicted and sentenced for unlawful cohabitation! But if a man has unlawful intercourse, even continuously, with any number of women, then, so long as he does not "hold them out" to the world as his wives, he is not guilty of unlawful cohabitation.

To "protect society," a man who has entered into solemn marriage obligations to protect the women with whom, as wives, he may have sexual relations, is sent to prison; while he who practices gross

immoralities, yet abstains from specific pledges, goes free! To "protect society," a premium is placed upon the abrogation of sacred *contracts*, under a law that the courts admit was not enacted "in the interests of morality!" To "protect society" District Attorney Dickson said: "It was a matter of history that the Mormons did not cohabit together without a form of marriage, and it was *alone this form of marriage* and the practice under it, and *not sexual sins*, that Congress was legislating against! To "protect society" an American Jeffries abrogates a Mormon's right to "an impartial jury" by so ruling that the jury is packed to convict; officially announces that the object of the law is to remove such examples, "to compel them to *put away* their wives, to "cause a breaking up of their family relationships"! Finally, to "protect society," young women are plied with indecent questions by profane deputies, or pulled from their beds in their night-clothes "to see if there was a man there;" a system of terrorism inaugurated; women arrested upon suspicion of being pregnant, and haled before a grand jury of anti-Mormon men to be plied with prurient inquiries into details, and children made to understand subjects beyond their tender years! Paraphrasing Madame Roland's famous apostrophe, we may well exclaim—"O Society, Society, what crimes are perpetrated in thy name"—by law!

It is a matter of record,—as in the Ames case,—that a man having seduced his wife's sister and a child being the result, was arrested on the complaint of his victim and bound over by a U. S. Commissioner to await the action of the grand jury, upon a charge of unlawful cohabitation, but being unable to furnish bail was committed to prison—he being a non-Mormon was taken by habeas corpus from the custody of the U. S. Marshal and discharged, the federal Chief Justice holding that the few acts of sexual intercourse in private, in the absence of "public repute" of holding out the victim as his wife, did not constitute unlawful cohabitation.

Per contra, it is a matter of record—as in the case of Lucy Deveaux, a Mormon—that a young woman has been sent to the penitentiary for refusing to answer these questions:

1. Is not your little girl's name Mulzeta Maud Newsom?
2. Who is the father of your little girl?
3. Is not Wm. D. Newsom the father of your little girl?
4. After you went to live at Newsom's house did you not occupy the same bed with him?

The only hypothesis upon which the questions can be insisted upon is that the answers might lead toward proof of a marriage, for

her character as a *Mormon* prevented all other suspicion, or to unlawful cohabitation according to the "holding-out" theory. Why should such evidence be ignored in the Ames case, and sought with vindictive oppressiveness in that of Newsom, and the lady compelled to answer questions which would not be tolerated here by any justice of the peace?

It is a matter of record—as in the Musser case and many others—that jurors of admitted licentious habits have been accepted, and conviction secured for acts committed *before* the passage of the Edmunds' act. All the evidence showing the act to have been *ex post facto*, it was held to be sufficient to establish the "general repute" of "holding out," and the prisoners were convicted accordingly. Again, when asked by Mr. Musser for instructions *how* to so live as not be subject to punishment, Judge Zane replied:

You may live with either one, as you choose, providing that you live with her as your wife, even though she might not be your lawful wife.

But for his manly refusal to repudiate the others, though he did not *live* with them, as we understand the word, he was convicted. Is it a wonder that the Mormons compare such Judges to the vindicator of the "sanctity of law" who once sat upon a bench in Babylon and sentenced three Hebrew youths for "holding out" against the idolatrous customs of their contemporaries?

It is a matter of record that the Mormons have been disfranchised in Idaho *en masse*. Governor Bunn, in approving an act prescribing a test oath specially designed to exclude all believers in the Mormon religion, says expressly, "The Mormons must either purify their organization or cease taking part in the affairs of the government;" while a Judge in Arizona, Howard, states that it requires but little law and less evidence to convict a Mormon.

Fred Dubois, U. S. Marshal of Idaho, previous to the trial of a number of Mormons at Blackfoot, made the following startling declaration: "I have now got a jury that will convict every Mormon brought before it on a charge of unlawful cohabitation, *innocent* or *guilty*. It would convict Jesus Christ Himself if He were brought into court on that charge." Subsequently Marshal Dubois was subpoenaed as a witness in an unlawful cohabitation case, and being placed on the stand, was asked by the attorney for the defendant to state whether he had made the remark alluded to. After a moment's hesitation he said: "Well, I guess I did say so."

It is a matter of record that a United States officer, Deputy Mar-

shal Vandercook, and others, having been arrested, tried and convicted of "lewd and lascivious conduct," upon the evidence of eye-witnesses to the acts alleged, have been released under habeas corpus by Judge Zane. The accused, including an ex-United States Commissioner, ex-Assistant U. S. District Attorney and others, although convicted upon positive evidence, were acquitted by Chief Justice Zane upon appeal. He said that the city ordinance was valid, but then proceeded to destroy its force by declaring that acts to be punishable must be committed publicly, and, inferentially, that the grossest lewdness can be carried on under the guise of privacy. To not misrepresent we quote from the decision. The Judge said:

The word indecent was substantially the same as lewd. It did not refer to single acts, but to a repetition of acts, openly and publicly scandalous. It did not have reference to private acts. * * * If an act were committed before the public, it offended decency; but if in private, it had no such effect. * * * The defendant is discharged.

It is a matter of record that the man who was chiefly instrumental in bringing these lecherous officials to trial—B. Y. Hampton—was indicted and convicted of conspiracy, although the truth of the charges was not denied but fully sustained; and that, further, in view of the imminent peril conviction would bring upon other moral crusaders against the Mormons, the clergy of the city, with the exception of the Catholic, united in a vigorous denunciation of the "conspiracy on the part of the Mormon officials" to collect reliable evidence "to blacken the character of public men. The attack on Christian ministers has begun." *O tempora! O mores!* They thus not only cried out before they were implicated, but threw their clerical robes over men concerning whose *moral* crime there was no rebutting evidence!

It is a matter of record—as in the Dean case, April 27, 1886, and others—that the first and legal wife has been compelled to testify against her husband unwillingly in order to secure conviction. And again—as in the White case, May 17, 1886—a legal and only wife is compelled to give evidence against her husband to convict him of cohabitation with another wife who died before the indictment was found.

It is a matter of record—as in the Royal B. Young case and others—that although the evidence showed the relation to have been purely platonic by mutual agreement from the date of marriage, yet the indictments were made cumulative, and the victim convicted on several counts for the same offense, and sentenced to the full term

of six months and full fine on each count. To quote the charge of Judge Power:

The offense of cohabitation is complete when a man, *to all outward appearance*, is living or associating with more than one woman as his wife. An indictment may be found against a man guilty of "cohabitation," *for every day*, or other distinct interval of time, during which he offends. Each day that a man cohabits with more than one woman, *as I have defined the word cohabit*, is a distinct and separate violation of the law, and is liable to punishment for each separate offense.

It is a matter of record—as in the case of Apostle Lorenzo Snow—a man may be arrested and convicted of "cohabiting" with his wives, some of whom he had not seen since the Edmunds' act went into effect, and convicted in the absence of all evidence, save that he was "a leader of leaders." In fact, the judge seemed in his charge to hold Mr. Snow culpable for not living in cohabitation; and this gray-haired man, past the three-score-and-ten allotted to man, with wives long since past child-bearing, is sentenced to eighteen months' imprisonment upon three indictments, and convictions for virtually the same offense—"holding out!"

If Lorenzo Snow, "a leader of leaders," could be sentenced for having strictly followed the advice of the Court given to Mr. Musser, to live with only one woman as his wife, what mercy could be expected for Presidents Taylor and Cannon? Mr. Cannon's well-known sterling integrity and executive ability rendered him to the crusaders a dangerous man to be at large. Mr. Cannon's long residence in Washington as Territorial Representative in Congress, has made his name and figure familiar to many in the East. The writer lived in Washington for several years and personally knows that Mr. Cannon stood above reproach in all that constitutes character. A charge of misdemeanor was brought against him, and a reward of five hundred dollars was set upon his head. He was arrested while absent on a mission, and great was the glee manifested over the fact. Although the alleged evidence rested upon the slenderest authority, he was placed under the extraordinary bond of \$25,000; two other charges being trumped up against him, he was held in \$10,000 each, making the enormous sum of \$45,000 for what Congress had declared to be punishable by imprisonment not exceeding six months or by a fine of not more than \$300! Witnesses were arrested on the Sabbath day and held in bonds varying from \$2,500 to \$5,000. Every attempt was made to fasten upon him as many charges as could be scraped up with the avowed intention

through segregated cohabitation cases to wear him out, ruin him in person, property and influence, and boasts freely made that he was to be sent to an Eastern prison under an accumulation of sentences which would be equivalent to imprisonment for life.

When juries are carefully selected from among Mormon enemies; when the law is so interpreted that "general repute" becomes evidence of criminality; when the demand of the Prosecuting Attorney is invariably echoed by a pliant Judge as a decision; when the well-known animus of the officials to "cage Cannon" is taken into consideration; when the Prosecuting Attorney is said to have openly asserted to his friends that indictments would be found enough to confine the prisoner for thirty years, and that he would be dead before the time was out; when indictment is equivalent to conviction, and grand jurors who have refused to bring indictments for segregated cases of the same offence have been sternly lectured from the befouled bench and discharged; what reasonable ground has any man to believe that Mr. Cannon could secure "a free and impartial trial by jury?"

That Mr. Cannon forfeited his bail bonds under such circumstances is not a matter of surprise; and the only surprise in the matter would be to find a single individual, Mormon or Gentile, where he is known, who would believe for a moment that his bondsmen would thereby be left pecuniarily in the lurch. George Q. Cannon had been marked for a prey to the "majesty of law," his very virtues making him a more shining mark.

What the Judges are before whom he was to appear we have seen. What the Prosecuting Attorney is, unfortunately, is a matter only too well known to the people of Utah. They have known him seek to force to immediate trial an invalid wounded and seriously sick; to shut a lady up in a room with a debauched deputy, to be insulted at his mercy; to compel virtuous mothers and maidens to appear before a grand jury to be plied with indecent questions which would call a blush to the cheek of any honorable man; to question young girls under the age of puberty concerning their own parents; to stand as the guard and legal bulwark of "private" licentiousness while honorable men, who refuse to "hold out" women, who have trusted them, as prostitutes and their children as bastards, are sent to prison with thieves and murderers.

Almost every charge brought by the colonies against the crown in our Declaration of Independence can be paralleled in Utah against the federal government. Judges as unjust as Jeffries befoul its

bench, and a vigor as vindictive as was displayed toward the Huguenots of France by the courts of Louis XIV., or by the courts of Henry VIII. and Elizabeth toward Catholics, prevails in Utah. As I have stated polygamy is not the issue—that is but the illusory cry of a host of lecherous and speculating adventurers hungry for the spoils they anticipate when the Mormons are worn out, and the fruit of their industry and thrift falls into their grasping hands. Louis XIV., Henry VIII. and Elizabeth, like the Roman Emperors before them, had an eye single to the “majesty of law.” The requirements of the State have sanctioned every persecution, whether of the religious heretic who denied the faith of his rulers, the political heretic who denied the sanctity of the crown, or, as now, the social heretic who denies the validity of the dictates of Mrs. Grundy in both religious and economic matters. In the Special Report of the Utah Commission for 1884, we find a short passage which reveals the source of bitterness on the part of the small minority who alone can act as jurors on these cases. Listen:

Nearly all of the agricultural land is already occupied, and it is very evident that Utah can never support a large population. The present population is estimated at 160,000, about four-fifths being Mormons. The people are generally engaged in agricultural pursuits, chiefly in a small way, relying mainly on irrigation. Prior to the completion of the trans-continental railway through Utah in 1869, there were very few non-Mormons in the Territory. Since that time the business of mining has become an important interest, several of the most valuable mines of silver and lead in the West being located there. Besides, there are some gold mines and valuable deposits of coal, iron, copper, and other minerals. The mines give good employment to a great many persons, and have been the means of attracting a considerable *non-Mormon population*. Many of the non-Mormons (or Gentiles) are doing a prosperous *business in banking, mining and mercantile pursuits*. Candor requires us also to say that personal security and property rights appear to be as inviolate in Utah as in any of the States or Territories. However, business men of small capital, *among the Gentiles*, complain of dull times by reason of the clannishness of the Mormons in trading with each other rather than with the Gentiles.

That bankers, miners and merchants should violently complain of dull times in a community based on co-operation as a fundamental principle, need not astonish us, neither does the fact that Mormons prefer trading with each other in preference to their traducers. Corporation, and the individual merchant buying in the cheapest market and selling in the dearest, have struck hands in Utah against

the social heretics who retard their avaricious rush for gain by eliminating the selfish factor, in a great measure, from their social system. Whatever may be the *conscience* of the mining speculator, the banker computing usury, or the tradesman haggling over his wares; whatever may be the *conviction* of the official and unofficial lawyers educated to make the worst appear the better reason—for a fee—the conscience and conviction of an honest man must go out to the struggling people so cruelly assailed under the pressure of competition to secure legal privilege and advantage over one's fellows, the sole competition existing to-day in channels of trade.

With these apostles of the modern gospel of greed, willing to sacrifice anything for personal profit, we find arrayed the Protestant Church.

The Church, as our spiritual guide, has grossly neglected her duties and wallowed in the mire of self interest; and, instead of exercising a spiritual power to overcome greed with nobler motives, she has struck hands with the disorganizing influence of selfishness, rewarding her shrewdest and most over-reaching members with the Church offices, until "deacon" has become a synonym for far other characteristics than once hallowed the word—conforming in their management to current "business principles," so that it may be said of every new church-building in process of erection that the love of gain on the one hand and human despair on the other, becomes incorporated between every layer of brick, or stone and mortar, until religion bids fair to become a hollow mockery, and its forms of worship but the ritual of a system where legally restricted competition has been deified as the savior of men, and the spirit of greed installed on the throne of the universe to give sanction to the fundamental principle of our Christian civilization: "Every man for himself and the devil take the hindmost!" Success in life has been set forth as consisting in the acquisition of wealth, in the mere accumulation of capital, even though only attainable through the failure of others less shrewd, and national prosperity is said to prevail where the more grasping and avaricious are easily enabled to climb over their fellows and escape from the slough where the great mass must remain, in no wise benefited but often cursed by the individual escapes. This is fast becoming the popular gospel, in fact may be said to be the religion of the State, and for which the State exists; and for its spread the selection of missionaries to extend its baneful influence in once peaceful Utah could not have been made more thoroughly capable of doing its dirty work.

Monogamy, like religion, requires no coercive policy for its preservation. If monogamy, and its constant shadow, prostitution, are indeed essential to the preservation of civilization, have no fears of toleration. The true remedy for the abuses of freedom, said Macaulay, is more freedom.

CHAPTER VII.

WHAT IS THE LABOR MOVEMENT?

THE struggle between the representatives of capital and labor is world-wide. All along the lines the din of strife is heard.

In France, Decazeville and St. Quentin echo with the tread of strikers and troops. In Spain the workmen of Madrid flaunt their rags and demand employment, while their comrades of the rural districts, goaded to desperation, set fire to barns. Even Portugal awakens from its lethargy to witness the strange spectacle of imposing manifestations at various points against taxation, and at Oporto the workmen raised the ominous cry of "Long live the Republic!" In Italy the peasants of the mountain districts are taking the administration of justice into their own hands and rendering the lives of the gentry insecure. In Russia new conspiracies are unearthed and new victims resignedly meet their fate. In Turkey, apparently buried in Asiatic lethargy, the street-sweepers of Constantinople astound the sleepy authorities by striking for their pay. In Germany the gory spectre of revolution is ever present before the statesman's mind. In England, the land of routine and commonplace, the great strikes in the North and the recent Socialistic mob in London makes even the optimist to pause.

In America, strikes and disorders form the current news of the day; from the Atlantic to the Pacific the air seems charged with an exhilarating ingredient which inspires men's thoughts with new purposes. Day by day the lines are being drawn closer and closer. Capital, alarmed, seeks to deny to labor the right of organization. Labor, feeling the strength of partial organization, takes on a new and independent tone. As passions are excited and temper aroused, wisdom too often is unheard while ignorance cryeth aloud. Compare the public feeling to-day with that of ten years ago, before the Pittsburgh riot startled the country from its dream of centennial grandeur and peace; we seem to have passed into a new age. These signs are but sporadic manifestations of the growing discontent. As in all pre-revolutionary days they are indications of a coming struggle, and yet men talk of an equitable adjustment of the strained relations between capital and labor through the use of force.

Any system requiring force to sustain itself, is already judged in advance.

In the opening years of the French Revolution all statesmen were seeking an equitable adjustment between authority and liberty, striving to attain a happy twilight medium between light and darkness which would yet give satisfaction to each. None sought a republic, yet almost before the ink on the adjusting protocol was dry, the republic was proclaimed. The logic of events always leads men; the process is never the reverse. In 1775 the Colonists sought an equitable adjustment of their differences with the crown. The boycott on tea was deemed an extreme step. Then came the Boston Massacre, and as the smoke rolled away over the land, independence was born. Again in 1861, thoughtful men were seeking a new compromise between antagonistic principles in order to preserve the Union. A shot was fired at the flag on Fort Sumter and the North became solid.

We are passing through similar scenes. The demands of the future are arrayed against the entrenched customs of the past. We are growing into a state where the arrogance of those who stand by the past and would repel progress, or the ignorance of those who while unconsciously representing the future are yet human in their passions, may precipitate a conflict which will stain the pages of the history of this century with the blood of slaughtered victims. As has been well said, compromises are incipient suicides. It behoves us to understand the fundamental principles involved in the conflict, for the contending forces in the seething crucible of social life are beyond men's control. What will be the outcome it were rash to say, but in what direction all the tendencies of progress lead is not a matter of prophecy.

Let us make the subject a personal one. You work for wages. Are they increasing? Is your position a guaranteed one, or is it dependent upon uncertain conditions and a fluctuating market? Are you to-day satisfied, or are you striving for something better? In short, it is a personal question. A very few years ago such questions would have been idle; to-day they find receptive ears. Is there not in this fact a pregnant meaning? Do you not realize that times have changed since our civil war, if your memory goes back beyond that event? You are a mechanic: Have you the opportunities now that there were then for the man of small means to start for himself? Is not the small manufacturer, the small trader being driven to the wall? Can the capital of a few hundred dollars compete with that of millions? Is not your daily routine becoming a fixed one? You

feel the lines drawing yearly closer which hold you in the rut of wage labor; you realize more and more the lack of opportunity to escape by raising yourself above your fellows; you look ahead to old age and can see no relief unless it be a seat beside a son's or daughter's hearth to eat the crumb of dependence, while they are following the same weary round where your strength was worn out. On every hand you find gigantic changes going on in production, as in the startling fact that in the past fifteen years the whole power of mechanism in our country has doubled, having risen from 2,300,000 horse power in 1870, to 4,500,000 in 1885.

As an American, you of course read the papers. You read of strikes and lockouts; of suffering communities struggling for better remuneration. In your walks you meet with idle men who would work as gladly as yourself if the law of demand would permit, and you read with a pang the statement of the National Labor Commissioner that over one million men are in enforced idleness. You are familiar with the tenement-house quarters of our cities, perhaps necessarily so. You know its influence on health, on the morals of your children, on the happiness of your family circle. As an American, I ask you is this continued discontent the necessary outcome of our republican institutions? Is there virtue in the constitution to heal the existing antagonism between the representatives of capital and labor. Is there power in *political* legislation to remove the *economic* cause which compels you to bring up your children in a human bee-hive? Will the ballot restore the faded cheek of your wife or preserve the bloom of health on the faces of children doomed to factory toil? In other words how can political remedies secure economic results?

Let us weigh existing remedies before considering new ones. Was your father a wage-worker before you in this land of the free? Is your condition better than his was? If so, has it been acquired by reason of your political freedom? You may attend church. Whatever religion may have done for your moral nature, has it done aught for your economic condition, other than too often inculcating contentment and submission? Whatever may be the love and veneration you entertain for the church of your fathers for spiritual consolation, you know better than to look there for this relief. Is it not equally true that political freedom has done absolutely nothing to better your economic condition? You feel that neither the realm of religion nor politics intersect that of economy under our present industrial system.

You have mental freedom, but long years of conflict and blood-

shed were necessary to establish it. You fully recognize the *right* of every one to the free use of his reason; that there can be no greater blasphemy than the denial of freedom of thought; that what was once deemed the sacred prerogative of God is now the treasured right of self. In the realm of mental relations you deny coercive authority and proclaim liberty. You also inherit political freedom. Our fathers achieved it with their swords. It is a legacy of which we are proud, nor would I undervalue it; nor, on the other hand, should we overvalue it.

Mental freedom! political freedom! These are acquired. We need not contend for these; they are ours. But economic freedom! Ah! here we attain to a glimpse of the lines of progress. Since the sixteenth century humanity has been tending to wider personal freedom. It is the trend of progress, and there has been a consequent restriction of authority of man over man. Since then political questions have largely replaced religious ones in the governments of the world until the present century. To the men of the seventeenth century religious freedom seemed all that could be desired, and that the line of progress henceforth must be towards its greater extension, by extorting new safeguards, establishing new guarantees. So thought men; not so Humanity. Toleration once secured, the logic of events would prevent reactive measures from being successful. A principle once victorious, the standard is ever pushed on to new fields of conflict.

The eighteenth century presented political questions for consideration, free, largely, from the religious phase in which they had been clothed; questions not to be settled by religious methods. Men read Junius, Rousseau, Paine. Political freedom was the spirit of the age, and the great thinkers of the times were those who best caught its meaning and translated into intelligent speech, rendering explicit that which had been unconsciously implicit in the human mind. Washington and Kosciusko in two continents gave it voice. In France the beating hearts of men long used to repression felt a new thrill. When the head of Louis XVI. rolled from the guillotine, the descending blade severed the fiction of divine right to govern. Could not force arrest the cause of progress? Could man used to oppression dare to resist authority sanctified by "divine right?" In vain! in vain! The advancing tide could not be checked. The dykes were broken! The flood came and the empty fiction was swept away. The people triumphed over authority because they gave voice to the spirit of the age. The fitting occasion was offered and success attended the effort. The Bastille, that

sombre incarnation of authoritative Force, the visible symbol of the divine right of man to govern man, was destroyed.

July 14, 1789! It was the opening of a new era in the martyrdom of Man. "It is a revolt!" exclaimed the astonished monarch. "Sire," answered Lemoignon, "it is a revolution!"

Another century is nearing its close. Has it also a new spirit leading on to broader freedom? Has it a new Ideal, another standard than that of the past, seeking expression in action? Does it also contend with authority and force? If so the public questions which have characterized our century must attest it. Are they religious? Assuredly not. Are they political? Such we have thought them to be, but each year proves that they are more and far broader. The spirit of an age is ever the assertion of a great principle not yet attained. The living issue, the legitimate successor of its predecessors is Industrial Freedom. All the great questions of this century, since England began factory legislation in 1802, have been *economic*. Corn laws! Freedom of commerce! Tariff! Colonization! Strikes! Co-operation! All have the same inspiration in various degrees of intelligible articulation. The Chartists of England felt its breath when they stained the field of Peterloo with their blood. In 1830 it was faintly heard in the streets of Paris; in 1848 it moved the pulses of thousands and found audible voice. In 1871 its cry rang out and its flag was unfurled to shake the thrones of Europe. Drowned in blood it still serves to awaken a thrill in the breasts of millions—ominous prophecy of the future.

State patriotism is as obsolete as church creeds to move men to action. Nations still go to war, but it is now for a *market*. England and Russia contend for Midland Asia. France, Italy, Germany, Spain, all are seeking new colonial dependencies from economic reasons. It is a question of exports and imports. The productions of labor must find an outlet to new markets; foreign granaries must be secured to satisfy craving stomachs of workmen at home. Home producers cannot always buy that into which they have too often hammered or woven their lives. A foreign market must be sought, and won, by the sacrifice of other lives. The 110,585 boys and girls under thirteen years of age in England's textile factories may be ragged and pinched, but British fabrics must be exported to keep them in bread.

Two score years ago the tariff was a vital question in our land; to-day it is but a superficial one, of value only to political gamesters. To-day the desperate struggle of all European powers for a foreign market has rendered it a dead issue. Shall we protect, that is, en-

deavor to advance happiness, by curtailing freedom? Then we abandon foreign markets which our growing population increasingly demands and bend under "over-production." Shall we have free trade? Then Labor must fall to the universal level. In the one case we starve from the want of a market, in the other the same fate awaits us in the struggle for one!

Where then is the remedy? Politics offers none. Our political state is based on the present economic condition of things. The ballot can determine a choice of methods only; it cannot strike deeper. To do so would endanger vested interests, disturb proprietary rights, violate commercial contracts, jeopardize established institutions, unsettle law and order, peril religion itself! Still the cry of the age grows in distinctness; still angry men band together to secure shorter hours of toil, or to look on the gleaming bayonets of the militia on guard. The terrible struggle of States for economic advantage is the wrestle of despair to avert the inevitable doom statesmen foresee and dread. It is a death struggle where failure is inevitable to some. The politico-economic State has grown aged; it is in a moribund condition; only new methods can restore its arrested circulation. The hand of Progress has written the warning message upon the wall; the meaning of history attests its interpretation—wider freedom; mental, political, economic! In the living gospel of Progress we found our hope, in living Humanity we again behold Christ incarnate, and in its coming advent our future life. The old bottles answered to hold the old wine of politics, but are now bursting under the pressure of the new vintage.

We now see that the spirit of the age is not a new standard, a new Ideal, but the same one shifted from the field of political, to that of industrial relations. All questions resolve themselves on final analysis to the fundamental one: Liberty or Authority; freedom or force. And he who has a clear conception of the meaning of history will not hesitate to align himself on the side of the future rather than the past, with progress rather than with reaction. The living question of the present is that stated in the preamble of the constitution of the Knights of Labor as "the abolishment of the wage system," a problem the Mormon has alone solved.

If all present questions are, and have been, purely economic, in what sense was the late rebellion of the Southern States such? And as the question has a direct bearing on the Mormon problem it merits attention. A quarter of a century ago I enlisted in response to the call for troops. For three years I gave my services for the defence of my country. "Our liberties were at stake!" Could I

hesitate? Young and ardent I looked forward to the time when my infant child should have become a school girl, a young woman, a wife and mother. While others would recall with pride that their fathers fought for national liberty, she should not hang her head speechless. It was the logic of patriotism. In response to its dictates I gladly served in defense of "the flag of the free!" To-day I view the graves of my comrades fallen with different emotions. Looking back over the score of years since I returned to enjoy a perpetual pension of water and air, the delusion has vanished. The question is *not* asked: "Did your father enlist?" Nay, more, my doubts extend further. I ask myself for what I fought? Liberty? Preservation of the Union? Or rather for the changes which every civil war entails; the enrichment of speculators ennobled by the patent of an army contract; or, taking advantage of national necessities, the manipulation of the money of the country for private ends; the centralization of authority, the tendency of industrial enterprise to concentrate into monopolies?

The fallen are honored—once a year. The survivors live to wonder at their past delusion. In preserving the Union we created a new union—of capital. Not that of legitimate capital with *free* competition and equal opportunities, but entrenched behind legal enactments and overriding competition through control of conditions. We enlarged the bounds of political freedom by embracing the emancipated freedmen as equals—in industrial bondage. Through the influence of the conqueror's sword the "freedmen" owe the economic change from the selling of the worker to the highest bidder to the selling of his work to the lowest bidder! We restored law and order with the bayonet, and made the fashion permanent.

The industrial system of the North, characterized by its *freedom* from all responsibility to labor, had been crossed in its path by slave labor in the territories. The cry of the North, the animating soul of its system, was that fierce struggle for precedence and advantage miscalled competition, and carries with it as a consequence cheap labor. Cheap labor brought business, commercial activity and the extension of modern civilization. The economic pressure behind was too great to admit of compromise. They were rival industrial systems which had met in the same path, and one must give way.

The war followed. The economic conditions of life suffered a violent change. A vast army had to be clothed and fed, and contractors found there a rich harvest. Great loans were necessary and speculation became inoculated into the fever of business life. The demand for labor increased, and lists of American wages were pub-

lished in foreign lands by our consuls to induce immigration, lest dearth should check production. In this general industrial prosperity the farmer sought a share. Government was called in to aid in the extension of great highways of communication.

The dominating genius of the North—private greed—was incited by prodigal gifts of land as indemnity for capital advanced, and the people's heritage was quickly swallowed up. The South failed and reconstruction ensued. To-day, South and North alike admit the fundamental principle of our industrial system, the corner stone of our economic structure: *Free labor is cheaper than slave labor.* Employers without responsibilities could find new fields for enterprise when the system which entailed responsibilities was once removed. The South are converted; the poverty of a factory population is no longer an Eastern peculiarity. The gray meets blue in hearty unison to draw dividends and cut coupons. They have found free labor the *cheapest*. Wages still follow the old economic law, *the cost of subsistence*, and irresponsibility for sickness and old age follows freedom from employer to employee. Why should not the South have wept over Grant's bier?

The civil war had opened new paths to fortune, incited new passions, and found means to gratify them. The same changes which the conquest of Carthage and Greece introduced into the Roman Republic have been introduced here. We have had our Punic war and see it followed by reckless extravagance, profligacy, and an aristocracy of wealth. And it is for the further extension of this that the cry has gone forth that the Mormon must go!

O, trusting fetich-worshiper! have you a faith greater than that which can remove mountains, to believe that with your ballots you can reach and modify the economic laws underlying even the electoral system? Do you propose to vote down the growth of the limbs when you carefully water the roots? Can the ballot affect the amenities of social life, alter the laws of chemical affinity, abolish the correlation between wealth and power? But you say, if we hold together we may, by the ballot, limit the power of capital! So it has been said: "If fishes were gold, all would take to the water!"

Yet neither are true. In the later case, you would find on the banks of each stream the placard: "No Trespass!" In the former case, even admitting a possibility no whit more probable, you could only succeed in deranging economic conditions, withdrawing capital from enterprise, and introduce general distress and misery more keen than yet seen. Ballots might destroy or derange, but in whatever number cast could not give confidence. It is cheapness of

means and prospect of profit that calls forth capital from its hidden coffers. The system and its methods are one. The issue is not how to reform abuses and retain cheapness. The nineteenth century is not called upon to discover how by ballot we may secure "a fair day's wage for a fair day's work" without striking at the tap-root of the tree where cheap labor is the life-giving sap. The question is a fundamental one, reaching below our whole social system, and is not to be solved by the application of surface emollients.

The Mormons have solved the problem for themselves and are offering a passive resistance to oppression. American workmen are banding together with similar economic motives to supplant our industrial system by one based on co-operation and arbitration. Will they, like the Mormons in their struggle, feel the weight of oppression? Time will tell. Both are unconsciously marching in the same direction; both have received the same inspiration.

From God to man the sceptre passed, but progress did not halt. The priestly amulet and the kingly crown no longer have mystic power in government. We calmly label them and hang them in our museums as curiosities. Under the economic conditions which the present century ushered in, the dream of our fathers has not been realized. The *purse* has succeeded the crown as the symbol of authority. In our efforts to secure, through thorough organization and passive resistance, the inauguration of a better system, wherein there will be a full and free co-operation and labor receive "a full, just share of the value or capital it has created," let us bear in mind the ties of industrial affiliation by which we are connected with the persecuted Mormons. The same spirit that is striving in the halls of Congress to devise new and more despotic measures to crush the Mormon industrial system, is also plainly visible in the recent decision of our courts in relation to boycotts. The Mormon is free to worship God *if* he will not endanger profits! We are free to organize *if* we will be content to remain home and suck our thumbs. The same rod which has lashed them, and which is now being fashioned into a more deadly club to break down co-operation and arbitration in Utah, is now being turned to the same end nearer home.

Any people who may be proven to rely on the great features of co-operation and arbitration as cardinal factors in their social system are, however, unconsciously our friends and allies. To-day Congress, so silent to petitions and demands of working men and women, easily finds time to draft new bills to crush the distant Mormon, to convert happy homes into scenes of discord, and extend commercial prosperity at the cost of the introduction of poverty and misery.

We have a right to insist that there shall be no more legislation in the nature of Coercion acts for Utah, until a full and fair investigation has been had by a competent Commission. Barren as may be the result of a thorough investigation at the hands of the politicians who could alone compose a Congressional Committee, even in their hands facts hitherto purposely concealed would be brought out, and the economic aspect of the problem brought into clearer relief. This at least we have a right to demand of the men we see fit to intrust with the responsibilities of our representation. In the meantime, while witnessing the growing aggressiveness of capital and its firmer hold acquired over legal processes, the shameless suberviency of the judiciary to its selfish interests, and the hearty alliance between the befouled bench and the political representatives of the people, we may gain a sterner resolve not to weaken in this struggle, the heir of the ages,—industrial independence.

If the facts I have given in the foregoing pages tend to awaken interest in the social system of the Mormons, if it incites a deeper interest in their attempt to solve the social problem of the age, and if above all it will lead a few to protest against condemnation and persecution before investigation, the writer will have accomplished his purpose.

In the present chapter I have made an attempt to outline the nature and significance of the so-called labor movement. How near it is akin to the Mormon question you will determine, as well as whether the signs of the times indicate the approach of a legal crusade in the East to bolster vested wrongs and to intrench injustice.

Shall we meet the blow with Mormon passiveness? However dissimilar the Mormon Saint and our workingmen, still underlying the social question which in reality constitutes the secret spring of antagonism to both, there is the spirit of the nineteenth century urging men on, the voice of the living future crying out against the voice of the dead past, living demands of the present arrayed against the entrenched privileges of the dead. Can the issue be doubtful?

Doth Progress halt as on revolve the ages

In man's sad martyrdom to power's behest?

Has Freedom yet no goal foreseen by sages,

No broader vision worthy earnest quest?

Did Progress cease when Luther's fight was ended,

Or when the king from his high throne descended,

Bequeathing heirs of want and sorrow blended—

The toiling millions—but a deafened ear?

Or is the dream that stirs our inmost being
To larger vision and clairvoyant seeing,
A phantom riddle e'er before us fleeing,
Unanswered and unanswerable here ?

Blot out the thought ! vile offspring of man's greed
That prates of peace when profits are in danger;
As long as toilers live in enforced need,
Freedom unto their lives is e'er a stranger.
Freedom of thought ! It was a bold endeavor,
And millions fell ere mankind could dis sever
The fatal bonds which held mankind forever
Benumbed and lifeless in its iron grasp.
Yet onward in the van with exultation
Freedom, despite the bigot's lamentation,
Led freemen forth to further immolation,
With blood-red hand to other laurels clasp.

When Capet's head rolled 'neath the scaffold's blade,
And France redeemed rose from her nightmare slumber;
When Yankee patriots marched o'er hill and glade,
That tyrants should no more our shores encumber—
Did we attain to Freedom's full fruition
In paving paths for partisan ambition,
While millions still lay bound in serf condition,
The economic slaves of self and greed ?
Nay ! ballots bring to such no reparation,
Nor ease to bear the iron condemnation
That wages bring, condemned to degradation,
To unrequited toil and life of need.

The battle is not o'er, the means of life
From avaricious hands must yet be wrested;
The right to think and vote ends not the strife
When right to bread in other hands is vested.
The priest has passed, his fatal bonds are riven,
The monarchs flee, by people's wrath out-driven,
And Church and State, to scheming traders given,
In terror stand confronting Freedom's van.
The toiling millions see the bright day breaking,
The scheming few, in law entrenched, are quaking,
For Freedom dawns and strong men are awaking
Resolved to end man's martyrdom to man !

Admission of Utah.

LIMITATION OF
STATE SOVEREIGNTY BY COMPACT WITH
THE UNITED STATES.

An Opinion

GIVEN BY
GEORGE TICKNOR CURTIS.

NEW YORK:
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BY HART & VON ARX.

1887.

OPINION.

I have been requested to give my opinion on the Constitutional validity of certain clauses in the proposed State Constitution for Utah relating to polygamy and bigamy.

These clauses are the following :

ART. XV.—SEC. 12. Bigamy and polygamy being considered incompatible with "a republican form of government," each of them is hereby forbidden and declared a misdemeanor.

Any person who shall violate this section shall, on conviction thereof, be punished by a fine of not more than \$1,000 and imprisonment for a term not less than six months nor more than three years, in the discretion of the Court. This section shall be construed as operative without the aid of legislation and the offences prohibited by this section shall not be barred by any statute of limitation within three years after the commission of the offence; nor shall the power of pardon extend thereto until such pardon shall be approved by the President of the United States.

It will thus be seen that this provision requires for its operation no legislation whatever, but that indictments can be found under it and punishments inflicted, and the pardoning power in respect to the offence is limited by a check in the hands of the President of the United States.

This Constitution contains an article prescribing the manner in which amendments must be framed and adopted. But the power of amendment is limited by the following proviso, expressly drawn and devised so as to prevent any amendment or change in the anti-polygamy section without the assent of Congress :

Provided, That Section 12 of Article XV. shall not be amended, revised, or in any way changed until any amendment, revision or change, as proposed therein shall, in addition to the requirements of the provisions of this article, be reported to the Congress of the United States and shall be by Congress approved and ratified, and such approval and ratification be proclaimed by the President of the United States, and if not so ratified and proclaimed, said section shall remain perpetual.

My opinion has been requested upon the question whether the proposed check on the pardoning power, which this Constitution would vest in the hands of the President of the United States in the case of an offence prohibited by a State Constitution, and the proposed limitation on the power of amending the Constitution in regard to the polygamy and bigamy denounced by Section 12 of Article XV., are consistent with or repugnant to our system of government. This question of the limitation of a State sovereignty by a compact between the State and the United States is, in the precise aspect in which it here

arises, a new one ; but it is not a new question in principle, and there are precedents which will not only afford important aid in its solution, but which are conclusive.

As preliminary to the discussion of this question it will be useful to say something respecting the nature of the political system formed by the Union of the States under the Federal Constitution. The framers of that Constitution made a great discovery in the science of government, to which they were led by the consideration that the States were independent political communities, although then united by the Articles of Confederation for certain purposes common to them all.

The grand effort of the Federal Convention of 1787, which framed the Constitution of the United States, was to make a system of government for the Union, which, while having certain specific powers ceded to it by the people of each State, would still be consistent with the preservation of the State sovereignties in all other respects. The discovery that was made in the process of forming the Federal Constitution was that sovereignty, which, in our American sense, means only the political authority of the people, is divisible according to the subjects on which it acts ; that some powers of government can be vested in one class of public agents, and all others can be retained by the people in whom they primarily reside ; and thus that the individual inhabitants of separate political communities can be acted on by two distinct governments, each of which has its appropriate sphere. But this mode of constituting a mixed political system required that the Federal, or central government, should, by express provision, be made supreme and paramount in the exercise of all the powers ceded to it by the people of the several States. That the people of the several States would retain all the original and inherent powers not parted with by cession to the Federal Government was assumed to be a fundamental implication, resulting from the fact that the powers granted to the Federal Government were specific, described, limited and enumerated, and did not comprehend all the powers of sovereignty. But when the Constitution, as originally framed and promulgated, came before the people of the several States for adoption and ratification, they were not content to leave this very important matter to implication ; they demanded an express reservation of all the powers which were not to be ceded by the people of the several States to the Federal Government, or which they were not to be prohibited from exercising. Accordingly the Tenth Amendment, adopted in 1789-91, was made to declare :

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

By this reservation, every State remains a self-governing political community, in respect to its own inhabitants, in every relation in which those inhabitants are not by the Constitution of the United States placed under the authority of the Federal Government.

It is this mass of rights, privileges and powers not vested in the Federal Government, but retained by the people of each State, that constitutes the State sovereignty. It follows as a necessary consequence from this system, that the people of every State in this Union have under their entire control every relation of their inhabitants that is not under the control of the United States, by reason of some provision in the Federal Constitution. With the domestic relations of their inhabitants the States can deal as they see fit.

There is another marked and prominent characteristic of our political system evinced by the provisions of the Federal Constitution. It is that each State, by and through that Constitution, enters into compacts and agreements with all the others. They are prohibited from making agreements with each other without the consent of Congress; but they may and do covenant perpetually and irrevocably, by and through the Constitution of the United States, that the Federal Government shall have and exercise all the powers ceded to it by their assent to the Constitution, and that no State shall exercise any power prohibited to it by that instrument. The idea, therefore, of compacts, covenants and agreements between the separate States, as members of the Union, and the United States as the representative of all the States collectively, is imbedded in the Federal Constitution, and forms its principal strength. It is what gave the Federal Government authority to vindicate and assert its own existence and powers against an attempt of certain States to break the compacts which they had respectively made with the United States when they ratified and adopted the Constitution.

The 10th section of Article I. of the Constitution contains the prohibitions which it has laid upon the States. Some of these prohibitions are absolute; others relate to things that can be done only by the consent of Congress. Every one of them, both those that are absolute and those that are conditional, relate to things that every State would have a perfect right to do if it had not covenanted with the United States, in and by the Constitution, that it will not do them. But the prohibitions owe all their force, all their obligation, all their restraining efficacy, to the compact which every State has made with all the others, collectively styled the United States, whereby each State has limited its own sovereignty in

certain respects over which it would otherwise have retained full control.

It follows from this statement, as a legitimate deduction, that such a covenant, entered into between the several States and the United States, clothes the Federal Government with authority to enforce the prohibitions when a State undertakes to break the compact into which it has entered. Take, for example, one of the absolute prohibitions: "No State shall enter into any Treaty, Alliance or Confederation." If any State were to do what is thus prohibited, is it to be supposed that there would be no remedy? that the United States would have no constitutional power to prevent the operation of the treaty, alliance or confederation? Take one of the conditional prohibitions: "No State shall, *without the consent of Congress*, lay any duty of tonnage, keep troops or ships of war in time of peace." It is not to be imagined that if a State were to undertake to do one of these things the United States would be powerless in the matter. And if it is asked what the remedy would be, I answer that it would not be by Federal action against the State itself in its corporate, political or sovereign capacity; it would be by appropriate legislation to reach, restrain or punish individuals who should undertake to carry out the will of their State in respect to a thing that it had covenanted that it would not do or attempt to do. This authority, which results necessarily from the right of the United States to execute every part of the Constitution, rests for its foundation on the compact that every State has made with the United States that it will not exercise its own sovereignty in certain matters, but that in those matters it has submitted its own sovereignty to the control of Congress.

Commencing, then, with the frame-work of the Constitution alone, we find that it is largely and primarily founded in irrevocable compacts between each State and the United States, whereby every State has diminished its own sovereignty in certain important particulars. Other examples of the diminution or limitation of the State sovereignties will be found in the amendments adopted after the close of the Civil War, some of which largely curtailed the previous State powers. These curtailments and diminutions of State sovereignty rest on compacts made by the several States with the United States.

What, then, is to prevent a new State, or the people of a proposed new State, when they present themselves for admission into the Union under a Republican Constitution, from doing that which every State did when it ratified and accepted the Constitution of the United States, whether it was one of the original thirteen States, or was one that came into ex-

istence as a State since the year 1789? Is it said that the renunciations of State sovereignty which were made by the States when they entered the Union under the Constitution were made by all alike, and related to matters of common concern, whereas a matter that is peculiar to the social condition or situation of a proposed new State is not of that character? This would be a begging of the question; for the question here is what compacts in diminution or limitation of its own sovereignty is it constitutionally competent for any State to make with the United States? Must it be one that every other State has made or ought to make, or wishes to make? Or, if it is one that is peculiar to the situation of the proposed new State, growing out of the present or past social condition of that people, is it excluded from the category of agreements and covenants that a State can make with the United States? The precedents that will be cited in the course of this opinion answer this question emphatically in the negative.

Although it has sometimes, and generally, been the legislative practice of Congress, when admitting new States into the Union, to declare that they are admitted on an equal footing with the original States in all respects whatsoever, yet the Constitution does not require this declaration. It simply provides that "New States may be admitted by the Congress into the Union." The equality is an incident of the admission; which imports of itself that the State, after it has become a member of the Union, is to enjoy all the rights and privileges of such membership. But this in no way affects the conditions on which Congress may see fit to grant the admission. It is not necessary that those conditions should be such, and such only, as have been made with every other State that has been admitted under the power given in Section 3 of Article IV. Equality of membership in the Union means that every State shall enjoy the same rights and privileges as every other State. One of the rights of every member of the Union is a right to make covenants and agreements with the United States in any form in which the parties can unite. If, when it enters the Union, a new State makes a covenant with the United States in diminution or limitation of its sovereignty, in a way in which other States have not limited or diminished theirs, the new State is not placed in the Union on an inequality with the other States. There is no inequality in respect to any right, privilege or standing as a member of the Union. To use the present case as an illustration:

The people of Utah propose to covenant with the United States, in their State Constitution, that the State Executive shall not grant a pardon to a person convicted of polygamy or bigamy, without the con-

currence or the President of the United States; and that they, the people of the State of Utah, will never amend or change that part of the Constitution which makes and punishes the offences of polygamy and bigamy, without the consent of Congress. Why have they offered to make this compact? Because there is a peculiarity in their past social condition which requires that, in order to remove a possible objection to their admission into the Union as a State, they shall make this compact in diminution of what would otherwise be their unlimited sovereign right to change their Constitution in this respect at their own pleasure. It has nothing to do with the Constitutional validity of this compact that other States have not made it, or have not been in the same situation, or have not had the same motive. This will abundantly appear from the precedents which are to be cited.

I have always regarded Section 3 of Article IV. of the Constitution of the United States, as the source and the only source of the power of Congress, not only to admit new States, but to create and govern those peculiar dependencies which have come to be denominated "Territories," but which should be kept in that condition no longer than is necessary to allow of their development into communities fit for the rights and privileges of Statehood. It is thirty years since I had occasion to study this part of the Constitution and the legislation under it with peculiar care; and although the result in the case of *Dred Scott*, in the argument of which I took part in the Supreme Court of the United States, in 1856-7, was not what I hoped for and endeavored to bring about, I venture to say that the doctrine for which I then contended and which was accepted by Justices McLean and Curtis, is now almost universally conceded by Constitutional lawyers in all parts of the Union. The doctrine was this: That Section 3 of Article IV. of the Constitution, primarily designed to provide a legislative authority and process for bringing new States into the Union, clothed the Congress of the United States with a plenary legislative power to dispose of the public property denominated "the territory" of the United States, as well as all other property of the United States, and with a plenary legislative power to form the settlers on the public domain into political communities and to govern those communities so long as they should remain in a state of pupillage or preparation for admission into the Union as States.*

*"The Constitutional Power of Congress over the Territories." An argument delivered in the Supreme Court of the United States, December 18, 1856, in the case of *Dred Scott*, plaintiff in error, *v.* John F. A. Sandford, by George Ticknor Curtis: Boston, Little, Brown & Company, 1857.

But as the formation and admission of new States was the primary design of the section, it follows that Congress is placed under the obligation of a public TRUST to permit such communities to become States, and to bring them into the Union as States when the people desire it, and they have sufficient population and resources to sustain a State government, republican in its form and spirit. It is not a proper discharge of this public TRUST to keep any Territory indefinitely in the condition of a Territory, thereby keeping open a field for the continued exercise of Federal patronage and power. Territorial government is not self-government; and although it is necessary for a certain period for Congress to govern the settlers on the public domain—a period that may vary in different cases—yet where the Territorial community has become so large and so prosperous that its people are entirely capable of governing themselves, it is contrary to the spirit of our institutions and in my opinion to the intent of the Constitution, to withhold from them the full panoply, rights and privileges of Statehood, and to keep them in subjection to a distant power over which they have not even a partial control, as the citizens of every State in the Union have.

But so long as it is necessary for the Territorial condition to continue, so long Congress properly discharges the public TRUST imposed upon it by the Constitution, when it determines what shall be the social relations within the particular Territory, while it remains a territory. This is just as much within the province of Congress as it is to create the machinery of a Territorial government, and accordingly it was, and rightfully, the practice of Congress, in organizing a particular Territory, to prescribe whether the condition of slavery, or involuntary servitude, for example, should or should not be allowed therein. This continued to be the practice down to the time when the existence of slavery in Territories took on another form of public controversy; and undoubtedly the power of Congress, as the precedents presently to be cited will show, was exercised both for and against slavery, according to varying circumstances; and the authority of Congress to act either way could only be referred to Section 3 of Article IV. of the Constitution. It is to the same source that the power to enact the laws against polygamy in the Territories, which began to be enacted in 1862, and were re-enacted in 1882, must be referred.

But this matter of polygamy in Utah, where it has existed for forty years, and for a large part of which period it was practised without any interference on the part of the Federal Government, and under circumstances evincing at least great public indifference concerning it, has

now assumed an entirely new aspect. Of the voters of Utah who are Mormons in religious faith—a class of religionists whose religious belief is supposed to sanction polygamy—about 95 per cent. cast their votes at a recent election in favor of the Constitution, the provisions of which on the subject of polygamy are quoted at the head of this opinion. But few of the so-called “Gentiles” voted on this Constitution. Of the negative votes cast against the Constitution, 504 in number, only about one-half were cast by Mormons. If the Constitution is accepted by Congress as it is presented, and becomes the fundamental law of the new State of Utah, the Mormon population, which is very largely the majority, will be the governing people of the State. They have bound themselves to support and abide by a constitution which will limit their State sovereignty in the matter of polygamy by a public compact with the people of the United States. The question whether this will be a valid, efficient and Constitutional compact, must be largely determined by the precedents which have been made when other new States have been admitted into the Union under certain conditions.

It is obviously immaterial, when a new State is admitted into the Union, whether the proposal of a peculiar condition or special compact on a particular subject, is first suggested by Congress, or is brought forward by the people who ask for admission under a Constitution which they present. In either case, if the Constitution, after it has received the sanction of Congress, contains a certain limitation of the State sovereignty, a compact has been made between the State and the United States, and the preliminary question is, whether it will be a valid, efficient and Constitutional compact or condition of admission into the Union, by whomsoever proposed. On this question the precedents will throw a flood of light.

The precedents to which I shall refer divide themselves into two classes. The first class comprehends cases which illustrate in a very striking manner the mode in which Congress at an early period dealt with slavery in particular Territories of the United States. These early cases are three in number: the first being that of Tennessee; the second is Mississippi; and the third is the Territory of Orleans.

On the 2d of April, 1790, Congress accepted a cession of the claim of North Carolina to a certain region of country west of that State which afterward became the State of Tennessee. One of the conditions of the deed of cession was “*that no REGULATION made or to be made by Congress shall tend to emancipate slaves.*” (Statutes at Large, vol. I., p. 106.) In this cession, North Carolina assumed that Con-

gress had power to regulate slavery in a Territory ; and using the very word "Regulation" which the Constitution employs as synonymous with *Law*, the State of North Carolina lays the United States under a restriction with respect to the Territory of Tennessee. Congress, by an Act passed May 29, 1790 (Stat. at Large, vol. I., p. 123), organized a Territorial Government *upon the conditions of the deed of cession*. Here then was a compact made between the United States and the State of North Carolina, that in governing this Territory of Tennessee Congress would make no law tending to emancipate slaves. The otherwise unlimited sovereignty of the United States to govern Territories was in this instance limited by a compact with the State of North Carolina. This occurred in the Presidency of Washington, John Adams being Vice-President, Jefferson Secretary of State, Hamilton Secretary of the Treasury, and many of the framers of the Constitution being in Congress. The fact that Congress limited the sovereign authority of *the United States* in this particular case of Tennessee, does not make a difference in principle from the case of a compact limiting *the sovereignty of a State*.

The next case in chronological order relates to the Territory of Mississippi, which was organized by Act of Congress passed April 7, 1798. The 7th Section of the Act prohibited the importation of slaves into the Territory from any place out of the limits of the United States, leaving, by clear implication, a right to introduce them from places within the United States. The 3d Section made this implication conclusive ; for it excluded the operation of the freedom clause in the Ordinance of 1787, by an exception which prevented its application to Mississippi. When the bill was pending in the House of Representatives, Mr. Thatcher, of Massachusetts, moved to strike out this exception, upon the ground that the Government of the United States originated in and was founded on the rights of man, and could not consistently establish a subordinate government in which slavery was to be both tolerated and sanctioned by law. A debate followed, but the motion to strike out received only twelve votes. The organic Act gave a clear and unequivocal sanction to slavery in the Territory of Mississippi. (Annals of Congress, 5th Cong., vol. 2, pp. 1306-1312.)

Afterward, March 26th, 1804, came the Act to organize the Territory of Orleans. It contained a prohibition against the introduction of all slaves, "except by citizens of the United States removing into the Territory for actual settlement, and being at the time of such removal *bona fide* owners of such slave or slaves ; and every slave imported or brought into the Territory contrary to the provisions of this Act

shall thereupon be entitled to and receive his or her freedom." This Organic Act, therefore, regulated slavery in the Territory of Orleans in both ways—by permission and by prohibition. These two cases of Mississippi and Orleans are cited here, not as compacts made by the United States as in the case of Tennessee, but as evidence that in 1798 and 1804 Congress regarded itself as holding a full legislative authority over the domestic relations of the inhabitants of a Territory, and regulated the relation of slave-owner and slave as it saw fit. When we pass from this point of time (1804) we leave the immediate presence of the framers of the Constitution and their contemporary generation, and come to the first precedent of the second class that will be here cited; namely, the cases in which the people of a Territory have been admitted into the Union as a State, upon some condition in the nature of a compact between the new State and the United States. This first precedent of the second class is that of Indiana.

Indiana was formed out of a part of the North Western Territory which was ceded by Virginia to the United States, and it was organized as a Territory by Act of Congress passed May 7, 1800. It remained a Territory until 1815. Proceedings were then taken for its conversion into a State; and a State Constitution having been framed by a convention of delegates (June 20, 1816), Congress passed a joint resolution admitting the State of Indiana, which was approved December 11, 1816. The joint resolution recited that the Constitution which had been formed by the people of the Territory "*is republican in form, and in conformity with the principles of the articles of compact between the original States and the people and States in the Territory North West of the River Ohio*," passed on the 13th of July, 1787." This recital was followed by the resolution in these terms:

Resolved, That the State of Indiana shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatsoever.

If we recur to the Ordinance of 1787, we find that among other fundamental compacts which it made between the original States and the people and States in the North Western Territory (meaning all future States that should be created therein), there was one that excluded slavery forever. If the Congress which sat under the Constitution in 1816 had not required this restriction to be incorporated in the Constitution of the State of Indiana, the Ordinance of 1787 would not have carried it into operation in that State by its own force. But by requiring the State Constitution to be in conformity with the compacts of the Ordinance, Congress bound the sovereignty of the people.

of Indiana by a compact between that State and the United States. Yet this was not thought to produce any inequality between the State of Indiana, as a member of the Union, and all the other States. It was imposed as a condition of admission into the Union which the people of Indiana were willing to accept and offered to accept.

The next precedent that I shall cite, although four years earlier than that of Indiana, is strikingly in point on the present question. I have stated when the Territory of Orleans was organized. The people of that Territory in 1812 framed a Constitution for a State which they called Louisiana. It was part of the Territory ceded by France to the United States in 1803. The inhabitants were almost wholly of French descent; they spoke the French language, and their public proceedings had always been conducted and recorded in that language, and not in English. This peculiarity of their social condition continued down to the time when they applied for admission as a State. Congress imposed various conditions on their admission; one of which was that their Constitution should provide for keeping the public records of judicial and legislative proceedings in the English language. It was a matter of interest to the people of the United States to have the official language of the State of Louisiana the same that it was in all the other States, although the popular speech was the French tongue, and most of the inhabitants knew no other. But for this restriction, the people of the State of Louisiana could, by their sovereign right of self-government, have recorded their proceedings in what was their vernacular tongue. But because they were required to make, and did make, this limitation upon their State sovereignty, by compact with the United States, it has never been supposed that the State of Louisiana has ever since been in the Union on an inequality with the other States. It is a matter of interest to the people of the United States that monogamy shall be the marriage relation in Utah, as it is throughout all the States. If the people of the proposed State of Utah covenant in their Constitution that polygamy and bigamy shall be a misdemeanor against the State, and that they never will change their Constitution in this respect without the consent of Congress, what inequality would this limitation of their State sovereignty introduce between the State of Utah and the other States? The other States have no such practice as polygamy recognized in their social condition, and no reason and no motive for making or offering to make with the United States any compact on the subject of marriage.

The next precedent to be cited is the memorable case of Missouri, the admission of which convulsed the Union for a time, until, under

the lead of Mr. Clay, Congress, in 1821, settled a condition on which it was to be admitted into the Union; a condition which formed a compact between the State of Missouri and the United States, and one that unquestionably limited a certain provision of the State Constitution, and curtailed one of the State powers.

The Constitution presented by the people of Missouri, framed in 1820, contained the following provisions :

SEC. 26. The General Assembly shall not have power to pass laws—

1. For the emancipation of slaves without the consent of the owners; or without paying them, before such emancipation, a full equivalent for such slaves so emancipated, and,

2. To prevent *bona-fide* immigrants to this State, or actual settlers therein, from bringing from any of the United States, or from any of their Territories, such persons as may be deemed to be slaves, so long as any persons of the same description are allowed to be held as slaves by the laws of this State.

They shall have power to pass laws—

1. To prohibit the introduction into this State of any slave who may have committed any high crime in any other State or Territory.

2. To prohibit the introduction of any slave for the purpose of speculation, or as an article of trade or merchandise.

3. To prohibit the introduction of any slave, or the offspring of any slave, who heretofore may have been, or hereafter may be, imported from any foreign country into the United States, or any Territory thereof, in contravention of any existing statute of the United States.

4. *To permit the owners of slaves to emancipate them, saving the right of creditors, where the persons so emancipating will give security that the slave so emancipated shall not become a public charge.*

It shall be their duty, as soon as may be, to pass such laws as may be necessary—

1. To prevent free negroes and mulattoes from coming to and settling in this State, under any pretext whatever, and

2. To oblige the owners of slaves to treat them with humanity, and to abstain from all injuries to them extending to life or limb.

(Missouri Constitution of 1820.)

The controversy in regard to the admission of Missouri was finally narrowed down to the 4th clause of that part of the proposed Constitution which defined the laws that the General Assembly should be permitted to pass in regard to slavery; namely, the clause above printed in *italics*. On the 26th of February, 1821, Mr. Clay, from a joint committee, reported in the House of Representatives a joint "Resolution providing for the admission of Missouri into the Union, *on a certain condition*," which resolution was passed and approved March 2, 1821. The condition appears in the following proclamation of President Monroe, announcing the admission of Missouri into the Union:

A PROCLAMATION

By the President of the United States.

WHEREAS, The Congress of the United States, by a joint resolution of the second day of March last, entitled "Resolution providing for the admission of the State of Missouri into the Union on a certain condition," did determine and declare "That Missouri should be admitted into this Union on an equal footing with the original States, in all respects whatever, upon the fundamental condition, that

the fourth clause of the twenty-sixth section of the third article of the Constitution submitted on the part of said State to Congress, shall never be construed to authorize the passage of any law, and that no law shall be passed in conformity thereto, by which any citizen of either of the States of this Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States. *Provided*, That the Legislature of the said State, by a solemn public act, shall declare the assent of the said State to the said fundamental condition, and shall transmit to the President of the United States, on or before the first Monday in November next, an authentic copy of said act; upon the receipt whereof, the President, by proclamation, shall announce the fact: whereupon, and without further proceedings on the part of Congress, the admission of the said State into this Union shall be considered as complete." And, whereas, by a solemn public act of the Assembly of the said State of Missouri, passed on the twenty-sixth day of June, in the present year, entitled, "A solemn public act declaring the assent of this State to the fundamental condition contained in a resolution passed by the Congress of the United States, providing for the admission of the State of Missouri into the Union on a certain condition," an authentic copy whereof has been communicated to me, it is solemnly and publicly enacted and declared, that that State has assented, and does assent, that the fourth clause of the twenty-sixth section of the third article of the Constitution of said State "shall never be construed to authorize any law, and that no law shall be passed in conformity thereto, by which any citizen of either of the United States shall be excluded from the enjoyment of the privileges and immunities to which such citizens are entitled under the Constitution of the United States." Now, therefore, I, James Monroe, President of the United States, in pursuance of the resolution of Congress aforesaid, have issued this, my Proclamation, announcing the fact, that the said State of Missouri has assented to the fundamental condition required by the resolution of Congress aforesaid; whereupon the admission of the said State of Missouri into the Union is declared to be complete.

In testimony whereof, I have caused the seal of the United States of America to be affixed to these presents, and signed the same with my hand.
 [L. S.] Done at the City of Washington, the tenth day of August, 1821, and of the Independence of the said United States of America the forty-sixth.
 JAMES MONROE.

By the PRESIDENT.
 JOHN QUINCY ADAMS,
Secretary of State.

One other precedent completes the list of those that need to be cited in this opinion; namely, the case of Nebraska.

The following is part of the Act of Congress which prescribed the conditions on which Nebraska was to be admitted:

Provided, That the Constitution when formed shall be republican, and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence; *and provided further*, That the said Constitution shall provide, by an article forever irrevocable, without the consent of the Congress of the United States—

First. That slavery or involuntary servitude shall be forever prohibited in said State.

Second. That perfect toleration of religious sentiment shall be secured, and no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship.

Third. That the people inhabiting said Territory do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within said Territory, and that the same shall be and remain at the sole and entire disposition of the United States, and that the lands belonging to citizens of the United States residing without the said State shall never be taxed higher than the land belonging to residents thereof, and that no taxes shall be imposed by said

State on lands or property therein, belonging to or which may hereafter be purchased by the United States.

Appendix to the *Congressional Globe*, pt. 3, 1864. 38th Cong., 1st Sess., p. 153.

Extract from the act admitting Nebraska:

SEC. 6. This Constitution is formed, and the State of Nebraska asks to be admitted into the Union on an equal footing with the original States, on the condition and faith of the terms and propositions stated and specified in an act of Congress, approved April 19th, 1864, authorizing the people of the Territory to form a Constitution and State government, the people of the State of Nebraska hereby accepting the conditions in said act specified.

Nebraska. Act of admission, 1867. The Federal and State Constitutions, etc., of the U. S., part II. 2d ed. p. 1212.

From these precedents—and it is unnecessary further to multiply citations—the following appear to be settled as established principles of Congressional action on the admission of new States into the Union:

1st. That Congress can prescribe conditions on which a new State shall be admitted into the Union; and that such conditions do not necessarily relate to matters on which any other State has been required to make provision in its Constitution, but that in each case they may grow out of the particular predicament or situation of the State asking admission.

2d. That Congress may prescribe the conditions in advance, so that when the State Constitution is presented for the approval of Congress, it may be found to contain the conditions; or the people of the proposed new State may themselves, without previous requirement, present such conditions as they are willing to make. In either mode of action, when the conditions have been sanctioned by Congress, and the State is admitted into the Union with those conditions embodied or fulfilled in its constitution, a compact has been made between the State and the United States.

3d. That the compact so made may be one that curtails, limits, or diminishes either the sovereignty of the people of the State, or the power of its legislature, in some domestic matter, or it may be one that concerns some property interest or some right of the United States, or of some other State.

4th. That such compacts, limiting or curtailing the sovereignty of a State, may be absolute, or they may be made in a form that will require the assent of Congress to any change.

Hence it follows, that the proposal of the Constitution for Utah, whereby the people of that Territory, if admitted under this Constitution, would bind themselves never to change their Constitution in respect to polygamy and bigamy without the assent of Congress, would

not be a new and unprecedented compact, but that it would be in the same form and the same terms in which similar compacts have been made with other new States.

The objection, therefore, which has been made to the proposed Constitution for Utah—that the clauses relating to polygamy and bigamy would be of no value, and of no binding force or efficacy, because the sovereignty of a State, after it is once in the Union, cannot be thus controlled—is entirely untenable. Nor is the argument *ab inconvenienti* of any greater force. The question, as a matter of public policy, is whether the polygamy that has existed in Utah for so long a period can most effectually, easily, and with the least irritation be ended by keeping up the Territorial form of government and by Federal legislation, or by admitting Utah as a State under the proposed Constitution, with its prohibition against polygamy and bigamy made operative forever without the previous assent of Congress to any change. The balance of convenience and advantage is by a great weight on the side of admitting the State under the proposed Constitution. It can never be otherwise than inconvenient and embarrassing for Congress to continue to legislate on the subject of polygamy in such a community as Utah, or to deal with the social relations that have grown out of it. It is supposed that the practice of polygamy has arisen out of a peculiar religious faith; and such is undoubtedly the fact. While it is unquestionably true that the legislative power, wherever it resides, can restrain and punish any practice or conduct that is injurious to the welfare of society, although that practice or conduct may be dictated by a sincere religious belief, yet there is always danger of encroachment on the rights of religious belief when repressive measures are resorted to in respect to any practice or conduct that has its origin in or is connected with a religious faith. Hitherto the legislation of Congress against polygamy in the Territories has not escaped this danger; for, in one respect at least, that legislation has been so interpreted and administered by the Territorial Courts in Utah, that the rights of religious belief have been disregarded, because men have been punished in the penitentiary for conduct that was perfectly innocent in itself, and could have been dictated only by a sense of religious and moral duty. Congress could never have intended such a result of its legislation. It has been one of the consequences of the form of Territorial Government, and of the spirit which that form of government is apt to engender in the administration of laws aimed at a particular offence in

a peculiar state of society.* As the alternative to the longer continuance of Utah under the Territorial government, there is now presented a plan for remitting this whole matter of polygamy to the people of Utah themselves, under the guaranty of a public compact with the United States that it shall be forever an offence against the State, and that in this respect the Constitution of the State shall never be changed without the assent of Congress. No reasonable person can doubt that the people of Utah will live up to what they thus promise, because it is plain that they must live up to it after they have made with the United States the compact which they propose.

In regard to the clause which proposes to require the assent of the President of the United States to a pardon of the offence of polygamy or bigamy, there can be no possible objection to it as a limitation of the State sovereignty, if the precedents above cited are to be regarded. In principle, it stands upon the same footing as the compacts which have required the assent of Congress to any change in the conditions on which a State has been admitted into the Union. The only possible objection that can be made to it would be that it might be inconvenient to the President. But this inconvenience would practically be very slight. The convict would know that to obtain a valid pardon, he must get the consent of the State Executive and also the consent of the President of the United States. The State Executive would never be likely to send up a case for the consideration of the President without careful investigation; the papers would come before the President in a shape to enable him to form his judgment very easily; and there would not be imposed upon him an amount of labor to be compared to what he has to perform whenever he is asked to pardon a person who has been convicted in a Federal Court of an offence against the United States. As the pardon of the State Executive must first be obtained, the responsibility resting on the President would be far less than in the case of offences against the United States.

Finally, it is to be noted that the Supreme Court of the United States has expressly held it to be no objection to the validity of a compact made by a State, that it diminishes the State sovereignty. It was so held in relation to a special compact that was peculiar to the situation of the State in question. In 1823 the Supreme Court held that it is not a valid objection to a compact made between two States, with the consent of Congress, that it restricts the legislative power of one of them in certain par-

* See *The Forum* for November, 1887, article entitled "Shall Utah Become a State," for an explanation of the Federal legislation and the mode of its judicial administration in the Territory of Utah.

ticulars. (*Green v. Biddle*, 8 Wheaton, 1. See also *Spooner v. McConnel*, 1 McLean, 337.)

The Supreme Court of the United States has also had occasion to pass upon compacts made between a State and the United States, and has upheld them as valid and binding.

(See *Wright v. Stokes*, 3 Howard, 151 ; *Neal v. Ohio*, *Ibid.*, 720. *Atchison v. Huddleston*, 12 Howard, 293.)

Perhaps it is not strictly within the scope of the opinion that I have been asked to give, for me to point out in what way there would be a remedy, if the people of Utah, after they had been admitted as a State under the proposed Constitution, were to undertake to repeal or change their Constitution, in the particulars in question, without the assent of Congress, and thus to give a tacit toleration or sanction to the further practice of polygamy. This would be a rather wild supposition, inasmuch as such action could give no legal existence whatever to plural marriages, and there is, therefore, no likelihood that they would ever be entered into. But let the supposition be made. Inasmuch as the corner-stone of my position is that the breach of the proposed compact would not be without remedy, I will, in consistency with myself, state what I hold that remedy to be.

There is a clause in the Constitution of the United States which was designed to confer on Congress legislative power to carry into effect every part of that Constitution which requires legislative action for its execution. The clause is the last in Section 8 of Article I., and is in these words :

"The Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

It has never been my tendency to magnify the scope of *implied powers*. But on the construction and operation of the clause just quoted, in the matter now under consideration, I cannot have any doubt whatever. One of the express powers vested by the Constitution in Congress is the power to admit new States into the Union. It has been seen that by a course of very strong precedents this power has been considered as embracing a clear authority to prescribe conditions of admission. Such a steady and uniform practical construction of this power is of very great weight ; and assuming that the power to impose conditions exists in ample authority, because it has been repeatedly exercised without ever being successfully denied, the question is whether Congress is not clothed with authority to make all laws

which shall be necessary and proper to enforce those conditions, in case they are broken. I cannot doubt that it is. The legislation that would be appropriate and necessary would be that which would reach and restrain or punish individuals who should undertake to avail themselves of the State authority or assent to a practice which the State has covenanted with the United States shall not be tolerated in her borders.

Take as an illustration one of the prohibitions resting on the States: "No State shall, without the consent of Congress * * * enter into any agreement or compact with any other State." If any State were to do so, Federal legislation would easily reach, restrain or punish individuals who should do any act in carrying out the unconstitutional compact or agreement, or claim any benefit from it. The reason why we have not had such legislation has not been because it could not constitutionally exist.

Before 1860-61, no State broke a special compact which it made with the United States when it entered the Union. After that period, when some of the States undertook, by secession from the Union, to break the grand compact between themselves and the United States that is embraced in the Constitution, we had abundant Federal legislation to reach, restrain and operate upon the inhabitants of those States; and it will not do at the present day to question the fundamental principle on which much of that legislation was based.

It has been urged that a preferable mode of dealing with polygamy would be by an amendment of the Constitution of the United States, rather than by admitting Utah under the proposed State Constitution. An amendment was introduced in the last Congress, which was drawn in the following terms:

SEC. 1. The marriage relation, by contract or in fact, between one person of either sex and more than one person of the other sex, shall be deemed polygamy. Neither polygamy nor any polygamous association or cohabitation between the sexes shall exist or be lawful in any place within the jurisdiction of the United States or of any State.

SEC. 2. The United States shall not, nor shall any State, make or enforce any law which shall allow polygamy or any polygamous association or cohabitation between the sexes, but the United States and every State shall prohibit the same by law within their respective jurisdictions.

SEC. 3. The judicial power of the United States shall extend to the prosecution of the crimes of polygamy and of a polygamous association or cohabitation between the sexes under this article, and Congress shall have power to declare by law the punishment therefor.

SEC. 4. Nothing in the Constitution or this article shall be construed to deny to any State the exclusive power, subject to the provisions of this article, to make and enforce all laws concerning marriage and divorce within its jurisdiction, or to vest in the United States any power respecting the same within any State.

The objections to this proposed amendment may be thus summarized :

1st. The Constitution of the United States should not be amended without some public necessity, to accomplish an object of common concern to the people of the United States, which cannot be accomplished as well, or cannot be accomplished at all, by some other method. Multiplication of Constitutional amendments, and the invocation of the necessary machinery, are very undesirable.

2d. No State in this Union has ever had any practice of polygamy among its people, as a recognized social relation, having its origin in or being in any way connected with a religious faith, or having its origin in anything else. The crime of bigamy, sporadically occurring, and always clandestinely, is punished by State statutes, and needs no Federal interference. The normal and unchangeable relation of marriage in all the States is monogamy : and no State is in any peril of polygamy, or needs to invoke the aid of the United States to prevent any change in its civilization in this respect.

3d. Polygamy is a practice that has existed as an open and recognized relation between the sexes only in two or three of the Territories of the United States. It has existed more extensively in Utah than in any other Territory, but it is a well ascertained fact that even in that Territory, where a large majority of the inhabitants hold the religious faith that is supposed to sanction this form of the marriage relation, only two or three cases of prosecution for new polygamous marriages have come before the criminal courts of the Territory in the past two years, under the Federal statutes. To put in motion the machinery of amending the Constitution of the United States, in order to end this social evil in a certain locality, rather than to rely on the provisions and compacts of the State Constitution proposed by the Mormon inhabitants of Utah, would be manifestly inexpedient and unnecessary. •

4th. The proposed amendment of the Federal Constitution is objectionable in the following particulars :

Section 1, which prohibits polygamy in any State, proposes to interdict something that does not now exist in any State, and is in no likelihood of ever existing there.

Section 2 requires every State to prohibit polygamy within its jurisdiction, although in every State a polygamous marriage is now bigamy by statute law.

Section 3 extends the judicial power of the United States to the prosecution of the crime of polygamy, although that offence is now a crime in every State against the State itself.

Section 4 introduces what would be found to be an embarrassing confusion between the State jurisdiction over marriage and divorce, and the proposed Federal jurisdiction over polygamy.

All the sections 1, 2 and 3 introduce, beside the definition of polygamy, the undefined and uncertain offences of "polygamous association or cohabitation between the sexes." Polygamy is easily defined as the marriage of one man and more than one woman. Polygamous association or cohabitation between the sexes is either a needless tautology, or, if it was intended to make a distinct offence, the framers of the amendment have not defined it, and they probably could not. What comes of leaving the definition of "cohabitation" to judicial interpretation, as an offence distinct from polygamy, has been abundantly and cruelly illustrated by the judicial administration of the Federal statutes in Utah, where men who did not live with any plural wife have been consigned to the penitentiary for supporting and showing perfectly innocent and harmless attentions to women whom they married long before there was any law prohibiting such marriages.

Speaking as a citizen of the United States and of one of the States of the Union, I should be unalterably opposed to a cession to the Federal Government of any power to regulate the marriage relation, in any form, in the States. In the Territories and in the District of Columbia, the United States have now all the authority over the marriage relation that is needful, and in respect to the Territories more authority than has been wisely used. I should gladly do anything in my power to end what polygamy remains, in a merciful and Christian spirit; and, speaking as a lawyer, I have no hesitation in saying that the compact which the Mormon inhabitants of Utah now offer to make with the United States would be, in my judgment, perfectly valid, consistent with our system of government, and efficient for everything that can be desired.

GEO. TICKNOR CURTIS.

NEW YORK, Oct. 25, 1887.

Dec. 16, 1873
3
Utah and Statehood.

Objections Considered.

SIMPLE FACTS PLAINLY
TOLD.

With a Brief Synopsis of the State
Constitution.

BY A RESIDENT OF UTAH.

NEW YORK:
PRINTED FOR THE AUTHOR
BY HARRIS & SONS.

1882.

UTAH AND STATEHOOD.

The Utah question has assumed a new phase since a constitutional convention, composed of "Mormons," formulated an organic act providing severe penalties against bigamy and polygamy, and, under its provisions, made arrangements to apply for admission into the Union as a State. The first attempt by the Mormons to obtain the rights and privileges of Statehood was made when they colonized that part of the Great American Desert now known as Utah. As early as 1849 they sent their delegates to Washington and applied for admission into the Union. Utah was organized as a Territory in 1850, and on three occasions since then State Constitutions have been framed by the citizens through their elected delegates, and Congress has been asked to give Utah the rights and privileges of free government. This request has not been favorably considered, but the territorial bonds have been tightened, and stringent legislation has been enacted for the purpose of eradicating polygamy from the social system of the Territory. Utah has often been urged to provide against polygamy by constitutional provisions, and assured that, on doing so, her claims to recognition as a free and sovereign State would no longer be disregarded.

POLYGAMISTS OUT OF POLITICS.

Recent laws of Congress have disfranchised every polygamist and all the women voters in Utah. They are out of practical politics. Only registered citizens can vote, and they are required to take a test oath that they will obey the laws of the United States, and particularly those against polygamy and the sexual crimes forbidden by law. The monogamous Mormons, then, who form the very large majority of the population, have now the local political control. They called the Convention which formulated those provisions relative to polygamy which Congress is called upon to consider. The delegates to this Convention were elected at mass meetings held in every county, to which citizens of every political party and opinion were invited. The non-Mormons, under strong pressure from anti-Mormon leaders, refrained from taking part in the proceedings.

STATE PENALTIES AGAINST POLYGAMY.

The new Constitution was framed July 7, 1887, and ratified by popular vote on the 1st of August, on the basis of the Constitution adopted in 1882, but with the following new and important provisions :

ART. XV.—SEC. 12. Bigamy and polygamy being considered incompatible with a "republican form of government," each of them is hereby forbidden and declared a misdemeanor.

Any person who shall violate this section shall, on conviction thereof, be punished by a fine of not more than one thousand dollars and imprisonment for a term of not less than six months, nor more than three years, in the discretion of the court. This section shall be construed as operative without the aid of legislation, and the offenses prohibited by this section shall not be barred by any statute of limitation within three years after the commission of the offense, nor shall the power of pardon extend thereto until such pardon shall be approved by the President of the United States.

Article XVI. relates to Amendments, and is in the usual form, but has the following proviso :

Provided, That Section 12, Article XV., shall not be amended, revised or in any way changed, until any amendment, revision or change as proposed therein shall, in addition to the requirements of the provisions of this Article, be reported to the Congress of the United States and shall be by Congress approved and ratified, and such approval and ratification be proclaimed by the President of the United States, and if not so ratified and proclaimed said section shall remain perpetual.

These provisions were designed to meet every objection previously raised against Statehood for Utah. They are rigid, severe and practically irrevocable. The State Legislature cannot alter them. A convicted polygamist cannot escape their penalties by the clemency of a Mormon Governor, nor can the Constitution in these respects be amended by a Mormon vote.

OBJECTIONS.

But it is now argued that these very provisions are insurmountable obstacles in the way to Utah's admission as a State. First, because they are different from anything in the Constitutions of other States. Second, because they limit the State sovereignty and thus place Utah on an unequal footing with the existing States. Third, because future citizens of the State cannot be bound by present irrevocable compacts. Fourth, because no such powers as those sought to be vested in the Congress and the President are conferred by the Constitution of the United States. And it is intimated that the Mormons are not sincere in this movement ; for, it is asked, how can polygamists consistently legislate against polygamy ? and if the Mormons are sincere, why do they not abolish polygamy first and seek for statehood afterward ? and further, why does not the Mormon Church renounce the doctrine and practice of polygamy ?

These objections should be considered without prejudice. They directly affect the welfare of a large body of citizens, and indirectly of the whole United States.

UNIFORMITY NOT REQUIRED.

To the first objection the answer is, exact uniformity in the organic acts of the several States is not required by the National Constitution or the genius of our institutions, except in the particular that they must each provide for "a republican form of government," and must not conflict with the Constitution of the United States. The new Utah Constitution does provide for a republican form of government, it is modeled after the latest instruments of that character, and it contains nothing forbidden by or antagonistic to the "supreme law of the land."

LIMITATION OF SOVEREIGNTY.

Second, every State has had its sovereignty limited in certain respects by concessions to the General Government. This is the basic principle on which the several original States became united as a nation. That limitation has not been the same in the formation of every existing State. The difference between them was not thought to have the effect of placing them on "an unequal footing." Examples of this may be found in the enabling acts of Louisiana, Indiana, Texas, Nebraska and other States.

The sovereignty of Louisiana was specially limited by a provision in its Constitution, required by Congress as a condition to its admission into the Union, that its public records should be kept in the English language. No such requirement was made of any other State, because there was no necessity for it. The people of Louisiana spoke French, and it was desirable that the records should be kept in the same language as those of other States. Indiana was required to have a Constitution not only "republican in form," but "in conformity with the principles of the articles of compact between the original States and the people and States in the Territory Northwest of the River Ohio, passed on the 13th of July, 1787." This bound Indiana not to establish slavery, and therefore limited its sovereignty in a different manner to the limitations in the existing States. When Texas sought admission into the Union the condition was required that new States, not exceeding four in number, should, by the consent of the State of Texas, be formed out of the Territory thereof, those formed south of thirty-six degrees thirty minutes north latitude to be admitted into the Union with or without slavery as the people might determine,

and in those north of that line slavery to be prohibited. Nebraska, among other conditions to admission, was required to provide in its constitution "by an article *irrevocable without the consent of the Congress* of the United States: *First*, That slavery or involuntary servitude shall be forever prohibited, etc."

These citations show that new States have been admitted into the Union with different requirements, and with their respective sovereignties limited in differing particulars. Also, and this answers the third objection, they were required to bind themselves and did bind themselves, "by irrevocable decree without the consent of Congress," to establish certain provisions which were binding upon future citizens of those States. But this was not considered as placing either of them on an unequal footing with other States. A special provision, then, limiting the sovereignty of Utah, will not be unusual in principle though it may be different in form to other such limitations, and will not place Utah on an unequal footing with other States; and if it would, there is nothing in the Constitution of the United States requiring, as some people suppose, that new States shall be placed "on an equal footing with the existing States."

POWERS OF CONGRESS AND THE PRESIDENT.

Fourth. The people of Utah make no attempt to impose any duty upon Congress or the Executive. If there is nothing in the National Constitution vesting such powers in either as the Utah Constitution contemplates, there is nothing in that instrument that can be construed legitimately as forbidding their exercise; and should Congress for any reason, or without offering any reason, refuse or neglect to act on a proposed amendment to the polygamy section of the Utah Constitution, the effect would simply be that the amendment would not be valid. So, if the President should decline to act on an application for the pardon of a convicted polygamist, the prisoner would have to serve out his term. The country would not be injured, no right or privilege of any State would be invaded, no prejudice or custom or regulation of the people of the United States would be trampled upon, but polygamy would remain punishable and unpardonable. This, it would seem, is the very result which the country desires, and is therefore not open to popular objection.

VARIOUS AMENDING PROVISIONS.

The right to provide for the manner of amending a State Constitution rests in the people who frame and adopt it for their own government. There is no constitutional regulation to establish uniformity

in this particular. Some State Constitutions require a two-thirds majority vote of the Legislature and of the people, others require but a bare majority. In the State of Delaware it is requisite that the affirmative vote shall equal a majority of the largest poll cast at any of the three preceding general elections. This has bound the posterity of the people who adopted the Delaware Constitution, and has recently defeated its amendment, although the affirmative votes were an immense majority, for they fell short, by a few hundred, of the necessary constitutional number. It is said the framers of the original provision boasted that they had "locked the instrument and thrown away the key;" this was not considered an objection to the admission of Delaware, and therefore, a peculiar provision as to amendments in one particular should not be viewed as an objection to Utah's admission into the Union.

RESERVED RIGHTS OF THE PEOPLE.

One indisputable principle remains unassailable in all the controversy that has arisen on this question: Whatever may be said as to the lack of power in Congress to impose unusual requirements on newly formed States, **THE PEOPLE** of those incipient States have *the reserved right to limit their own sovereignty* by agreement with the General Government—that is, with all the existing States—and to make their own provisions as to amendments, pardon of convicts, etc., in any manner they choose, so long as they violate no principle of the Federal Constitution.

ARE THE MORMONS SINCERE?

The intimation that the Mormons are not sincere in making these constitutional provisions against polygamy is but a suspicion, or a conjecture. It is not an argument, and does not rise even to the dignity of a prediction. No one can tell what the State officials will do until the State is admitted and opportunities are afforded them to act. There is no more substantial reason to assert that the State of Utah will not be governed by the provisions of its own Constitution than there is to say this of any other State. The history of the Mormon people is fatal to this bare suspicion. In the financial and commercial world their business obligations stand unimpeached. Trade with them is eagerly sought, and their reputation for meeting their engagements is unexcelled. This is endorsed by the best houses and corporations in the country. It is admitted by the most pronounced anti-Mormons, and cannot be controverted. The Government has shown its estimate of Mormon character by offering freedom from imprisonment to

Mormons convicted of supporting and living with their plural wives, who would promise to obey in future the laws as construed by the Courts. Their verbal agreement was considered a sufficient guaranty of future conduct. And the fact that most of those convicted persons declined to give their word to something they could not conscientiously perform, as it would involve the repudiation and abandonment of women and children to whom they were bound by powerful obligations, and thus refused liberty at the expense of honor, speaks volumes in support of their sincerity, and gives striking evidence and solid assurance that they will live up to their expressed agreements.

Congress cannot consistently refuse a large body of citizens the common rights of large communities in this free land, on a mere conjecture. Without substantial reasons for predicating Punic faith on the part of the Utah people, the possible repudiation of their own enactments is not to be evoked as an imaginary spectre to increase prejudice and frighten statesmen into an act of political injustice. The legal and logical presumption is, that the people who have framed and adopted the provisions which have been demanded by public sentiment will enforce them as part of the supreme law of the State in the same manner as all other laws are executed. This is all that should be required or will be expected by reasonable men in or out of Congress.

ARE "POLYGAMISTS FORBIDDING POLYGAMY?"

The idea that in this movement for Statehood "polygamists are legislating against polygamy" is a great mistake. The Convention that framed the Constitution and the 13,195 male citizens who voted for its adoption, are not, and have not been polygamists. They had all taken the oath provided in the Act of Congress of March 3, 1887, which excludes from the polls all persons who have violated the laws relating to polygamy, and who will not swear they will obey the laws in future. They represent the great majority of Utah's population. They are the voting power of the Territory. The total vote of all classes at the last General Election was but 16,640, the reduction having been caused by previously mentioned restrictive congressional laws. When these people, then, are asked to put away polygamy before seeking for Statehood, their reply is: "We have never entered into it, we do not propose to enter into it; we ask for our rights as American citizens who have broken no law, and who have done all that is possible to uphold and perpetuate the law."

THE IMMEDIATE SUPPRESSION OF POLYGAMY.

There is much more involved in the summary abolition of polyga-

my than is thought of by those who demand it before Utah is admitted into the Union. Relationships have been formed during the past forty years—many of them before there was any statute of the United States against polygamy, which cannot be destroyed or ignored. There are plural wives to be supported, children to be provided for and educated, many family interests to be considered. Social chaos is not desirable. Cruelty and wrong are not demanded by the rational and humane. The discontinuance of polygamous marriages is what the country asks for; not the destruction of homes and the misery of the innocent. This is provided for in the Utah Constitution as strongly and effectually as it can be done by statute. No objector has yet been able to show what more in this direction the voting citizens of Utah can do. It cannot be expected that an organic act will be turned into a full code of laws on any subject. Offences growing out of the polygamous relation must be left to the treatment of the Legislature. Enactments against unlawful cohabitation and sexual crimes of different grades are not exactly suitable to a State Constitution, the provisions of which are general.

THE CHURCH AND THE STATE.

It must be obvious to every reflecting mind that the Mormon Church can cut no figure in this political movement. The Government of the United States cannot treat with a Church. Congress can make no compact with an ecclesiastical organization. The Mormon Church has not interfered in this matter, and it has no business to interfere. One of the provisions of the new Constitution is :

There shall be no union of Church and State, neither shall any Church dominate the State.

What people hold as a matter of belief is not to be considered in a matter of legislation. So long as unlawful overt acts are not committed, faith in any form is perfectly free under the National Constitution. This is not a question of religion but of politics. The law-abiding voters of Utah as citizens, not as members of a Church, ask for the rights and privileges of citizens, and offer the best guaranty in their power of their devotion to the institutions of the country ; that is, their past conduct and the solemn compact for the future contained in the proffered Constitution. Nothing can be urged against their plea that will stand the test of reason or obtain support from precedent. Prejudice alone can prevail in refusing their fair request. Justice cries aloud in their behalf. Wisdom suggests the sound policy of settling a vexed question in the only effectual way, the republican way, by transferring it from national to local means of solution.

THE PROPOSED SIXTEENTH AMENDMENT.

The proposition to postpone the admission of Utah until an amendment is made to the National Constitution providing against polygamy, will be seen on examination to be inexpedient. Every State in the Union has already protected monogamy by law. Utah, if admitted, will be more pronounced against polygamy than the other States, having made it penal by Constitutional provisions. Thus the whole country will be united on this question without further action, and the Federal Constitution will not be hampered with a needless amendment, nor commence to interfere with matters which properly belong to the individual States. When Congress is armed with power to intrude into those domestic affairs of the several States which peculiarly belong to their respective jurisdictions, a dangerous change will have taken place in the very genius of our system of government. It will be time enough to consider the propriety of such an amendment as that proposed, when a State of the Union establishes polygamy by law or neglects to enforce constitutional or legislative provisions for its suppression.

CONDITION OF UTAH.

The population of Utah numbers nearly 200,000. It is composed of industrious, thrifty and temperate people, the masses of whom have not violated the laws of the United States. They have given ample proofs of their capacity for self-government. Their Territory is out of debt. Their cities and towns, their farms and fields, their factories and workshops, their trade and commerce, their order and co-operation, speak eloquently for their vigor, enterprise and skill. They have been the pioneers of civilization in the Great West. They have carved a State out of a desert and made possible the speedy establishment of several States in the surrounding wilderness. The anomalous territorial system cannot be much longer maintained, and to deny them the common privileges of citizens under the Constitution of the United States would appear to everybody with reason as unnecessary and unjust, if it were not for the social custom which has been actually practised by but comparatively few of their number. This they now propose to punish by local regulation. They mean what they say. No one can doubt this who has made impartial personal inquiry. The monogamists, who alone hold the political power, declare they will rigidly enforce the anti-polygamy provisions. The disfranchised polygamists say they expect those provisions to be enforced and will accept the situation.

A GRAND OPPORTUNITY.

This is the great opportunity for which the most thoughtful of our national statesmen have been waiting. It will relieve the country of an embarrassing and perplexing problem. There is no other way to settle it effectually. Admit Utah into the Union with State provisions against bigamy and polygamy, and the object desired will be achieved. Reject her, after her people have yielded to the wishes of the Nation, and what good result will be accomplished? There is something more involved than the admission of a new State into the Union; it is the settlement of a question that has puzzled legislators, philosophers, social scientists, and thinking people in every part of the country. Now is the time to dispose of it in a peaceful, constitutional and rational manner with a due regard both for the interests of a large body of citizens respectfully asking for political liberty, and of this great nation which should be just and can afford to be generous.



SYNOPSIS OF THE UTAH STATE CONSTITUTION.

The Constitution of the State of Utah, in its Bill of Rights, forbids the union of Church and State; the domination of the State by any Church; a religious test for voters, office-holders or witnesses; excessive bail; laws abridging the freedom of speech or of the press; imprisonment for debt; discrimination against foreigners as to rights of property, &c.

It protects the right to worship God according to the dictates of conscience; the right of trial by jury—five-sixths may render a verdict in civil cases; representation according to population; the uniform operation of general laws; the security of citizens against searches and seizures, &c.

The suffrage is given to male citizens of the United States of the age of twenty-one years and over, unless convicted of treason or felony, who have resided in the State six months and in the voting precinct thirty days next preceding any election, and who have been lawfully registered; all elections to be by secret ballot.

The Legislature to be composed of a Senate and House of Representatives, chosen biennially by the qualified electors of their respective districts. The senators to hold office for four years; their number at first to be twelve and afterwards not more than thirty. The representatives to hold office two years, their number to be double that of the senators; vacancies to be filled by election ordered by the Governor. The usual provisions are made for the regulation of the Legislature, passage and approval of bills, &c.

The executive power is vested in a Governor and Lieutenant-Governor, having the customary authority, and a Secretary of State, Treasurer, Auditor, Surveyor-General and Attorney-General, all to be elected at the same time, whose respective duties are defined as in other States.

The judiciary is to be composed of a supreme court, circuit courts, and such inferior courts as may be established by law. The supreme court to consist of a chief justice and two associate justices, with appellate jurisdiction under the laws of the State and original jurisdiction as to writs of mandamus, certiorari, prohibition, quo warranto,

habeas corpus, etc. Four judicial circuits, to be increased in number as may be necessary, with a judge in each, holding chancery and common law jurisdiction and the usual powers of such courts. The senators, and executive and judicial officers to be qualified electors who have attained the age of twenty-five years, and, except at the first election, have been residents of the State for two years.

Uniform and equal taxation is provided for, and restrictions made against State assumption or guarantee of county, city, town, village, corporation or individual debts, and any State debt above three per cent. of the taxable property.

Provision is made for a uniform system of public schools, in which no sectarian or denominational doctrine shall be taught, and no teacher employed or rejected on account of his belief in or connection with any creed or sect. A State university is provided for and also the education of the blind and mute, as well as institutions for their care and of the insane and the indigent ; also for State and County prisons.

The boundaries of the State are to be those of the Territory, the seat of government at Salt Lake City ; a plurality of votes to constitute a choice at elections ; no person to be eligible to office who is not an elector and does not take an oath to support the Constitution of the United States and of Utah, and faithfully discharge the duties of his office.

Bigamy and polygamy are forbidden and made punishable by fine not exceeding one thousand dollars and imprisonment for not less than six months nor more than three years ; no statute of limitations to bar prosecution within three years after the offence, and no pardon to apply unless approved by the President of the United States.

Amendments to the Constitution may be made by a majority vote of both houses of two succeeding Legislatures, and of the qualified electors voting thereon. But any amendment of the polygamy section is to be invalid without the ratification of Congress and proclamation by the President of the United States.

All rights, actions, prosecutions, judgments, claims, contracts, &c., under the Territory are to be continued as if no change had taken place, and all fines, penalties, recognizances, etc., are to hold good.

Representative districts are arranged and provisions made for the first election under the State, and all interests protected during the change from a territorial to a State government.

Dec. 16, 1898

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Federal Jurisdiction in the Territories.

RIGHT OF LOCAL SELF-GOVERNMENT.

JUDGE BLACK'S ARGUMENT FOR UTAH

Before the Judiciary Committee of the
House of Representatives,
February 1, 1883.

WASHINGTON, D. C.
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JUDGE BLACK'S ARGUMENT.

Mr. Chairman and Gentlemen of the Committee :

I am here with your permission and at the request of the people of Utah to discuss their rights and the powers of the Federal Government to control them.

If you think for a moment how much they may suffer by your legislation and remember that they have no vote in either House of Congress, I trust you will hear without objection the defence of their counsel, and permit him to show, if he is able, that the hostile measures passed and proposed against them are unjust and unconstitutional.

Though I claim nothing for those people on the score of their merits, yet their behavior and character ought not to be misunderstood. It is said (with how much truth you know as well as I) that they are sober, honest, peaceable, upright, and charitable, not only to one another, but to the stranger within their gates. The records show them to be singularly free from the crimes forbidden in the decalogue, and not at all addicted to the vulgar vices which often deform the character of frontier communities. Their territorial government has been conducted with surprising purity, wisdom, and justice. Simple in its machinery and impartial in its laws, its burdens are light and its protection universal; no cheating at elections, no official defalcations, no special taxes, and not a dollar of public debt.

They profess almost universally a religion of their own, for which they are daily reviled and insulted; but they make no legal discrimination against the faith of those who dissent from them; there is no trace of intolerance in their enactments, and the constitution framed by themselves, and

under which they ask for admission as a State, guarantees to every human being the most perfect freedom in matters of worship and conscience. Nowhere on earth has the value of local self-government been so strikingly attested by the success of the people who enjoyed it. Thirty-six years ago the valley of Salt Lake was the most forlorn and dreary region on the surface of the globe—a mere waste, which produced literally nothing. But under the stimulus of civil and religious liberty these Mormons struggled against all the obstacles of nature. By a system of irrigation, amazing for its extent, ingenuity, and cost, they brought ample supplies of water from the distant mountains down upon the plains, and by their persevering industry they converted that rainless desert into a land of plenty, covered with fruitful farms and thriving towns.

I think that under these circumstances it would be an infinite pity to strike the territory of Utah with the curse of political slavery, to deprive the people of their local government, and deliver them up naked and defenceless, to be sacked and pillaged by their enemies. But let it be understood that I am not asking for mercy. If you have the constitutional power you must exercise it as you please.

There are many reasons which naturally incline an American statesman to do all the harm he possibly can to the people of Utah. They are powerless to resist it. They have not a single vote in the national legislature, and cannot exercise the slightest influence on a Presidential election. They are excluded from all political rings; they cannot be anybody's competitor for the spoils of office; they can make or mar no scheme to save or squander the public money. On the other hand, the whole country outside of their own territory is populous with their enemies, whom you must conciliate and gratify if you can do so with a safe conscience, for they have votes, and power and influence which will not be opposed without danger.

The religion which the people of Utah adhere to with so

much tenacity is regarded in other parts of the country with extreme dislike, as the mere superstition of an upstart sect. No man, however, who has the faintest perception of Christian principles, thinks it right to kill or plunder or outlaw them for holding an erroneous faith. From real Christianity there comes no howl for the blood and property of the Mormons. But in other quarters the most rancorous hatred breaks out. By some famous preachers the policy of killing the Mormons by wholesale, unless they leave their property, abandon their homes, and flee beyond the Union, is openly advocated and apparently concurred in with great warmth by congregations supposed to be respectable; and this is accompanied with curses loud and deep upon all who would interpose a constitutional objection to that method of dealing with them. When we read of such things in history we are apt to think them diabolical. But approved as they are now and here by popular judgment, and unrebuked even by Senatorial wisdom, we must concede, I suppose, that it is very good taste and refined humanity disguised in a new dress. As a general rule political piety, wherever it has turned up the whites of its eyes in this country or in Europe, is a sham and a false pretence; but in this exceptional case it would be speaking evil of dignities to call it hypocrisy. The soundness of the religion which slanders a Mormon is not to be questioned. Equally pure is the act of a returning officer who fraudulently certifies the election of an anti-Mormon candidate known to be defeated by a majority of more than fifteen to one, nor will we attribute any sordid motive to those residents of Utah, official and private, who busy themselves here and at home to break down the territorial government, seize its offices, and grab its money. Their righteous souls are vexed from day to day by the mere fact that sinful men are allowed to live peaceful and prosperous lives. They are animated solely by disinterested zeal for the advancement of the Lord's kingdom, which in their judgment would be

much obstructed by the further continuance of free government in Utah.

But the case does not depend on the merits or demerits of the parties. It is not a question what measure of punishment the people of Utah deserve for their wickedness, but what Congress has a right to inflict. Whatever may be the superior sanctity of the holy men who promote this legislation, they cannot be gratified at the expense of a breach in the Constitution. If you shall be satisfied that you have no power in the premises, you will not usurp it; for that would be a hideous crime, of which you are wholly incapable. Before I go further let me vindicate the justice of this censure, not because you doubt it, (for that is impossible,) but merely to stir up your pure minds by way of remembrance.

Mr. Grote, the most learned and thoughtful of modern historians, has shown by divers examples that fidelity to the fundamental law—which he terms *constitutional morality*—is the one indispensable condition upon which the safety and success of every free government must depend. The high career of Athens from the expulsion of the Peisistratids to a period after the death of Pericles—the marvel and the admiration of all time—was plainly due to the faithful practice of this supreme virtue. It was this that made the steady Roman strong enough to shake the world. England observes not only the theories, but the minutest forms of her constitution when legislating for her own people, and that has given her domestic tranquillity and solid power at home; her shame and her misfortunes are all traceable to the disregard of it in dealing with colonies and outside dependencies. Constitutional morality was cherished and incalculated by our fathers, in the early ages of the Republic, as the great principle which should be the sheet-anchor of our peace at home and our safety abroad, and to the end that it might never be forgotten they imposed a solemn oath upon every legislator and every officer to keep it and observe it with religious care at all times and under all circumstances. In

contrast with the self-imposed restraints of the American democracy, Grote mentions the French, a nation high in the scale of intelligence, but utterly destitute of attachment to any constitution or any form of government, except as a matter of present convenience. You know what came of it—eleven revolutions in less than eighty years—a history filled with wrong and outrage—a people forever alternating between abject slavery and the license of ferocious crime.

It is as plain as the noonday sun that without constitutional morality every pretence of patriotism must be false and counterfeit. The man who says he loves his country, and yet strikes a fatal blow at the organic law upon which her life depends, shows his sincerity as Nero proved his filial affection when he killed his mother and mutilated her body.

A violation of constitutional law is not an offence which is ever made venial by the occasion. You cannot do evil that good may come. The evil is there, and the good never comes.

No matter how unimportant the breach may seem ; though small at first, it will widen like a crevasse in the Mississippi, until the whole stream of arbitrary power goes rushing through it. Besides, the grade of a crime is not measured by the extent of the particular mischief. Forgery is forgery, whether the sum obtained by it be great or small, and murder is not mitigated by showing that the victim was short of stature.

It often happens that legislators, as well as other men, feel themselves hampered by such restrictions ; but that does not authorize disregard of them. You cannot break lawlessly over the Constitution because it confines you to limits inconveniently narrow.

In this country all men and all classes are equal. No one can lawfully say to another, "Stand aside, I am holier than thou," and push him from his place on the platform of the Constitution. Superior sanctity is not a thing to be safely believed ; it is easily simulated ; it is often false ; and when

it comes into politics it is almost universally put on to cover some base and malicious design. The scribes and the Pharisees were hypocrites.

The party whose rights are injuriously affected by vicious acts of Congress outside of the Constitution may be weak and defenceless, the inhabitants of a distant territory and the members of an unpopular sect whose complaint cannot reach the general ear, and would excite no sympathy if it did. But these are the very considerations which plead most strongly against the usurpation of ungranted power to destroy them. This is no appeal to your magnanimity, but a mere suggestion that the Constitution was made most especially for the weak.

We are not all agreed about the wisdom of the Constitution or the virtue of the men who made it; but whether you like or loath it, you are equally bound to obey it. You do not lessen this obligation one whit by railing at it. When you break it, you do not diminish your guilt in the least by calling it an agreement with death, and a covenant with hell.

Nor can you change the nature or lessen the degree of the wrong by your own contemptuous feeling for the object. He may be altogether unworthy of your favor, but you owe him justice, and you must pay the debt to the uttermost farthing. A legal right is, in and of itself, a very respectable thing, however much you may hate and despise the man, or body of men, that sets it up.

Moreover: Constitutional morality means general morality in all things public and private, and the converse of the proposition is also true. Political power, under our system, is a trust given and accepted upon certain covenanted terms and to be executed within certain limitations. A wilful breach of this trust by transgressing its limitations, perverting its purposes, or violating its conditions is an act of personal dishonesty which not only corrupts the officer who commits it, but demoralizes all other citizens who are tempted

by their personal or party attachments to defend or apologize for the wrong. Thus the floodgates of iniquity are set wide open—all that is pure in morals, all that is perfect in politics, all that is holy in religion, are swept away; the public conscience swings from its moorings, the baser passions become masterless, and rapacity riots in the spoils of its lawless victories. If you are not satisfied with a free constitution, honestly obeyed, give us a despotism, but save us from a rotten republic if you can.

I have not offered this feeble and faint support to the doctrine of constitutional morality because I suppose you to be against it, but for quite a different reason. I know very well that I am not addressing men who claim that their own resentments or their own interests are a higher law than the Constitution they have sworn to support, or a better rule of action than the law of God, which commands them to keep their oaths.

Let us see whether the measures passed and proposed against the Territory of Utah and its people are or are not open to objection on the score of immorality.

The constitutionality of the act of March 22, 1882, has been much and seriously questioned as an invasion of religious freedom. That is not my point. A mere sin against God, not affecting the relations of man to his fellow-man, false worship, heterodox belief, erroneous teaching, bad systems of ecclesiastical discipline; these are placed by our constitution beyond the reach of human legislation. But any overt act detrimental to society in general or injurious to the public may be forbidden by the State, and the offender cannot justify himself by showing that it is right according to his interpretation of the divine will. A Jew believes it his religious duty to take the widow of his deceased brother and raise up children by her, though he has a wife and family of his own; but that is adultery by the law of the land, and he cannot nullify the law by pleading the revelation to Moses. A Seventh-day Baptist may be compelled for

the temporal convenience of others to keep Sunday as a day of rest, though his conscience assures him that Saturday is the Sabbath of his God. One who has no faith at all is protected as well as one whose faith is wrong, but if the infidel insults or annoys his fellow-citizens by uttering his loose blasphemies at improper times and places, the law may check him with a penalty. It is sometimes difficult to see with certainty whether a particular act falls on one side or another of the line which divides the domain of conscience from that of the secular ruler. In doubtful cases, the civil authorities have the right of decision, or, as Judge Gibson expressed it, the courts have the last guess.

My clients, or at least the leading teachers and jurists among them, are unshaken in the belief that marriage, being ordained of God and a sacrament of the church, cannot be rightfully interfered with by the State. For the practical purposes of the present case it does not matter whether they are right or wrong about that.

Conceding the authority of the State, the question arises, who is the State? Where is the civil power to control them vested?

They assert that this power resides in their own government, and can be exercised only by their own legislature; that in this as in all things of purely local concern they are their own masters, with a perfect right to govern themselves. Therefore they hold that the forcible interference of Congress in such affairs, whether it be or be not an invasion of their religious freedom, is beyond all doubt a plain and palpable infraction of their civil liberties.

The opposing theory carried out to its logical consequences is that they are not a free community but a body of mere slaves, subject in all matters of every kind to the will of Congress; a body in which they have no representation, and composed of strangers, perhaps of enemies, who will take pleasure and give pleasure to their constituents, by the most injurious legislation they can invent against the people who

are subject to it. The underlying question is, therefore, that of jurisdiction, which you are obliged to determine before you can know whether you are passing a law or merely disgracing the statute book by an act of gross usurpation. If it be *ultra vires*, it is not only a violation of constitutional morality, but as void as an ordinance on the same subject passed by the directors of a private corporation.

Perhaps it may be worth while to inquire for a moment how this conflict of jurisdiction came about. It started thus: The Mormons, being successively driven out of Ohio, Missouri, and Illinois, took their religion with them to the wilderness of Utah. To us it is false. But that is truth to them which they believe to be true. Their faith in their own creed is proved by their works and sealed with more suffering than any other sect in modern times has ever endured. It is all nonsense to doubt their sincerity. Nobody does doubt it.

It is a part of this religion that plural marriages are in some cases righteous and proper. Their church teaches that, and they made no laws to punish its members for acting according to their belief. This simple forbearance of their government to fine and imprison people for doing what they all believed to be right is the head and front of their offending. How could any sane person expect them to do anything else? They had the misfortune to believe implicitly and almost unanimously as an article of religious faith that polygamy was not wrong. How could they make it a penal offence without subverting their civil institutions? You might as well ask a people to punish one another for their complexion the color of their hair or the shape of their bodies common to, and admired by, all. They simply could not either make or execute such a law. As an organized community they must have perished if they had undertaken it.

Because they would not and could not take this destructive course they are supposed to be guilty of such heinous

wickedness that they are hardly fit to live on the same planet with us.

The law which they could not make for themselves, because their judgment condemned it as unjust and impolitic, is now to be made for them and thrust down their throats "against the stomach of their sense." Their government refused to commit suicide ; therefore it ought to be murdered.

The question whether you can constitutionally legislate on this subject involves the entire right of self-government. It covers the whole ground between freedom and slavery. The formation of the family, marriage and divorce, the legitimacy of children, the succession to property, these are the most purely private, domestic, and local of all subjects to which human legislation can apply ; and if your right to control a people in these respects be conceded there is nothing else on which your jurisdiction can be denied. You can make your laws good or bad, as you please, and they are as binding one way as the other. That they will be very bad is not an idle apprehension ; for you will be impelled by strong motives to legislate without the smallest regard for the rights, interests, wishes, or feelings of the people concerned.

If you can forbid polygamy where it is believed to be right, you can force it on a community that holds it in detestation. You can divorce every man from his wife or wives, whether he has one or many. You can abolish the institution of marriage entirely, strip all men and all women of their conjugal rights, bastardise all their children, and bring on the reign of universal free love. If you can imprison, disfranchise, and disgrace a man for marrying the woman he lives with, there is no reason (I mean no legal reason) why you should not patronize adultery and honor the brothel.

This omnipotent power of Congress, which makes and breaks the matrimonial contract, extends to all the relations of private life. That of parent and child necessarily goes with it ; ancestor and heir follows, of course, and by parity

of reasoning, master and servant are included. Then why not debtor and creditor, landlord and tenant, vendor, and vendee? What shall hinder you to take away the testamentary power, forbid administration of a decedent's estate, regulate all business, and stop all work except what you and your constituents approve?

To carry into effect the laws already passed it is necessary and proper that you should have a police force composed of spies and delators, who will thrust themselves into the kitchens and bedchambers of all families, employ eavesdroppers who will watch them at keyholes and windows, or in default of that change the rules of evidence, (as a committee of the Senate has actually proposed,) and compel the lawful husband and wife to testify against one another in contemptuous defiance of the great principles which protect the sanctities of the family and lie at the basis of civil society.

It is perfectly clear that if your claim to exclusive jurisdiction be established, so as to comprehend the power to punish men and women for making family arrangements which you disapprove, you have authority to define all offences: anything is a crime which you choose to call so, and everything is innocent which you think proper to tolerate. You may therefore make an entire criminal code for them, and you may make it as pernicious as you choose. It need not be "a terror to evil-doers, or a praise unto them that do well," if you wish to have it otherwise. The virtues may be visited with penalties; justice, chastity, temperance, and truth may be sent to the penitentiary; swindling and perjury may be legalized. Taking the exceptional jurisprudence of Sparta as a model, larceny may become a merit, or following a more recent precedent in the Congressional government of the South, you can maintain the worst men in the highest offices, throw the reins loose on the neck of rapacity, make leprous fraud adored.

;—Place thieves

And give them title, knee and approbation
With senators on the bench.

If you have not only the right, but the exclusive right, to do this it must be acknowledged that there is no use for a local government; it is merely in your way and accordingly you have already begun to abolish it. Agents appointed under your laws have gone down with instructions to take possession of all the polling places and registration offices, and the people were expressly forbidden to vote except by their permission and under their supervision. They construed your law as a bill of pains and penalties which attainted the whole population, and they ordered every voter to be disfranchised who would not take an expurgatory oath that covered his whole life. Another set of agents assert that they have your direction to seize all the territorial offices, and distribute them as booty among the enemies of the people. One more step, an easy and a short one, you are much urged to take, and that is to send a commission upon them with power, not only to supervise them when they vote, and deprive whom they please of the ballot, but to make and execute all laws on every subject, and to govern them generally as an overseer might govern a plantation of slaves.

Of course it is possible that the Territory might be controlled justly, wisely, and moderately by the hirelings of the Federal Government. But the chances are a thousand to one that they would act as persons in that situation have always acted: oppress and plunder their subjects, steal their money, and tax their industry to death. This might provoke the resistance of the most patient people, and the first symptom of disorder would furnish a legal excuse for cutting them up root and branch. Arbitrary rulers pardon nothing to the spirit of liberty.

Has Congress this exclusive power of legislation for a Territory? Or does it belong to the people of the Territory and to the representatives whom they have chosen to entrust with it? I maintain that the right of local self-government is founded on acknowledged principles of public law; it ex-

isted before this Government was framed, and the Constitution reserves it to the people of the Territories as distinctly as to the States.

Look at the practical case: citizens of a State or of several States leave the place of their residence and go out with their families to colonize themselves on the public domain of the Union, beyond the limits of any State. They buy the land and settle upon it with the consent of the General Government, to which it belonged, whereby they became a separate body detached from all others. Have they ceased to be free? Did they leave their liberties behind them? Have they not a natural right to regulate their daily lives and adjust their private relations by such laws as they think will be most suitable to their condition and best promote their interest? Yes, they have, unless they are slaves; for the freedom of the community results necessarily from the freedom of the individuals that compose it.

I do not assert that they can govern themselves in a way forbidden by the Federal Constitution or by an act of Congress passed in pursuance thereof. The people of a State cannot do that. What I do assert is that Congress cannot legislate for a Territory on any subject-matter on which it cannot legislate for a State. This furnishes an easy and infallible test of constitutionality. If Congress may regulate marriage and divorce in a State it may do so in a Territory; if not, not.

It is true, also, that the General Government may give the colonists a charter, and call it an act of incorporation or an organic law. This was what the imperial government of England did for the several colonies that settled on its lands in America. But the charter must be a free one. If it abridges the liberty of the people to do as they please about matters which concern nobody else, it is void. Even if the colonists would consent, for a consideration, to accept an organic law imposing a restraint upon their right of self-government, they could throw it off as a nullity; for the birth-

right of a freeman is inalienable. I need not say that foreigners naturalized are on a level with native citizens.

As Congress cannot give, so it cannot withhold the blessing of popular government in a Territory. But the legislation now proposed in addition to that already passed would blacken the character of the Federal Government with an act of cruel perfidy. The charter you gave to Utah was in full accordance with the broad principles of American liberty. You organized for them a free territorial government, put into their hands all the machinery that was needed to carry it on; the ballot to be used under regulations of their own; officers chosen by themselves to administer their local affairs, collect the taxes, and take charge of their money and a legislature representing them, responsible to them, clothed with exclusive power to make their laws, and to alter them from time to time as experience might show to be just and expedient. Gilding your invitation with this offer of free government, you attracted people from every State and from all parts of the civilized world, whose industry scattered plenty over that barren region and made the desert bloom like a garden. Now you are urged to break treacherously in upon their security—supersede the laws which they approve, by others which are odious to them; make their legislation a mockery by declaring that yours is exclusive; drive out the officers in whom they confide, and fill their places with raging and rapacious enemies; take away their right of suffrage, and with it all chance of peaceable redress; break down the whole structure of the territorial government, under which you promised to give them a permanent shelter. Would not this be a case of Punic faith? Apart from all question of constitutional morality, the conduct of the wrecker who burns false lights to mislead the vessel he wishes to plunder does not seem to me more perfidious. If it has the same appearance to you, it will be swept away with the scorn it deserves. But let us keep to the point of law.

The relations of the colonies to Great Britain were precisely the same as those which exist between what we call the Territories and the General Government of the United States. By the public law of the world the colonies had the right of local self-government. The imperial Parliament, omnipotent at home, was utterly without power to legislate on the domestic affairs of any community settled upon crown lands sold or given to them on this side of the Atlantic. This freedom was not only asserted by the colonists, but for more than a century they were allowed to enjoy it without disturbance. The exclusiveness of their right to legislate for themselves, the extent to which it was exercised, and the range of subjects it embraced are known to all who have read their history.

In those days the doctrine of perfect religious freedom was unknown; it was regarded as a proper function of the civil authority to punish whatever it deemed false theology. This power, like others, belonged to the colonies. When heretics, proscribed in England by the laws in force there, fled beyond the sea and organized a colony, they not only escaped persecution, but acquired the right to persecute others. By some of the colonies this power was much abused; but the Parliament could not interfere to prevent it. The King sent Lord Baltimore and a large body of his retainers to Virginia with a grant of land and a letter to the colonial authorities, requesting that he might not be molested on account of his religion. The colonial legislature resented this as an interference with their established right of self-government, and replied to the King that if Lord Baltimore practised the Catholic religion within their territory he must submit to such penalties as they chose to inflict. The royal mandate was withdrawn; Lord Baltimore was moved above the Potomac, where he and his friends erected a colony of their own, and that colony excited the disgust of Parliament and the indignation of Virginia by tolerating all kinds of religion.

I mention these things to show that self-government in its broadest sense was claimed by and conceded to the colonies. Then home rule extended to matters of religion as it did to all other affairs within the scope of the civil authority. Here and now the conflict between Federal power and the rights of a State or Territory could not take that shape, inasmuch as legislation on such subjects is excepted forever out of the power of all government.

But suppose by a stretch of your imagination that Parliament, led by some ultra Tory, had undertaken to prescribe what family relations should exist in a particular colony, provide the severest penalties to enforce the regulations by penalties in direct conflict with the popular sense of duty and against pre-existing laws, customs, and opinions. What would history have said about such a Parliament? But suppose, further, that the same Parliament, to remove impediments from the way of its act, broke down all the free institutions of the colony, forbade trial by jury unless the jury was packed, disfranchised the legal voters, prevented elections that were not supervised by agents of the ministry, ordered the expulsion of all officers already chosen, and replaced them by avowed enemies with power to tax and cheat them at will. Could such measures as these against any of the colonies have found one unprejudiced and honest defender in the world?

In fact and in truth nothing nearly so atrocious was proposed or attempted. The stamp act, the tax upon tea, the prohibition of certain manufactures, the Boston port bill, and other restrictions upon trade were trifles in comparison. But they reached the vitals of civil liberty simply because they denied the principle of perfect home rule in the colonies; they asserted a jurisdiction in Parliament which was inconsistent with the right of the colonies to govern themselves in matters which affected their own rights, interests, and feelings. Therefore those measures kindled a blaze of indignation in every colony. All true men in

America pledged their lives, their fortunes, and their sacred honors to "throw off the shackles of usurped control," and in the outcome they did "hew them link from link." The friends of liberty in England sided with patriots here. Burke and Fox made the defensive sophistry of ministers contemptible, Chatham declared that if Americans submitted they would become slaves themselves, and fit instruments to enslave others. "I rejoice," said he "that America resisted."

If there be anything fixed, established, and undeniable as a proposition of public law, it is the natural right of a free community like Utah to govern itself. It is impossible for a member of Congress not to know that the success of our revolution was an acknowledged triumph of that principle. English and American supporters of Lord North's ministry may have been conscientious in their opposition to this doctrine, and upright statesmen may dissent from it now; but it is not easy to see how any man can believe in the rightfulness of these aggressions upon Utah, except for reasons which would have made him a Tory if he had lived in the time of the revolution.

I have said that these people have a natural right to govern themselves; but I admit that this natural right may be abridged by fundamental arrangement. That is to say, the right of legislation for a Territory upon some subjects or all may be taken away from the people and vested in Congress by the Federal Constitution. Would it not be a shocking surprise to discover in that instrument a provision so hostile to the liberty for which they had fought and toiled for seven years? You will find upon looking at the Constitution that it is not there.

But the unlimited sway which the power of exclusive legislation would give has at different times in our history been much desired by members of Congress and by friends of theirs who cast their covetous eyes on offices and property, which did not belong to them. Before the industry of Utah

had made it rich enough to be worth robbing, the notion was started that if the Southern States could be reduced to the condition of territories, the absolute domination of Congress over them through the instrumentality of carpet-baggers and bayonets would become constitutional. Therefore the first step was to declare that the State governments did not legally exist; the States were said to be Territories, and, as a consequence, supposed to be at the mercy of Congress.

Mr. Thaddeus Stevens, the great leader and driver of that day, who ruled Congress with a sway that was boundless, thought it best in the beginning to assure his followers that the Constitution had given to Congress this power over the Territories. To prove it he showed them the following provision :

“The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory and other property of the United States, and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State.”

That this expressed nothing, and meant nothing, and granted nothing to Congress, except the power to exercise for the General Government its purely proprietary rights over the land and goods it possessed, whether lying within the States or outside of them, was so perfectly manifest that Mr. Stevens became disgusted with his own argument; he freely expressed his profound contempt for it, and for all who pretended to believe it. Having drawn them into it by his glozing speech, his fierce invective lashed them out again; and he so “chastised them with the valor of his tongue,” that they feared to speak of scruples any more. He did not, because he could not, furnish them any other pretence to stand upon; and he told them plainly and frankly that he would not stultify himself by professing to think his measure constitutional. “This,” said he, “is legislation outside of the Constitution.” It was passed, and Congress inaugurated the

reign of the thief and the kidnapper by an acknowledged usurpation.

The outrages upon liberty in Utah are not grounded on the theory which Mr. Stevens exploded. It is not now pretended that the forcible rupture of private relations, seizure of ballot boxes, disfranchisement of voters, expulsion of territorial officers are needful rules and regulations for the disposal or use of Federal property. "The Edmunds' bill," (which could not have been drawn by the Senator of that name) assumes and expresses the assumption in unequivocal words that *the United States have exclusive jurisdiction in a Territory*. This is much worse than the other; it is not merely a false construction of the Constitution; it is an attempt to put into the Constitution what is not there.

When a man who knows anything about American institutions asserts that the United States have exclusive jurisdiction in a particular place, he means to say that the Constitution has given to the Federal Legislature and Executive the sole authority to make and enforce all laws in all cases for and against all persons in that place. There are places in which this omnipotent and exclusive power is given to Congress, but to say that it extends to Utah or any other Territory is simply false. Look at the Constitution and see for yourselves. Among the enumerated powers of Congress, is this—

"To exercise exclusive legislation in all cases whatsoever over such District (not exceeding ten miles square) as may by cession of particular States and the acceptance of Congress become the seat of Government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings."

There is the only grant of exclusive jurisdiction that can be found in the instrument. It is plainly intended to and does cover the District of Columbia. The authority is

granted with equal clearness over the places occupied by the forts, arsenals, magazines, and dockyards; but does it say that it may be exercised in the Territories? No; "it is not so nominated in the bond."

This is no point of interpretation, strict or loose. Whether the Constitution grants or does not grant the power of exclusive legislation over the Territories to Congress, is a question of fact to be determined by mere inspection. The ocular proof that no such grant is there cannot be overcome or in the slightest degree weakened by any kind of construction, however smart, much less can the omission be supplied by a bald interpolation.

If the power is not given to Congress in and by the Constitution, then Congress has it not at all. This is a government of enumerated powers. It is part of the instrument itself that powers not granted are reserved.

Nobody has ever been mad enough to say that such laws as these against Utah could be enforced against a State? Why? Because the Constitution gives Congress no jurisdiction or authority to pass them. But it does give exactly the same power of legislation over a State as over a Territory. The right of freemen to be exempt from the scourge of the central power is, therefore, as well secured in one as in the other.

The powers not granted to the United States are reserved to the States respectively or to the people, and the enumeration of particular rights expressly retained does not disparage or deny others on which the instrument is silent. This being the express rule, it will hardly be asserted that the power now in question is not reserved. To whom is it reserved? To the States respectively where there are States, or in a Territory where no State government exists, there it is reserved to the people. The reservation is as clear and express in one case as in the other. In both the power of local self-government rests and remains where it was placed by God and nature, since it was not removed by the Constitution and lodged elsewhere.

The General Government is a political corporation, with powers defined in its charter. Outside of the charter all its acts are void, as would be the similar acts of any other corporation. Suppose the directors of the Illinois Central Railroad Company, out of their pious regard for the moral and spiritual welfare of Chicago, would pass a law to reform the licentiousness, gambling, drunkenness, and other vices there supposed to be practised, imposing penalties of fine, imprisonment, and disfranchisement upon all prostitutes and keepers of disorderly houses, would anybody be bound by their statutes? Yet their power to pass them and enforce them would be just as good as yours to do the same thing, either for Illinois or Utah.

There are other objections to this legislation against Utah. It is not only *unconstitutional*, but *anticonstitutional*. It assumes a power not granted, and then commands it to be enforced by means flatly prohibited. Let me call your special attention to some of them.

I. Trial by jury means by a jury of the country, the peers of the party, selected impartially from the general population, so as to represent a fair average of the public understanding and moral sense. That is the kind of jury that every man is entitled to have who pleads not guilty, and puts himself on God and the country for trial. That is the meaning of the word jury as used in the decrees of Alfred, the statutes of Edward the Confessor, Magna Charta, the Petition of Rights, the Bill of Rights, and the American Constitution. In that sense it is used by all English-speaking peoples, and with that sense attached to it the institution has been adopted by other nations. The right of trial by jury is withheld by the Edmund's law or given in a mutilated form, which makes it hardly better than a military commission, "organized to convict."

The body of the population believe as matter of moral and religious sentiment that polygamy is at least so far right that a law which makes it a penal offence is unjust and im-

politic. The anti-popular faction, composing about one-twentieth, justify their machinations against the others by expressing a most violent antipathy to that particular feature of the prevailing doctrine which permits of plural marriages.

That is their religion, their politics, their business, their law; they carry it into everything; to them it is piety and patriotism; it stands in the place of faith, hope, and charity; from among them, hardly numerous enough to be called a minority, the act of Congress arranges that the jury shall be exclusively made up; the country, the body of the people is not to be represented at all.

A juror may be questioned on his oath whether "he believes it right for a man to have more than one living and undivorced wife at the same time, or to live in the practice of cohabiting with more than one woman?" If he refuses to answer, or answers in the affirmative, he is conclusively presumed to be one of the people, and must be rejected; but if he replies "No," he has spoken the watchword of the inimical faction, and he is admitted, because his ascertained hostility to the party accused and all his class may be relied upon as an element of his verdict.

All officers concerned in a trial under this law are required to sift out the panel, and see that no one gets on who will not jump at every chance of conviction. The summoning clerk must be what is called in Philadelphia a "jury fixer;" your judges must bring themselves within the old statute against "evil procurers of dozens," that being the designation of certain persons who made it a business and a trade to find twelve men predetermined on a verdict desired by the party who employed them.

An attempt has been made and will be again to justify this unreal mockery of a trial by saying that unless you pack the juries you cannot get convictions. As matter of fact this may be true. Generally it is vain to hope that a jury of the country representing the popular feeling and sense of right will carry out to its bitter end a law regarded

by the mass of the people, whether rightly or wrongly, as unjust, oppressive, and cruel. That is why we have juries. For that reason trial by jury is the great safeguard of civil liberty. To make them efficient to that end they are judges of the law as well as the facts, and their verdict on both is conclusive. By the exercise of this power they have nullified tyrannical statutes many times. You cannot but remember the notable case of Woodfall, when the life of English liberty was saved at its last gasp by the stubborn refusal of the jury to find a verdict according to the law of libel, as laid down by Lord Mansfield. The sentiments of the people were not consulted when you made this law, but you cannot evade their judgment upon it when it comes to be executed. They were not represented in Congress, but they must be represented on the jury. The effort now made to substitute a packed jury for a jury of the country is a very poor attempt to defeat the most sacred right which the Constitution guarantees. I solemnly trust that it will turn out as impotent as it is unauthorized.

II. The promoters of the law in question, not satisfied with trying their victims by a court and jury composed of their enemies, concluded to go a little further, and punish them without any trial at all. The frightful penalty of disfranchisement is to be visited upon them without conviction. Men were directed to be stripped of their citizenship, rendered incapable of voting, expelled from offices to which they had been legally chosen, and deprived of all right to participate in the government they lived under for crimes of which they were never even accused before any legal tribunal. Commissioners are appointed to carry this out, who, reversing the presumption of law and declaring the whole population to be guilty, proceeded to convict individuals by a test oath of their own fabrication.

The right to do such things as these does not depend on the jurisdiction of Congress over the Territories. No matter how exclusive your power may be, you cannot exercise it in

a fashion like that. The Supreme Court decided that the State of Missouri could not put such a provision in her constitution. It is a bill of pains and penalties, or bill of attainder, which is expressly forbidden by the Constitution. There is no legislative body on this continent that has authority by an arbitrary decree to deprive freemen of their civil rights for offences of which they are not judicially convicted. It is a burning shame that such a decree should be found among the acts of Congress.

If any man thinks that disfranchisement is not punishment, or that the judgment of an election officer is equivalent to a legal conviction, let him read the opinion of the Supreme Court of the United States in Cumming's case, (4 Wall.,) delivered by Judge Field, or the clear and unanswerable exposition of the subject given by Judge Strong, *Huber vs. Reily*, (3 Persifer Smith.) If he does not believe on such authority and such reasoning, he would not believe though one rose from the dead.

III. When I first read this law I did not believe that its supporters really wished it to operate upon any but persons who might be legally convicted of offences *thereafter* committed. The words are capable of that construction, and it is not fair, if it can be avoided, to suppose that a legislator intends to violate the Constitution. But the debates show that I was mistaken upon the matter of fact. The actual intent was to make it *ex post facto*. The commissioners so understood it, and they were subservient enough to carry it out. They gave it a retroactive effect, which reached back for a whole generation, and laid its punitive lash not only on men who were never convicted, but upon men (and women, too) who could not be convicted because their offences were condoned, because they were protected by the statute of limitations, or because they had been already tried and acquitted. Nothing was a defence against this iniquitous act, which suddenly, without warning or trial, reached back like the terrible hind hand of a gorilla and throttled all that it grasped.

An argument certainly cannot be necessary to prove that this is an outrage on the Constitution as well as on the principles of natural justice.

IV. But the pains and penalties of disfranchisement are to be carried still further. By the laws of Utah the right of suffrage belongs to women as well as men. It was bestowed upon them formally and rightfully by the territorial legislature, with the consent of the United States, expressed by the governor, who had an absolute veto. There is no kind of doubt about the right being legally vested. This is so clear and unquestionable that the Federal judges themselves, with every inclination to exclude them from voting, were compelled to decide that it could not be done. Of this acknowledged right it is now proposed to deprive them by a bill of pains and penalties, not grounded upon any pretence of guilt, but coupled with an admission that the suffering parties are perfectly innocent.

It will hardly be pretended that the rights of a woman when once legally vested are less sacred than those of a man, or that he more than she is protected by the Constitution against the wrath and malice of political rulers. If the male voters of Utah are free men, the females are free women. One is no more subject to be disfranchised by a bill of pains and penalties than the other. Can either of them be so treated?

The right of suffrage is part of a voter's property. Its value is inestimable, because it is the right preservative of all other rights. You cannot deprive him of it without due process of law. You can as well make a legislative decree to take the lands and goods of these men and women in Utah as take the ballot from them. The ballot is especially valuable to them at this moment as their only weapon of defence against the enemies who are prowling around them to capture their government and use it as an engine to plunder and oppress them. The security, not of their liberties only, but of their peace, property, and lives, depend upon

their being able to keep it. The sin of these otherwise innocent and virtuous women has consisted solely in voting to sustain honest government against the rapacity and fraud which seek to overthrow it.

V. The end and object of this whole system of hostile measures against Utah seems to be the destruction of the popular rule in that Territory. I may be wrong—for I can only reason from the fact that is known to the fact that is not known—but I do not think that the promoters of this legislation care a straw how much or how little the Mormons are married. It is not their wives, but their property; not beauty, but booty, that they are after. I have not much faith in political piety, but I do most devoutly believe in the hunger of political adventurers for spoils of every kind. How else can you account for the struggle they are now making to get possession of all the local offices in the Territory, including the treasurer, auditor, and all depositories of public money? If they do not want to rob the people, why do they reach out their hands for such a grab as this?

If you will look at what is called the Hoar amendment, consider how it came to be put into the appropriation bill of last session, and reflect upon the nefarious claim which the governor and his adherents are now making under it to despoil the people of the local offices which they alone have the right to fill, you will be forced to the conclusion that the public liberty of no people has ever before been so shamelessly assaulted. I do not say that the claim is sustained by the law or that Congress had any intention to authorize the robbery; for I am satisfied of the contrary; but the animus of the anti-popular faction is revealed by the whole transaction in a light that utterly discredits it.

Legally it makes no difference what was the ultimate purpose of those who instigated this political enterprise. But will you, as friends of the Constitution—could you, even if you were its enemies—say that Congress has power to decree the removal of territorial officers, and direct their places to

be filled by others? Even if you could justify the outrage upon the people of removing the agents to whom they have entrusted their money and their business, and forcing upon them others in whom they have no confidence, what right have you to deprive individuals of their property without due process of law? Their offices are property in which, like their goods and lands, they have a legally vested estate. The Hoar amendment is construed (falsely, I admit) as authorizing all these offices to be seized, and used as a means of forcing the people to maintain their enemies and pay them salaries for any acts of oppression and fraud which they may chose to perpetrate.

Do not charge me with overstating the danger to which the Territory will be exposed if its government shall be captured by those who are now trying to take it. The experience of the whole world in all time shows that the want of home rule is the want of everything else that is honest and fair. Rulers forced upon a people are never just. It is as certain as the rising of the sun to-morrow that if the people are put under foot they will be trampled down without mercy. And their total destruction will be accomplished very soon. They cannot stand what South Carolina did; there is no "ten years of good stealing" there.

VI. No reasonable man can justify or even excuse such enactments as those proposed in the new bill now pending before you, unless it be assumed that the people of Utah have no rights that a white man is bound to respect.

It appoints a commission to perform the functions of the legislature and to redistrict the Territory. The apparent purpose of this is to gerrymander the districts so as to give the minority control of the legislative body. With a majority of nearly twenty to one, the commission will find the way to that object so steep and crooked that they scarcely can hope to reach it. But the cunning man who drew this bill inserted a provision that the "existing election districts and apportionments of representation concerning members

of the legislative assembly *are hereby abolished.*" There can be no election at all for members of the legislature unless new districts are made by this commission. By simply declining to act it can extinguish the territorial legislature altogether. That was the very trick by which the election of the territorial officers was defeated last August. The Edmunds' bill declared that all registration and election offices should be vacant until they were filled by appointments of certain commissioners. Those commissioners would not make any appointments until after the time for holding the election had passed, and so there was no election. To expect that the same game will not be played over again requires the charity that believeth all things. This bill would put the extinction of the territorial legislature into the power of a single member of the commission, for the redistricting is to be done, not by a majority, but by all, and a dissent of one would make the action of the others inoperative:

It would be wearisome to say what might be said about those parts of this bill which authorizes a person to be kidnapped and held as a witness who has not been subpoenaed or notified, its subjection of private papers to unreasonable searches and seizures, or the inhuman disregard which it shows of family feeling and the sanctities of private life by compelling men and women lawfully married to testify against one another.

VII. These enactments, made and proposed, are in the main a comprehensive bill of pains and penalties, not against persons guilty or supposed to be guilty of polygamy or any other hurtful crime, but against people known and acknowledged to be innocent. They are intended to disfranchise whole masses of free persons, reduce them to the condition of slaves, and deprive a community of its natural and constitutional right to an honest government of its own. For such a bill there is not only no warrant in the Constitution, but it is expressly interdicted. Nor is there any precedent

for it except the reconstruction laws of 1867, and they were admitted to be unconstitutional by their author and by the counsel who undertook to defend them, and to my certain knowledge they would have been declared void by the Supreme Court in the case of *McArdle*, if we had not been circumvented by an act of Congress taking away the jurisdiction. It is true that they were made effectual, but it was done by the Fourteenth Amendment. The opponents of free government in the South, knowing that Congress had no such power, forcibly injected their bill of pains and penalties into the Constitution itself, and there it lies now, side by side with the provision which forbids it. But the injection served only for that occasion; it did not abrogate the prohibition. Bills of pains and penalties are as odious as ever. It is the duty of every public man and every private citizen to hate such things with all his mind and heart and strength, as I hope you do.

Coming back to the original and fundamental proposition that you have no authority to legislate about marriage in a Territory, you will ask what then are we to do with polygamy? It is a bad thing and a false religion that allows it. But the people of Utah have as good a right to their false religion as you have to your true one. Then you add that it is not a religious error merely, but a crime which ought to be extirpated by the sword of the civil magistrate. That is also conceded. But those people have a civil government of their own, which is as wrong-headed as their church. Both are free to do evil on this and kindred subjects if they please, and they are neither of them answerable to you. That brings you to the end of your string. You are compelled to treat this offence as you treat others in the States and in the Territories—that is, leave it to be dealt with by the powers that are ordained of God or by God himself, who will in due time become the minister of His own justice.

Dec. 16, 1893

THE
HISTORY OF THE MORMONS.

THEIR PERSECUTIONS AND TRAVELS.

BY PRESIDENT GEORGE Q. CANNON.

— ALSO THE TWO —

◊ MANIFESTOES ◊

— OF THE —

PRESIDENCY OF THE CHURCH OF JESUS CHRIST OF
LATTER-DAY SAINTS AND MEMBERS OF
THE COUNCIL OF THE APOSTLES.

Salt Lake City, Utah:
GEORGE Q. CANNON & SONS CO.
1891.

GOVERNMENT PRINTING OFFICE.

1892

OFFICIAL DECLARATION.

To Whom it May Concern :

Press dispatches having been sent for political purposes, from Salt Lake City, which have been widely published, to the effect that the Utah Commission, in their recent report to the Secretary of the Interior, allege that plural marriages are still being solemnized and that forty or more such marriages have been contracted in Utah since last June or during the past year ; also that in public discourses the leaders of the Church have taught, encouraged and urged the continuance of the practice of polygamy,

I, therefore, as president of the Church of Jesus of Christ of Latter-day Saints, do hereby, in the most solemn manner, declare that these charges are false. We are not teaching polygamy, or plural marriage, nor permitting any person to enter into its practice, and I deny that either forty or any other number of plural marriages have during that period been solemnized in our temples or in any other place in the Territory.

One case has been reported, in which the parties alleged that the marriage was performed in the endowment house, in Salt Lake City, in the spring of 1889, but I have not been able to learn who performed the ceremony ; whatever was done in this matter was without my knowledge. In consequence of this alleged occurrence the Endowment House was, by my instructions, taken down without delay.

Inasmuch as laws have been enacted by Congress forbidding plural marriages, which laws have been pronounced constitutional by the court of last resort, I hereby declare my intention to submit to those laws, and to use my influence with the members of the Church over which I preside to have them do likewise.

There is nothing in my teachings to the Church or in those of my associates, during the time specified, which can be reasonably construed to inculcate or encourage polygamy, and when any Elder of the Church has used language which appeared to convey any such teaching, he has been promptly reprovved. And I now publicly declare that my advice to the Latter-day Saints is to refrain from contracting any marriage forbidden by the law of the land.

WILFORD WOODRUFF,

President of the Church of Jesus Christ of Latter-day Saints.

President Lorenzo Snow offered the following :

"I move that, recognizing Wilford Woodruff as the President of the Church of Jesus Christ of Latter-day Saints, and the only man on the earth at the present time who holds the keys of the sealing ordinances, we consider him fully authorized by virtue of his position to issue the manifesto which has been read in our hearing and which is dated September 24th, 1890, and that as a Church in General Conference assembled, we accept his declaration concerning plural marriages as authoritative and binding."

The vote to sustain the foregoing motion was unanimous.

Dec. 16, 1879

UTAH AS IT IS.

ARGUMENTS

MADE BY

DELEGATIONS FROM UTAH

BEFORE THE

SENATE COMMITTEE ON TERRITORIES,

FIRST SESSION, FIFTY-SECOND CONGRESS,

IN FAVOR OF THE PASSAGE OF THE PENDING BILLS
PROVIDING FOR STATEHOOD OR LOCAL GOV-
ERNMENT FOR THE TERRITORY OF
UTAH [S. 1306 AND S. 1653].

WASHINGTON:

GOVERNMENT PRINTING OFFICE.

1892

ARGUMENTS BEFORE THE COMMITTEE ON TERRITORIES OF THE UNITED STATES SENATE IN FAVOR OF THE BILL (S. 1306) FOR THE LOCAL GOVERNMENT OF UTAH TERRITORY, AND TO PROVIDE FOR THE ELECTION OF CERTAIN OFFICERS IN SAID TERRITORY.

WASHINGTON, D. C., *February 11, 1892.*

The committee met at 10 o'clock a. m.

Present: Senators Platt (chairman), Stewart, Carey, Shoup, Carlisle, Faulkner, and Gordon.

The CHAIRMAN. This hearing is upon the bill (S. 1306) for the local government of Utah Territory, and to provide for the election of certain officers in said Territory. The hearing this morning is for persons who are in favor of the bill and desire to be heard in its support, and those gentlemen who are here for the purpose of being heard will arrange in such way as is agreeable to them to present their case.

Senator GORDON. Is there anything to be said on the opposite side?

The CHAIRMAN. There will be.

Senator FAULKNER. Those who oppose the bill are not here.

The CHAIRMAN. There has also been introduced a bill providing for statehood for that Territory, upon which I understand parties in the Territory desire to be heard. They are not here. There has been some little misunderstanding about giving them notice. I understand there will also be parties here who do not desire either the passage of this bill or a bill for statehood.

Delegate CAINE. There are some gentlemen who are in favor of the statehood bill who are here, Mr. Bennett and Mr. Smith.

Senator FAULKNER. This hearing will be confined to those in favor of Senate bill 1306?

The CHAIRMAN. So I understand.

STATEMENT OF HON. H. W. SMITH.

Mr SMITH. Mr. Chairman and gentlemen: On yesterday a memorial was introduced in the Senate, which is printed in the Record this morning, passed by the legislature of Utah, asking the Congress of the United States to enact this bill into law. I desire in opening my remarks to read that memorial, with your permission. It briefly states the whole case, and I read it for the purpose of calling your special attention to the condition of affairs there as stated by the legislature.

To the honorable the Senate and House of

Representatives of the United States in Congress assembled:

We, your memorialists, the legislative assembly of the Territory of Utah, respectfully represent:

Utah contains an aggregate wealth of more than \$200,000,000. The proceeds of her farms, live stock, mines, and manufactures for the year 1890 amounted to \$23,000,000.

She has near a quarter of a million of civilized people, who, in point of intelligence, industry, and all the essential qualities of good citizenship, are up to the standard of

any American community. Polygamy, once practiced by a small portion of her people, has yielded to the supremacy of the law by a sense of the evils flowing from it and of the utter futility of further attempting to maintain an institution obnoxious to general public sentiment.

In the midst of wonderful material progress her people have recently turned their attention to the study of questions of government and legitimate politics, and are espousing the cause of one or the other of the national parties.

These new conditions have come naturally and honestly, and for the future are absolutely secure. A patriotic people are pledged to their preservation. Retrogression, involving, as it would, dishonor and dire misfortune, is impossible.

Utah, in the feelings of her people, has been lifted from her humiliation and disgrace. To-day she is imbued with the hope and determination to be free—free in the full sense of American constitutional freedom, which means something more than liberty permitted; which consists in civil and political rights absolutely guaranteed, assured, and guarded; in one's liberties as a man and a citizen, his right to vote, his right to hold office, his equality with all others who are his fellow-citizens—all these, guarded and protected, and not held at the mercy and discretion of one man, or popular majority, or distant body unadvised as to local needs or interests.

Be it known how little of such freedom Utah and her people possess.

The governor, the secretary, the members of the judiciary, except justices of the peace, the marshal, the public prosecutor and his assistants, the board of commissioners, who appoint all registration and election officers, and control the elections, are elected by a distant appointing power, and are utterly unaccountable to the people for the manner in which they perform the duties of their offices.

The governor nominates the auditor of public accounts, the treasurer, the governing boards of all public institutions, such as the university, agricultural college, reform school, and insane asylum. Thus the people have no voice in the selection of persons to manage the public fund and institutions created and maintained at their expense.

The territorial school commissioner is selected by the supreme court, and owes no responsibility to the people.

Clerks selected by the district judges and the probate judges appointed by the President, by and with the advice of the Senate, select the regular panels for jurors. The regular panel is supplemented by persons summoned at the discretion of the United States marshal. The determination of rights of life, liberty, and property rests with tribunals, no part of which owe any accountability to those most vitally concerned in the faithful performance of their duties. The marshal and his deputies are clothed with the most far-reaching authority, under which they may usurp the functions of all the local constabulary and police of the Territory. Even the justices of the peace are shorn of their limited jurisdiction by commissioners appointed by the supreme court, and whose jurisdiction is made coextensive with that of such justices.

The will of the representatives of the people in the enactment of needed legislation is liable to be defeated at the caprice of a gubernatorial autocrat clothed with the power of absolute veto.

While county prosecuting attorneys elected by the people are permitted to initiate prosecutions in the inferior courts, no such prosecution can be carried forward to success except according to the pleasure of the district attorney imposed upon our people from abroad. The most vicious interference with the vestige remaining of our local liberties is in the maintenance and action of the Utah Commission, who, in their appointment of registration officers, have often selected corrupt and irresponsible persons. These have filed the registration lists with fictitious names and resorted to other devices by which repeating and other frauds might be successfully perpetrated at elections.

There is no province or dependency, it is believed, of any civilized nation wherein the people are not accorded more of liberty and the rights of man than are possessed by American citizens in Utah. The situation is intolerable to freemen. The people, through us, their chosen but helpless representatives, demand relief. The office-holders, their patrons, those who fatten upon the degradation and misfortune of our people, all the hordes of beneficiaries of the present system will resist the appeal.

Your memorialists, however, confidently relying upon the justice of the representatives of the American people, ask the Congress of the United States to enact into a law, as a measure which will afford immediate relief, the bill introduced in the Senate by Senator Faulkner, and in the House of Representatives by Delegate Caine, "for the local government of Utah Territory, and to provide for the election of certain officers in said Territory."

Your memorialists further ask that as all essential conditions exist entitling Utah to admission into the Union as a State, and that as soon as your honorable body is satisfied of this fact, a law may at once be enacted permitting her to take the position for which she is so eminently fitted.

And your memorialists will ever pray.

I will invite your attention now to the provisions of this bill by a brief general statement of its contents.

The first section of the bill provides for the election on Tuesday after the first Monday in November in the year 1892, and biennially thereafter, of all officers of the Territory, counties and precincts in the Territory of Utah, by the people of the Territory, including the governor, all members of the judiciary, all members of the county governments, and a constable and justice of the peace in each precinct.

The second section provides the time when these officers shall qualify and the term of their office. This, it will be observed, needs a slight amendment, which we have agreed upon, and that is that it should except the Delegate in Congress. He is named as one of the officers to be elected, and to enter upon his duty on the first day of January. He should be excepted in the second section, because he qualifies on the 4th of March instead of the 1st of January. It is an oversight, purely.

The third section provides for the election of the members of the legislature.

The fourth section provides the time of their meeting.

The fifth section provides for the salaries of the different officers, especially the Territorial officers, and their compensation. Of course that is arbitrary, so far as the amount is concerned. It is a matter within the discretion of the committee as to whether it shall accept those figures or fix others. They have been fixed at what we think is fair in that Territory.

The sixth section provides for the executive authority of the Territory, which is vested in the governor and follows substantially the present provision of the statutes of the United States as applicable to all other Territories except Utah.

Utah is the one exception in which the governor is an absolute autocrat. He may approve or disapprove just what he pleases. In fact he must approve or it amounts to disapproval. The legislature can not pass anything of any character, no matter if it is the unanimous wish of every man, woman, and child in the Territory that it should be enacted, if he does not approve of it. This grants him the same power that exists generally in all the States and in all the Territories under the Revised Statutes of the United States.

The provision in section 7 in regard to the lieutenant-governor is taken literally from the Constitution of Idaho, which we think is about the usual form and in proper form.

Section 8 is taken from the present Revised Statutes of the United States, and is literally a reenactment of the law that is now applicable to the Territory of Utah. It may not be necessary in the bill, but we thought it best to put it in there.

Sections 9 and 10 are transcripts of the present Territorial statutes defining the duties and powers of the Territorial auditor and treasurer.

Section 11 is copied from the constitution of Idaho, in regard to the duty of the attorney-general.

Section 12 necessarily is a new section, for the reason that at present the superintendent of public schools is appointed by the supreme court of the Territory, and we have not anything whatever to do with him. His duties are defined, and were defined always before, by a Territorial law, which is still in force, and which is continued in force by this section. Necessarily this section repeals so much of the statutes of the United States as required him to be appointed by the supreme court, and it is provided that he shall be elected by the people.

The thirteenth section is copied practically from the Revised Statutes

run to the marshal, and, in fact, an execution or writ of attachment can not be levied by anybody else, effectively. Practically the processes all go to the United States marshal. It is to meet that, and as the courts are held in different counties, it is to allow the sheriff to execute the processes within the county.

There is a provision in the first section as you will observe, for the election of prosecuting attorneys throughout the Territory.

The twenty-fourth section provides that the prosecuting attorney shall conduct all cases under the Territorial laws. At present the United States attorney prosecutes both United States and Territorial cases. We have nothing to do with the United States cases.

The twenty-fifth section provides for the custody of prisoners, and the twenty-eighth section provides that the Territorial legislature may dispose of school lands at the minimum price of \$10 per acre. I shall call your attention in a few minutes to the reason for that.

The CHAIRMAN. Before you leave the explanation of the bill, what do you leave in the way of United States judicial authority in the Territory—

Mr. SMITH. Every penal statute—

The CHAIRMAN. As to courts and procedure?

Mr. SMITH. Everything that now exists, except that the court will only be held in one place instead of three or four places in the Territory. Every penal statute of the United States is left in full force. The statute against polygamy and all the penal statutes of the United States are applicable to the Territory. They remain in force under this bill, and the Federal court organized by this bill has jurisdiction of them.

It has jurisdiction, as you will observe, by reference to section 20—I think it is section 20—

Senator FAULKNER. Of all actions under the laws of the United States?

The CHAIRMAN. As I followed you, I thought the courts were to be all Territorial courts.

Mr. SMITH. I will read section 20:

Said court shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States as is vested in the circuit and district courts of the United States.

That is the present language applicable to these courts. It is copied so far as I have gone, but this provides for the creation of a court. The language of the statute is that the district court shall exercise the same jurisdiction.

Said court shall hold two terms in each year, and its place of sitting shall be Salt Lake City, in the county of Salt Lake, in said Territory. There shall be appointed by the President, by and with the advice and consent of the Senate, a judge of said district court, who shall hold his office for four years, and until his successor is appointed and qualified. The judge of said court shall appoint a clerk of said court. The salary of the said district judge shall be three thousand five hundred dollars per annum, to be paid in the same manner as the salaries of other district court judges of the United States.

The CHAIRMAN. Your bill does not propose that the United States shall appoint any judges for any court in Utah, or any district attorney, or any other officer?

Senator FAULKNER. Oh, yes.

Mr. SMITH. Yes.

The CHAIRMAN. I wanted to see whether it did or not.

Mr. SMITH. It proposes that the judge of the district court so organized shall be appointed by the President, and that it shall have the same jurisdiction as the circuit and district courts of the United States.

The marshal of the United States is the executive officer. That is not in terms in this bill provided for. It is the law already. It is not necessary, I take it, to reenact that.

Senator CAREY. This bill simply puts the State system in effect in the Territory of Utah?

Mr. SMITH. That is the effect.

Senator CAREY. They elect their own officers?

Senator FAULKNER. Leaving the Federal machinery just as it is now?

Mr. SMITH. Absolutely perfect.

Senator CAREY. The judge is not appointed for life, but for the term of four years.

Mr. SMITH. In view of a decision of the Supreme Court of the United States, I have not called it a United States court, but have called it just what they call it, a Territorial district court for the Territory of Utah. It is not in strict law either a circuit or district court of the United States; but it is a Territorial district court having and exercising the jurisdictions of both.

Senator CAREY. That is just exactly what the Federal judges do now.

Mr. SMITH. Yes, sir; that is exactly the programme.

Senator FAULKNER. Except they have also all the civil business of the Territory?

Mr. SMITH. Yes, sir; and the criminal business also. The United States claim the right of way, and, of course, they have it. They have the prosecuting attorney, who conducts both sides of the United States court, and they have the United States marshal, who conducts both sides, and the judge, who does also, so that the United States business is given the preference all the time. The Territorial business is laid aside and allowed to wait, to the ruin of litigants.

That is the effect of the present system. This bill simply separates them, organizes a United States court to do United States business, and allows the people to elect their own judges to attend to their own business, and they pay for it.

Mr. JUDD. The bill gives the right of appeal from the circuit court to the United States circuit court of appeals at St. Louis?

Mr. SMITH. That court has been assigned jurisdiction of the Territory of Utah. There is where our appeals go now in United States business. The bill provides for no change in that respect.

Senator STEWART. I understand that the judges appointed by the United States to attend to United States business have a like jurisdiction under this bill that they have in the States.

Mr. SMITH. It is precisely the same. They have exactly the jurisdiction that they had in the Territory. They have the joint jurisdiction of the circuit and the district court of the United States.

Senator STEWART. In all cases?

Mr. SMITH. Oh, no; in United States business. That is what they have in the Territory now, and there is not any difference whatever in that respect. In practical operation the district and circuit court is not separate now. That is the same exactly. It would be the same here. There is no difference at all. In other words, it would be the same as that which exists in the State of Nevada, or Wyoming, or any State in the Union. The officers elected are like State officers.

The object, as a matter of course, of framing this bill in this fashion is to give to the people of the Territory relief from the present condition of affairs—to get rid of imported officers, to get rid of the vicious system that exists there—

The CHAIRMAN. Let me call you back a moment to section 20:

SEC. 20. That there is hereby created a Territorial district court for the Territory of Utah. Said court shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States as is vested in the circuit and district courts of the United States.

Do you do away, by section 20, with any court now existing?

MR. SMITH. It would practically do away with the existing district courts, and for this reason it supplants them by another Territorial district court, which is to be held in each county instead of being held, as at present, in only three or four places in the Territory.

The language there used, Senator, is identical with the present language, and it is the only authority that the courts of the Territory now have for transacting United States business. Those identical words are copied. There is no other. They have jurisdiction to do United States business by virtue of the terms there used, and by virtue of none other; and I take it, as they have always been held to be sufficient, and it seems to me that they are, that it is not necessary to add anything to that.

Our purpose in devising this bill, in framing it, as a matter of course, as I said before, is to obtain relief from the existing condition of affairs in the Territory of Utah, and at the same time concede to Congress the right to control us, if at any time we should abuse the privileges that are therein conferred.

A proposition is before you for statehood absolute. If it should please the Congress of the United States to grant that, I take it that we are ready to accept it. The citizens of the Territory believe that they are competent to govern themselves, but we have not believed that you were ready to grant us that privilege. That is the reason why this bill has been introduced instead of a proposition for absolute statehood.

The CHAIRMAN. In what respect does this bill fall short of statehood?

MR. SMITH. In the respect that you can repeal it. That is the most essential one.

Senator FAULKNER. Or modify it?

MR. SMITH. Yes, sir. Or change it; do anything you please with it. When you have admitted us here as a State, and we have representatives in the Senate and the lower House, you can not alter our condition. Our destiny is in our own hands absolutely and beyond the control of the Federal Government.

The CHAIRMAN. Suppose this bill is enacted into law and is to stand, in what respect does it fall short of Statehood?

MR. SMITH. In none, Mr. Chairman, except that—

Senator GORDON. It does not provide for any representation.

MR. SMITH. We do not have any representation in Congress. That is all. So far as our local government is concerned there is not any material difference; but Congress might annul any local law we would enact.

MR. RICHARDS. Under the present system the United States has jurisdiction to prosecute and punish all violations of the law.

Senator CAREY. This allows them to elect their own Territorial officers and to pay them. The Territorial courts occupy a dual position. They exercise all the jurisdiction of the United States courts and they exercise jurisdiction arising under all the laws of the Territory.

MR. SMITH. I wish to say to the committee now that if we had the government in Utah that was in force in Idaho or in Wyoming, or in any other

Territory in the United States outside of Utah, we would never be asking for this bill. We would get along with that until we could satisfy Congress that we were absolutely entitled to Statehood. We would not be asking for any halfway place in the Union. But the truth is that it is just as easy for Congress to grant this provision, and just as safe, as it would be to grant any other change in our Territorial form of government. We are entitled to this. In other Territories the juries are separate. There was a jury to transact United States business, and another to do Territorial business. Everything was separate, but all done by one judge. That was the only difference. That, I claim, was always a mistake. Now what we ask is to separate it absolutely. Give us our own judges and our own juries, our own prosecuting attorneys, and let our sheriff execute the processes, and court to be held in each county where people can get to it. That is the object of this bill.

There are some features existing in the Territory of Utah which are out of the ordinary, and I would like—

The CHAIRMAN. If you will permit me just a moment before you come to that, I would like to ask you a question for information. What power does this leave Congress over your laws?

Mr. SMITH. The very same they have now. It does not repeal at all the law of the United States authorizing Congress to annul our legislation.

The CHAIRMAN. Are you quite sure? Does it not by implication?

Mr. SMITH. It does not touch upon that law at all, and I can not see how it can repeal it even by implication.

The CHAIRMAN. It does not relate to that law?

Mr. SMITH. No, sir; and it does not relate to the subject, so that it can not repeal it by implication.

Senator FAULKNER. I would suggest that you put in an amendment that Congress shall have the power to alter, modify, or repeal. I think the power exists, but it is better to put it in the bill.

Mr. JUDD. That bill was submitted to a committee consisting of Judge Henderson, whom you know, Mr. Schraeder, and myself, and I am prepared to hand you a copy which has that provision in.

Mr. SMITH. The present system of government in Utah Territory is altogether unusual and out of the ordinary in the history of Territories in the United States.

To begin with, the governor of that Territory is, as I remarked before, clothed with an absolute veto. He can fail to approve anything. It does not matter what it is. He need not disapprove it even.

The CHAIRMAN. How is that in other Territories?

Mr. SMITH. They may pass bills over his veto by a two-thirds vote, and unless he returns a bill in ten days, or, in some Territories, in five, it becomes a law.

In Utah he can take a bill passed in the first ten days of the session, put it in his pocket, and say nothing about it, and the authority has been claimed for him that he could approve it after the legislature adjourned. I do not know but what he can, under the language of the act of Congress, keep bills and approve them when he pleases; but, as a matter of fact, the result of that system is that the representatives of the people, on one side, charged with protecting their interests, and undertaking to do so, are forced into a matter of bargaining and dealing with this governor, and he, upon the other side, insisting upon getting all that he can, and the result is that legislation which is simply infamous in its operation is imposed upon the people of the Territory of Utah.

Especially is that true when you come to consider that the Governor is not one of us. He is not appointed from our people. He has nothing in common with us, except what he can get out of us. He comes there in one sense an adventurer, and he comes there with a power that does not exist in any other officer in the United States. He comes there, I say, and imposes himself upon us, and when the people go and undertake to get fair legislation from him, he delights in defying them, and a coterie who always support him, delight in sending reports all over the world and making a hero of him for that reason. The more flagrant the conduct, generally, the more praise he receives for it from that source. It has not been six years—it was in the 1886 session of the legislature—when he, because certain things were not done that he wanted, and that would inure to his benefit, absolutely vetoed the general appropriation bill that was passed for the coming two years, and during that two years the expenses of the public institutions, the whole expense of the Territory had to be incurred upon credit, and people had to go without money when the money was lying in the treasury raised by taxation, and ample to pay every cent.

The CHAIRMAN. What governor was that?

Mr. SMITH. Governor Murray. That was the condition. I undertake to say that he never did an act that elicited more applause from the coterie than that one. In fact the more vicious his acts are the more applause he receives from that source.

Senator STEWART. What reason had he for refusing to sign that bill?

Mr. SMITH. It was nothing but a simple, straight, general appropriation bill, such as you find in the auditor's report accompanying the governor's message.

Senator STEWART. There was no objectionable legislation in it?

Mr. SMITH. No legislation in it whatever—a direct appropriation of money. Members of the legislature which passed that bill are here. I know I am correct.

Senator CABEY. Is that where they borrowed the money from the bank?

Mr. SMITH. Yes, sir; individual citizens, in order to run the Territorial government, went and gave their notes and borrowed money at the bank, and paid interest upon it, the money in the meantime lying in the treasury, paid by the people, raised by taxation, and kept there by the governor.

Senator STEWART. There was nothing in the appropriation bill but the ordinary appropriation?

Mr. SMITH. Not a thing.

Mr. RICHARDS. No, sir; not a thing.

Mr. SMITH. No, sir; they do not put any riders upon appropriation bills out there.

Senator FAULKNER. You gave the explanation; what excuse did he make?

Mr. SMITH. The excuse was that the legislature refused to confirm his appointees for auditor and treasurer.

The CHAIRMAN. Did he make a written veto?

Mr. SMITH. Yes, sir; and that is the reason he gave, and his authority to appoint those officers was that moment pending in the Supreme Court of the United States here. I should say it was afterwards determined in his favor. But the legislature were waiting until that should be determined before they confirmed his appointees, and because they would not confirm he vetoed the general appropriation bill. That is the only reason he has assigned, and the only one that existed. There are other matters which I would like to go into, but I would take up too much of your time if I go too much into details.

By section 1855 of the Revised Statutes of the United States it is provided:

No law of any Territorial legislature shall be made or enforced by which the governor or secretary of the Territory, or the members or officers of any Territorial legislature, are paid any compensation other than that provided by the laws of the United States.

Section 1879 provides that the salary of the chief justice and associate justices of all the Territories shall be \$3,000 each.

Section 1882 provides:

The salaries provided for in this title to be paid to the governor, secretary, chief justices and associate justices, district attorney, and marshal of the several Territories, shall be paid quarterly at the Treasury of the United States.

These provisions are simple and plain, and they are that these officers are paid a sum fixed by a law of the United States and paid by the United States, and the legislature is prohibited from passing any law to pay them any additional compensation, and they are prohibited from receiving it. Notwithstanding that, I hold in my hand a copy of the general appropriation bill passed for the year 1890-'91. In that I find, among other items:

Executive office, private secretary, \$2,400.

Now, I do not believe a living man can tell us who the man is. I do not; the governor himself can name him, but the money is drawn just the same.

Then there is:

Executive office, contingent expenses, \$600; judges, district courts, \$8,000.

That is a thousand dollars apiece per annum, you will remember.

Now, in the very teeth of the statute of the United States prohibiting that, this is extorted yearly, every two years, as regularly as it comes around.

Senator CAREY. That is a little unfair. I have lived in a Territory. The Republicans gave Mr. Cleveland's appointees extra compensation. They do it in all the Territories for this reason, that the cost of living is so high that the salaries are wholly inadequate.

Mr. SMITH. That is true. But is not this the place to remedy that?

The CHAIRMAN. I was going to suggest that it was nothing very unusual.

Mr. SMITH. No, sir. So far as the judges are concerned in Idaho they had a different system there. They were paid according to the courts they held outside of the counties in which they resided.

Senator CAREY. Very frequently in Wyoming the counties would voluntarily vote money to the judges.

Mr. SMITH. That was done in Idaho.

Senator CAREY. It is no indication at all of corruption.

Senator FAULKNER. You are not justifying the receipt of such sums of money in the teeth of the statute?

Mr. CAREY. It is not a criminal act.

The CHAIRMAN. I guess they are doing it in Arizona now.

Mr. SMITH. I guess they are. The excuse for that is that they transact Territorial business. Therefore we ought to have our own court and pay the judges ourselves.

Senator CAREY. There is another point I want to call your attention to. We had better be absolutely fair in these things. The act of Congress does not prevent the legislatures of the Territories from giving extra-compensation salaries to judges. It does not prevent the creation of the office of the private secretary for the governor.

Mr. SMITH. If you create the office.

Senator CAREY. It does not prevent them voting money for contingent expenses.

Mr. SMITH. I think it does prevent those things.

Senator CAREY. Take the case of Colorado. They never had but three courts in the Territory of Colorado. The Colorado people asked Congress to except the judges. They were excepted, and unless there has been a more recent act of Congress you will find that there is no provision against voting judges extra salaries.

Mr. SMITH. I have quoted the sections exactly. I do not say that the prohibitive clause includes the judges, because it does not, although if you will read the sections together you will see that they are intended to be included. The governor and the secretary are absolutely prohibited—

Senator CAREY. From receiving any extra salary?

Mr. SMITH. Compensation—that is the language. They shall not be paid any compensation—that is the language—other than that provided by the laws of the United States.

The CHAIRMAN. I suppose it is upon the ground that they have expenses not otherwise provided for.

Mr. SMITH. The governor is willing enough to accept the appointment and go out there for the salary that the United States Government gives him, but when he gets out there he is exceedingly anxious for them to raise his pay. I do not claim that the aggregate is too high for a good governor.

Senator SHoup. I believe Idaho was the only exception to that rule as to the governor.

Mr. SMITH. In Idaho that is true. They did not do it there.

Senator CARLISLE. Did I understand you to say that \$2,400 was appropriated for a private secretary to the governor?

Mr. SMITH. Yes, sir; and the office is not created.

Senator STEWART. Is there a person acting as such?

Mr. SMITH. I have inquired of men who ought to know, and they say that they think not.

Mr. WEST. I understand that Mr. J. R. Thomas is the clerk.

Mr. SMITH. A small boy of the governor?

Mr. WEST. No; a brother of the governor. I have seen him in the office myself.

The CHAIRMAN. In what act was that appropriation made?

Mr. SMITH. In the act approved March 13, 1890.

The CHAIRMAN. Was it made for the first time in that act?

Mr. WEST. No, sir. It was made while I was governor. And we had use for it too.

Senator CAREY. I will state that I was on the bench a good many years. I know the people do this voluntarily, as Governor West will tell you. The people of the Territories are very hospitable. They receive their officers very kindly, and if they do half way right—

Mr. SMITH. They meet them half way?

Senator CAREY. The people are willing to have them paid extra compensation.

Mr. SMITH. But when we have to bargain about these matters it comes a little hard. If we could say to the governor "We will allow you this or not, as we please," we would probably allow it without any grumbling; but when he can extort it, we do not like it.

Senator FAULKNER. By an absolute veto?

Mr. SMITH. Yes, sir. The secretary's office is another in which we have had the same difficulty.

Senator STEWART. That veto is the same old thing that Franklin describes in the Constitutional convention. He said that it would be a legalized custom to demand a bribe every time you pass a bill in Pennsylvania, and that you could not get an appropriation to suppress Indian hostilities when they were killing white folks without a bribe, and you can not get him to take a cent less.

Mr. SMITH. These matters—when you come down to anything that is absolutely crooked and out of the ordinary corrupt—it would be very difficult to find it upon the face of a statute, because men do not do that business that way.

I am not here for the purpose of turning this committee or the Congress of the United States into a criminal court for the purpose of arraigning individuals and trying them, but it is for the purpose of arraigning the system that makes this corruption possible, for arraigning the system that renders it practicable for the people to be so imposed upon.

The CHAIRMAN. Unless they are imposed upon it is merely a sentimental objection.

Mr. SMITH. That is true, Senator. But they are imposed upon. That is the difficulty about it. They are imposed upon.

Senator CAREY. There is nothing in the bill to prevent the Territorial legislature from doing the very same thing.

Senator FAULKNER. The absolute veto is abolished.

Senator CAREY. You fix the salary, and provide that under certain circumstances it may be increased.

Senator FAULKNER. But the absolute veto is abolished.

Mr. SMITH. The salary can not be increased during the term of the incumbent.

Senator CAREY. It can be increased during his term to commence with the term of the next one.

Senator GORDON. The broad distinction is that in the one case they provide their own officer and pay him, and in the other case he is an officer imposed upon them with limitless power.

Mr. SMITH. In the secretary's office, we have had the same trouble. The Utah Commission, by a board that they appoint, canvass all the returns of elections, and there is not any method provided by the act of Congress by which the result of that canvass can be manifested to the people interested and to the officers elected, or by which it can be shown. A system has grown up under that of issuing a commission by the secretary of the Territory, for which a fee of \$5 is charged to the officer elected. Of course, that may seem a very small affair to begin with, but when you consider that in two years within that Territory there were 2,500 county, precinct, and municipal officers elected, it comes to be quite a respectable sum.

Now, that is a condition of affairs that I claim is in absolute violation of the statute of the United States. There is no provision for any such charge. There is no provision for a commission, either in the Territorial or in the United States Statutes —

The CHAIRMAN. There is no law providing for a canvass of the votes.

Mr. SMITH. Yes, Congress provides that the Commission shall appoint a board who shall canvass the vote, but do not say how the result shall be certified to the officer elected.

Senator CARLISLE. Then they charge each officer \$5 for certifying it?

Mr. SMITH. Yes, sir. The amount of it is about \$6,000 a year to that office. That is an absolute imposition. There is no escape from it. It is an absolute robbery from the people there, and you can not get around it.

Another deal that was made there was an outrage, which had to be perpetrated in order to secure the approval of another necessary law. The secretary, who was at the time acting governor of the Territory, insisted that the legislature should pass a bill amending the existing statute so that articles of incorporation which were formerly recorded in the office of the county clerk should be recorded also in the secretary's office, and that a certificate of incorporation be issued by him. The fees for it I know from actual experience are simply enormous. In the governor's report to the Secretary of the Interior will be found a list of corporations formed for one year in that Territory, and I counted about 200 of them.

Senator STEWART. Is not that usual in nearly all the Western States, that they file them first in the county clerk's office and then transmit and file them in the secretary of state's office?

Mr. SMITH. Yes, sir; they are filed in both.

Senator STEWART. Because from the secretary of state it is necessary to get a certificate to show in another State the existence of that corporation.

Mr. SMITH. It is not common, however, to have them recorded in both. Those are articles of great length, especially under our statute. If it were simply a mere matter of filing them in the secretary of state's office for the convenience of having a certificate made, I would say amen. I think they have such a provision in Senator Carey's state, to file the articles of incorporation with the secretary of state.

Senator CAREY. I do not know how you feel in Utah, but the cost of incorporation in Wyoming is entirely too cheap.

Mr. SMITH. We are not complaining of its being too expensive.

Senator CAREY. It costs about \$4 or \$5 or \$10 to get the lawyer to prepare the articles of incorporation and then a few dollars to get them filed, and then you can incorporate a company with millions of dollars of capital.

Senator FAULKNER. What is the average cost in Utah?

Mr. SMITH. From \$20 to \$30 in the secretary of state's office.

Senator CARLISLE. And that does not go to the Territory?

Mr. SMITH. No, sir; not one cent of it.

Senator CARLISLE. The State or Territory ought to receive that.

Mr. SMITH. Yes, sir.

But passing from that now, because I do not want to take up too much of your time with it, I want to come to the question of our courts, because it is there that the people come more directly in contact with the Government.

If you will examine a map of the Territory of Utah you will find that the towns of Provo, Salt Lake, and Ogden are within a line of 100 miles along a railroad. The courts are held in those three places practically for the whole Territory. Now and then a two or three day term is held down at Millford or Beaver, but they simply go down there and come back. The balance of the Territory goes to these three towns to do their business. The governor, under section 1916 of the Revised Statutes of the United States, fixes the places for holding terms of the court, and everybody, I do not care who it is, who has any business before the court, must come to these three places to transact it, and the result is that litigants, witnesses, jurors, and everybody are compelled to go a distance of from 100 to 400 miles. The county of Cache, with 16,000 people, with a town of 5,000 inhabitants for a county seat, and with a very prosperous population, never has had a district court within its borders. There never was a citizen of that county who had

business in the court but who had to come a distance of from 75 to 100 miles.

Now, then, you take the county of San Pete, which is another county with over 16,000 people, and with a town almost the same size as Logan, and those people have to come the distance of twice 75 or 100 miles.

The CHAIRMAN. Is that in the southern part of the Territory?

Mr. SMITH. Almost in the center of the Territory.

You take Washington County, which is in the southwest part of the Territory, with a population of over 4,000, and with a large mining district within its borders, and those people have to come across mountains and deserts 300 or 400 miles in order to reach court.

There is a pretense in that way of administering justice among the people. When they get there they must await the pleasure of the United States district attorney and all United States business in order to get a hearing. It is practically an absolute denial of justice to three-fourths of the citizens of the Territory. There is no remedy for it in the present condition of affairs. The judges, if they transacted the business of the counties in which the courts are held and let all the balance of the Territory alone, would be engaged all of the time.

You may take the county of which Ogden is the county seat, and there is enough business in that county to keep a district court in session right along. But in addition to that the judges have got to abandon their nisi prius business twice a year and sit upon the supreme bench for from four to eight weeks. That is our judicial system. We ask to get relief from that. There is not any excuse for it. We do not ask you to pay one single cent of the expense of it. It does not cost anything to give us that relief, and I can not see why it should not be done.

Mr. JUDD. It would relieve the Government from a large amount of money which it now pays.

Mr. SMITH. We are not interested in that as much as we are in what we pay.

The CHAIRMAN. Is there not a bill pending to increase the number of judges?

Senator FAULKNER. A bill passed the Senate increasing the number by two.

Mr. SMITH. That will be no relief; as it is, two judges sit in Salt Lake all the time, and they are way behind now.

The CHAIRMAN. Under the bill providing two additional judges, the governor could fix new places at which the courts should be held?

Mr. SMITH. If he would.

The CHAIRMAN. He could.

Mr. SMITH. That is true, but the fact is that the business of the Territory demands at least seven nisi prius judges independent of the supreme court—

Senator CARLISLE. Independent of the United States courts?

Mr. SMITH. And independent of the United States business, and they will have more business all the time than they can attend to—

The CHAIRMAN. That is an embarrassment always in a growing country.

Mr. SMITH. As a matter of course, if it became necessary, we could enlarge that judicial force before we became a State; but it is clear that with the trouble we have to get legislation here in Congress, we can not expect any relief under the present system. We have got to have the system changed, and we ask to do it, and, as I say, we think we would supplant it by a system better for every Territory.

The marshal's office in Utah Territory appoints a perfect army of deputies, and, as I have already said, we have a body of professional jurors at each court, of course. They are selected by the same men year after year, and the same men are selected year after year. I had been intimately acquainted with the courts there for eleven years, and I never think of this but I am reminded of the expression of an ex-assistant United States attorney who went up into Idaho and came back after an absence of five or six years. He came to Ogden, and he came into court. He looked at the jury box, and then he spoke to other members of the bar, and said, "Well the same old crowd are there yet;" or, "They have not any of them got away;" or some such a statement as that. Year after year, and court after court, we have the same list; there is never any variation substantially.

You understand what the result of that is. These courts are held in our largest cities: Salt Lake City, with 50,000 or 60,000 inhabitants; Ogden, with 20,000 to 22,000; and Provo, with 6,000 to 10,000. The jurors are picked up, and their business is to be jurors, because the court runs practically all the year round.

Now, when you surround that body of professional jurors with a body of bailiffs upon commission, or deputy marshals upon a commission, men who get so much of what they can make, and pay the remainder to their superiors, you can readily understand the atmosphere in which the courts of justice in Utah Territory are carried on. This is no over-drawn picture. Every litigant who comes into court, and every lawyer knows these are evils which are the common experience of every day.

The CHAIRMAN. What do you mean by working on a commission?

Mr. SMITH. I mean this. If they make ten dollars they keep six of it for their services.

Senator CARLISLE. How do they make it?

Mr. SMITH. They go out and serve processes and charge \$6 or \$8 or \$10 a day for a horse and buggy, and it is paid for at the treasurer's office, and the discount is paid to the marshal.

Senator SHOUP. You refer to the deputies?

Mr. SMITH. Yes, sir.

Senator CARRY. How long has that system prevailed?

Mr. SMITH. Ever since Utah prevailed. It has prevailed for eleven years, to my own knowledge.

Now, I do not know what the discount is among the deputies. They told me their percentage—

The CHAIRMAN. Is that legal or illegal?

Mr. SMITH. My judgment is that it is illegal.

The CHAIRMAN. Is there not a United States statute which permits the marshal to give his deputies three-fourths of what is earned by them, or something of that sort?

Mr. SMITH. I am not familiar with that.

I am not charging that it is illegal. I claim that if these men are to get so much of what they make, why they will make all they can, and they are not particular how they make it. That is human nature. They live off the people. That we do know. We do know this fact, that it has become to be regarded as a very expedient proposition, if not a necessary one, when a man has a case, to fee a number of these bailiffs in order to get a verdict.

Senator SHOUP. Will your bill grant relief?

Mr. SMITH. Yes, sir. The courts will be held in the different counties.

Senator FAULKNER. The legislature, under this bill, could fix that?

Mr. SMITH. Yes, sir. There is absolutely no justification for the United States marshal being forced upon the people of the Territory to do their civil and criminal business—none whatever. There is not any excuse for it, nor any apology for it. It was never attempted in Idaho. The business in Idaho was done by the United States marshal under the laws of the United States. They did the business of the United States.

Senator CAREY. This has all grown up under the Edmunds-Tucker law?

Mr. SMITH. It has grown up under the act of June 23, 1874. I know now where it started. It started under the Poland bill.

Senator CAREY. Have you not had any sheriffs since then?

Mr. SMITH. Yes, sir; but what do they do?

Senator CAREY. Do they not serve processes?

Mr. SMITH. Certainly not. You read the statute, and you will see that it would be almost impossible, and practically it is impossible, for them to do it. And so this jury system grew up at the same time. We have had it now for 18 years. That is how long it has existed there. It never existed anywhere else. No other people ever had to submit to it.

The judges of Utah are equally indifferent to the public welfare. Outside of Justice Kane, who was off the bench for a few months, remained in the Territory, and was then reappointed, we never had a man residing in Utah appointed upon the bench in eleven years, of which I can speak. No lawyer there could have gotten an appointment, nor any man who had any interest there.

I could go into details in regard to the abuses of judicial discretion, and have the memoranda absolutely to show that they are tyrannical, incompetent, and are wrong men in the places, absolutely. They have the appointment of an official stenographer, to give you an example of how they do business. In our district court at Ogden I was appointed chairman of a committee to examine stenographers, as the statute required that they should be appointed after examination. Four men applied. We examined them under a system that they all agreed to. One of them abandoned it before we got half through, and said that he could not do the business; that he could not stand the examination, and he did not attempt to. He was from Michigan. The other three managed to pass creditable examinations. We reported the result of our labors to the judge. He waited a month or two, and appointed the man who had gone back to Michigan, after he had abandoned the examination. It is a position worth five or six thousand dollars per annum. That is the way they do.

We desire to get rid of that, as a matter of course. The influence of public opinion of public criticism is wholly lost upon an officer who has not any interest there, who is responsible only to a power here. He does not care whom he pleases there provided he can keep his job. Now, there is no way for us to remedy that system.

Senator Stewart told me how they corrected it over in Nevada when they were a Territory. They organized a vigilance committee, and invited the judges to resign, and the situation was never half as bad as it is in Utah to-day. They resigned, too.

Senator STEWART. It was not a vigilance committee. It was a committee composed of members of the bar.

Mr. SMITH. That is all right; they understood the result if they did not resign. If we were to undertake to do that we would be under martial law in twenty-four hours. There would be no question about it at all.

Mr. JUDD. I may state the fact that in positive violation of the statute of the United States passed 1886-'87, the judge of the district court at Ogden has his son-in-law for a clerk, and if we complain that the bill of costs is too large, of course it is needless to say that it will not be reduced, because the clerk is his son-in law.

Mr. SMITH. The motion would be overruled, and the man who made it fined for making the suggestion. It is an outrage that I myself have submitted to time and time again, and I know that every other member of the bar who practices there has. You can not get a rehearing upon it. You will not be accorded one.

Now, the apologists for this system fall back upon the idea that the Mormons have deserved it all. That may be true. I am not a Mormon and never have been. I have not had any more use for the Mormons or the polygamic features of their creed than any one of you, and I am satisfied that every one who knows me will bear witness to that proposition.

Now then I say it is my liberty that is transgressed. It is my liberty that is being trampled upon as much as that of the Mormons. They do constitute two-thirds of the population of the Territory. They own a large amount of property in it, and I want to say to you now, that so far as the practice of polygamy is concerned, it is just as extinct in Utah to-day as in any State in this Union.

It has been dead, as Senator Dubois said to me yesterday, since they had to take to cover in 1884. Polygamy was doomed then. It was ended. There was no future for it. By 1887 it disappeared absolutely. Now the Church, by the most solemn act it could do, through the very highest officers, absolutely prohibit the practice. The governor himself, although he is opposed to giving us any relief, says that he believes they are sincere, that he has confidence of it, but he fears, if the Territory is admitted to Statehood, that the priesthood will again get control of it. We have not asked for that. I think his fears are ungrounded; that their sincerity can not be questioned. No man who lives among them does question it, or ever has.

Senator FAULKNER. I will ask you whether there have been any indictments for polygamous marriages during the last two years?

Mr. SMITH. None at all, except of Gentiles. That is the funny part of this business. There have been four Gentiles, non-Mormons, indicted for polygamy in Utah Territory, and this Commission solemnly report to the Secretary of the Interior that four cases of polygamy have occurred in that Territory. I happen to know that in three of them the offenders were Gentiles, and I believe that is true in the fourth case. These fellows came from the East and remarried when they got out there.

Mr. JUDD. The last authenticated case of plural marriage was in March, 1889. That marriage was contracted in April, 1888. He was imprisoned in the penitentiary five years upon his own confession, and there is not an authenticated case of polygamy contracted since that time in the Territory.

Mr. SMITH. I want to say that with that one exception, which is a very well-known one, which everybody understands, and all the circumstances about it, that there has not an authenticated case occurred this side of 1887. The fact is that after John Taylor preached his famous sermon in February, 1885, and then went into hiding immediately, that from that time on, so far as the records of the courts show, the practice of polygamy has been practically dead. There has not been any of it.

Mr. JUDD. The other polygamic crimes for which they have been

indicted came under the second section of the Edmunds act defining and prohibiting unlawful cohabitation.

Mr. SMITH. You know there were a good many old fellows who contracted this relation a good many years ago, and you could not choke them off. They are very much like the balance of mankind. It is not a question of polygamy any more.

I have said nothing about the Utah Commission, for the reason that other gentlemen will follow me who will develop fully that subject, and it is a subject by itself. But suffice it to say that the Territory of Utah has been excluded from the Union so far because of the practice of polygamy in that Territory, and I say to you now——

The CHAIRMAN. I do not think that that has been the sole ground on which the Utah laws have been passed; the ground of polygamy. I think the domination of the Mormon hierarchy, so to speak, has also been a feature in causing that legislation outside of polygamy.

Mr. SMITH. I wish you could have heard an illustration that Judge Judd gave yesterday. If you have ever been in a prohibition State you know that the whisky interests unite in a common cause, and the prohibitionists in another. Each of them seeks to control the political power for the purpose of defending or forwarding their own institution or crime, as the case may be, of fostering their peculiar ideas and practices.

Now, as long as polygamy was practiced by the leaders of the Church, as long as it had their countenance and support, just so long they undertook to control the political power of the Church for the purpose of protecting and defending it. When that disappeared, the other disappeared of necessity. There was no longer any use for it. There is not any now.

Mr. JUDD. The political domination, I may say to the Senator, in that behalf, was a result of the system, not the system itself.

Mr. SMITH. I recollect the war of the rebellion, and I remember the result of it, and I believe it was not so long after the last surrender of the Confederate armies as it has been since the absolute abolition of polygamy in Utah, before every single State that had been in rebellion was back in the Union with full representation in both Houses of Congress.

Senator GORDON. And some of the bad fellows?

Mr. SMITH. Yes, sir; and some of the bad fellows. There is not a man in the United States to-day who is not gangrened by prejudices, but who justifies that reconstruction by the results attained.

There is not any more loyal section than the southern part of the United States. And if the people of the United States and this Congress will meet the Mormon people half way, there can not be found a better population than exists in Utah to maintain the dignity of American citizenship and loyalty to this Government. They have abandoned the only objectionable feature, and it was not open rebellion, nor armed treason to the Government, nor anything of that kind. It consisted in the propagation of what they claimed was a religious tenet of their faith, and they have surrendered that. Only a very small proportion of them were ever actually guilty of it. Those who went there in an early day and were isolated from civilization were the principal class.

Now, I say that to say to those people that "we propose to keep you under this tyranny; we propose to prevent you from enjoying any rights of citizenship, because some time in the past some of your fathers or grandfathers may have committed this offense," is not only cruel—it is absolutely unjust and wrong. We ask you to right it. We come here and ask you for the privilege of citizens, to do our own business in

ourown way. There may be some men there, and there are a few, just as there are in the South, who still cling to the system of polygamy, and who will never do otherwise, and who will never concede that the Government was right in suppressing it. But the young and thoughtful men have passed them by. They want to be men. They look to a future. They want to be citizens. They ask you to assist, and the question is whether you are willing to do it or not.

It is a matter that comes to you. Do not say we can correct this evil by going to the President and having these officers removed. You have no right to send us to some other man who will give us a different set of officers, perhaps worse than the first. But it is your privilege and your duty, it seems to me, to abolish the system which imposes upon us these officials and give us the right to manage our own affairs. Public opinion will correct any error. You can depend upon the enlightenment of this age, upon the power of public opinion to right everything and to give us a good government. There is no question about that. Had this system been devised in 1874, instead of the one that was, Utah would to day be a State in the Union and this question would be forgotten.

Senator STEWART. Under your bill does the offense of polygamy as an offense against the United States remain in the United States courts?

Mr. SMITH. Yes, sir; we have made that an offense against the Territory, so that it can be prosecuted in both, just as mail-robbing can be.

Senator CARLISLE. Your bill does not affect the United States laws against polygamy?

Mr. SMITH. No, sir; nor any other crime.

Senator CARLISLE. Nor in enforcing them?

Mr. SMITH. Not in the slightest degree.

Senator STEWART. They are enforced by Government officers.

Mr. SMITH. Yes, sir. There is no doubt about that question. What we ask is that so far as our business is concerned, that we are compelled to pay for, we may be allowed to have some hand in managing it.

The CHAIRMAN. Suppose a prosecution for polygamy arose under your bill, in what court or courts might it be prosecuted and by whom?

Mr. SMITH. It might be prosecuted in the United States courts by the United States attorney, before the United States grand and trial jury, and before a United States judge, or it might be prosecuted before the Territorial court. There has been a statute passed recently making it a Territorial offense. It might, therefore, be prosecuted in the Territorial court, or it might be prosecuted in both.

Mr. RICHARDS. There is some probability that the governor will veto that bill?

Mr. SMITH. He has approved it. It is the law of the Territory now—absolutely prohibiting it and punishing it as the United States statutes do. It is an offense against both now, just as mail-robbing and a great many other offenses are.

Senator CARLISLE. Counterfeiting is one?

Mr. SMITH. Yes, sir.

Senator SANDERS. Another is selling whisky to the Indians?

Mr. SMITH. Yes, sir.

Mr. WEST. Has the governor approved that bill?

Mr. SMITH. Yes, sir.

Senator CAREY. The section of the Revised Statutes which forbids the governor or secretary of a Territory receiving extra compensation does not forbid extra compensation to judges?

Mr. SMITH. No.

Senator CAREY. I want to call your attention to that, and to an act that Congress passed subsequent to that, which expressly provides that the secretary may take such fees as may be provided by the law of the Territory for services performed under the Territorial laws.

Mr. SMITH. Yes, sir. But the trouble is that the fees, except the one I complained of in regard to incorporations, which is extortion, are not provided for by the laws.

Senator CAREY. If you pay illegal fees you are the one who are censurable.

Mr. SMITH. What is your remedy?

Senator CARLISLE. A man can not get his commission as an elected officer until he pays the \$5.

Mr. SMITH. I do not understand what remedy he has. I can not conceive of one.

Senator CAREY. I have no doubt that in the State of Kentucky they take illegal fees in every county. The man who pays the fees does not know what they are. He would rather pay them than to have a contest about it. I have no doubt you have the same system out there. But the point I made is that Congress was very careful not to prohibit or forbid the people of the Territories from giving the judges extra salaries. They did try to stop the governor and secretary from receiving extra compensation, but subsequent to that they found it necessary to pass a law permitting the secretary of state to take fees for services performed under the Territorial laws. When you look at the duties of the secretary you see he is acting only as a United States officer. It does not provide that he shall perform any duties except those that arise under the laws of the United States.

Mr. SMITH. But he does not have to do anything, except what he himself has assumed, that does not come under the laws of the United States.

Senator CAREY. I merely call your attention to that point. I am opposed to the whole Territorial system.

The CHAIRMAN. I suggested that your grievances ought to be actual as well as sentimental in order to sustain your argument. You complain of this veto power, and you speak of the year 1874 as the year of organization. How many times since 1874 do you suppose that power has been exercised arbitrarily, or as you say corruptly, and when the governor wanted to accomplish some personal benefit by its exercise?

Mr. SMITH. I think that on one-half at least of the bills that went to him.

I want to give you an instance that happened the other day. We have now a system that has grown up out of piecemeal legislation in which we have four elections in one year and three in the intervening years, and the governor in his message recommended to the legislature—

I have received letters from the mayors of Salt Lake, Mount Pleasant, Richmond, Parowan, Provo, American Fork, and Ephraim cities, and a petition from citizens of Richfield City. These letters and petitions recommend that all elections, except school elections, be held on the same day as that on which the delegate election is held—

That is the first Tuesday after the first Monday in November—

All of which are submitted herewith.

Now there was a universal sentiment in the Territory to consolidate those elections, and a bill was passed for that very purpose in pursuance to this very suggestion of the governor. It went to him, and he

vetoed it, and he put it upon the ground that the Liberals in Salt Lake had prepared to hold an election last Monday, and that to pass it would deprive them of the privilege of holding that election. That is an absolute fact, shown by his own veto.

The CHAIRMAN. You have one of the governors who held office for four years sitting right by you; suppose you have a little discussion with him on that subject.

Mr. SMITH. He can tell you about what has been done there.

Senator CAREY. Was there any other legislation involved in this election bill?

Mr. SMITH. None whatever.

At 12 o'clock m. the committee adjourned until Saturday, February 13, at 10 o'clock a. m.

WASHINGTON, D. C., *February 13, 1892.*

The committee met at 10 o'clock a. m., pursuant to adjournment.

Present, Senators Stewart (acting chairman), Davis, Shoup, Jones, Faulkner, and Gordon.

The ACTING CHAIRMAN. Mr. Richards, we will hear you now.

STATEMENT OF C. C. RICHARDS.

Mr. RICHARDS. Mr. Chairman and gentlemen of the committee, we appear before you to day in behalf of 250,000 patriotic, industrious, and intelligent people who live in distant Utah, pitied and despised. We come to ask of you the same kindly consideration and friendly help that the people of Tennessee, Missouri, Iowa, Kansas, Colorado, Wyoming, Idaho, and all the other Territories received from Congress in their several days.

We do not come demanding sovereignty. We come as freeborn American citizens, who have never violated any law of the land, and, in respectful but urgent terms, ask you to confer upon us part, if not all, of the sacred rights of local self-government, which our ancestors maintained by battle more than a century ago.

The granting of our request would not impoverish the giver, but would enrich the receiver. It would add honor to you and strength to the great family of States, and why should we not be permitted to do in part what you do, "govern ourselves at our own expense?"

That there may be no misunderstanding of our position on this question, let me say we fully appreciate the fact that the people of Utah are entitled to Statehood; and that in the "home rule" bill we have not asked for all that we deserve. We know full well the terrible prejudices that have existed against the people of Utah these many years, and the distrust that has been felt and expressed at the declaration of their intention to obey the law.

Thinking that Congress might be slow to recognize the changed conditions, and, therefore, prefer to give us local self-government for a time, until all fears and doubts are dissipated, and then grant Statehood, with its powers and dignity, we made our modest request through the Faulkner bill. If, after you have heard our cause, you feel as we do, that the Territory ought to be admitted into the Union, on an equal footing with the other States, you may be assured that the people for whom we have the honor to speak will not only hail with joy the wel-

come news, but will be true to the trust in them reposed. If, in your wisdom, you shall grant us home rule only, we shall return to our homes with thanksgiving and feel confident that, in the near future, when you shall have proven our integrity beyond the possibility of a doubt, you will then accord to us our sovereign rights.

That the Territory of Utah is entitled to home rule, or Statehood, and is abundantly able to bear the financial burdens accompanying either, will be readily seen by a glance at the following table, showing the comparative population and wealth of Nevada, Delaware, Idaho, North Dakota, Wyoming, Montana, and the Territory of Utah:

Name.	Year.	Population.	Year.	Assessed value.
Nevada	1880	45,761	1885	\$25,748,877
Wyoming	1880	60,705	1887	32,000,000
Idaho	1880	84,385	1891	30,000,000
Montana	1880	132,159	1884	60,000,000
Delaware	1880	168,493		(*)
North Dakota	1880	122,719	
Utah	1890	207,905	1891	121,000,000

* No assessment in that State.

From the foregoing it appears that Utah has nearly five times the population of Nevada, three and one-half times that of Wyoming, two and one-half times that of Idaho, one-half more than Montana, one fourth more than Delaware, and one-fifth more than North Dakota, and that she has nearly five times the wealth of Nevada, four times that of Idaho, four times that of Wyoming, and twice that of Montana.

The mineral output of all the States and Territories west of the Missouri River for the year 1891, aggregates \$118,237,441. Of that amount Colorado ranks first, with a production of \$28,203,037; Montana second, with \$28,000,000, and Utah third, with \$13,408,493, or more than one ninth of the entire product, and leading California, Nevada, and Idaho. This is not an unusual showing for Utah, for her returns are uniformly large, and in 1890 she contributed a million dollars more than she did last year.

So far as wealth and population are concerned—by precedents already established—we are clearly entitled to govern ourselves, and abundantly able to indulge in the luxury of Statehood.

Our school system is equal to that of most of the older States; the percentage of illiteracy is three (3) per cent and to the credit of the fathers and mothers in Utah—those who are reputed as being ignorant and opposed to educating their children, let it be known that they have 66,000 children of school age, and that in addition to their general and other taxes, they are paying an annual school tax and tuitions which produce \$10 per annum for the education of each one of these children, and in the aggregate for the year 1891, amounted to \$660,000. And, further, that not one acre of public land nor one dollar of public funds has ever been received from any source to assist them in this noble work.

At the present time the cities of Salt Lake and Ogden are negotiating the sale of \$700,000 worth of school bonds for the erection of a host of additional schoolhouses in those cities. There are many other districts throughout the Territory where bonds are being sold to increase the facilities for education, and it is safe to say that 1892 will see nearly a million dollars added to the value of school properties in our Territory.

With our present standing so near the lead in regard to literacy, and the thrift and courage shown by these people in forging still further to the front, we ask you if Congress can do less than permit us to have the use and advantages which would accrue from the disposition of the school lands of the Territory, and the creation of a fund from which these schools can be maintained? The lands are now idle; no one is deriving any benefit from them, and we ask for their disposition in the manner and for the purposes indicated in this bill.

If the Faulkner "home-rule bill" becomes a law, according to its present terms, the people of Utah will be permitted to elect every legislative, executive, and judicial officer entrusted with the making and execution of Territorial laws, and the Territory will have to pay the expenses of the same. Congress will continue to have the same absolute control over the Territory that it now has. It may at pleasure repeal, change, or modify the law, pass any new or additional laws for the Territory, or disapprove any law that our legislature may enact. Further than this, all statutes of the United States now in force in Utah and which prohibit and provide for the punishment of persons guilty of bigamy, polygamy, unlawful cohabitation, and other sexual crimes, will still remain in full force in said Territory the same as though this act had never been passed; and offenders against such laws will be subject to arrest by the United States marshal, prosecution by the United States district attorney, and trial before a district judge appointed by the President and confirmed by the Senate. All cases arising under the laws of the United States will be tried before the Federal judge, and all cases arising under the laws of the Territory will be tried before the judges elected by the people, and who will be directly accountable to them.

I now call your attention to a few facts pertaining to the government of our Territory. Before doing so, however, I wish to state emphatically that we are not here to attack any individual or officeholder. Instances will be cited to show abuse of power by officials for the purpose of arraigning the system, not the individual or officeholder. Let there be no mistake about that.

The governor is appointed by the President, and for nearly forty years from residents of distant States. He is not of or from the people he is sent to govern. He is a stranger to them and to their customs, institutions, and necessities. He is not answerable to them for his conduct, nor is he dependent upon their good will for his salary or tenure of his office. He goes there for employment and emoluments, and if the fact develops during his term of office that more money can be made by remaining than by returning to his former home, he remains in the Territory; otherwise, at the end of his mission, he carries back with him what profits or spoils there may have been in the office.

This lack of responsibility to the people has caused many wrongs—little less than criminal—to be perpetrated upon the helpless people. It has been the means of delaying general appropriation bills in the executive office, without approval, until members of the legislative assembly were approached by trusted friends, and arrangements made whereby the bills should be returned on some pretext or other, and items inserted for messenger, stationery, expenses, or something else for the executive office.

Senator FAULKNER. Just there, let me ask you whether you have been a member of the legislature?

Mr. RICHARDS. I have been a member of each branch; of the house of representatives four years ago, and of the legislative council two years ago.

It has also been the means of inducing unscrupulous politicians and financiers to obtain improper and almost absolute control of the powers of the executive pertaining to legislative matters. This became notorious during one of the sessions of the legislative assembly at which I was a member. I will cite an instance:

A member of the assembly made inquiry of the governor how he was progressing with the consideration of certain important bills intended to prevent frauds at elections, which had been passed by the assembly and forwarded for executive approval. He was informed by his excellency that he had given the bills no consideration whatever; that they were in the hands of Mr. ———, who had full charge of them, and the member was referred to him for information concerning them. The matter was respectfully but earnestly followed up, and in due time resulted in the return of the bills with the governor's veto.

The Territorial auditor, the treasurer, the Territorial board of equalization, the boards of control of the University, Agricultural College, Reform School, Insane Asylum, and Fair Grounds are all appointed by the governor, with the consent of the legislative council. The disgusting notoriety of other persons than the governor himself directing and tendering the appointments to control these institutions and their treasuries, which were established from the people's taxes and are occupied by their children and friends, was forced upon a helpless assembly and unoffending people two years ago this very month. The conduct of the executive in these matters, of which numerous incidences might be cited if we had the time and inclination to do so, shows a disregard of proprieties and an utter lack of appreciation of the dignity of the office.

It would seem to be a sufficient humiliation of a free people to have their liberties and properties placed in the hands of a stranger, imported, not from across the seas, as in Colonial days, but from across the continent, without compelling them to patiently submit to the control of the exercise of that high and sacred office by speculators and politicians.

Nor are the foregoing the only evils that are forced upon the people by this absolute veto power. Just think of it, gentlemen, not a two-thirds, three-fourths, or four-fifths majority vote—not even a unanimous vote by every councillor and representative elected to both houses of the assembly—can overcome or break down the vote of this petty tyrant. Thirty-six chosen and trusted servants of the people, coming from every county in the Territory, and acting upon their oaths, unitedly voted for the passage of a bill appropriating money to construct and maintain a Territorial university; to defray the expenses of maintaining an insane asylum; and to defray other necessary expenses of government; and then this man, in his majestic power, said:

No; I will not approve your bill. You can not have a dollar for any purpose until you comply with my request.

And so the representatives of the people, because of their refusal to yield to the demands of the autocrat, returned to their constituents with the pitiful story that, while their taxes were accumulating in the treasury, the governor would not approve the appropriation bill, and the Territorial government must be run without money for the ensuing two years, which was done. And this occurred in free America, the land of liberty.

These same politicians and financiers, with full consciousness of the potency of the absolute veto power, push themselves among the members of the assembly and urge the desirability, and even necessity, of

passing all sorts of measures calculated to advance their own personal interests, without regard to the welfare of the Territory.

Senator SHoup. Let me interrupt you right there. I think the inquiry was made the other day in regard to the same veto. Were you in the legislature at that time?

Mr. RICHARDS. When?

Senator SHoup. When the veto of the revenue bill occurred?

Mr. RICHARDS. I was not in the legislature at that time.

Senator SHoup. You do not know of your own personal knowledge, or do you, if there was anything embraced in that bill except the revenue?

Mr. RICHARDS. I can not say of my own knowledge. My understanding is that nothing else was embraced in the bill.

Mr. SMITH. I know there was nothing in it except the appropriation. It was sent to Congress with a communication of the legislature.

Senator DAVIS. Do you understand that there was anything else embraced in the bill?

Senator SHoup. I simply asked for information.

Mr. RICHARDS. My understanding is that there was nothing in it except the appropriations.

Senator SHoup. Other members of the committee besides myself would like to know what objections he had to the bill.

Mr. RICHARDS. We will produce a copy of the bill and the veto, if it can be obtained here.

Mr. JUDD. It was sent here in a memorial.

Mr. RICHARDS. We will produce it if we can and make it a part of this hearing, as an exhibit.

Mr. RICHARDS. Naturally, when such requests are made, the first impulse of the legislature is to refuse compliance and fight it out on that line, but, with an absolute veto hanging over its head, which means no funds with which to maintain the government, no redress except through Congress 2,500 miles away, and the entire people, guilty and innocent alike, under a cloud so dark that no ray of light or hope can be seen from the far East, is it any wonder that the dictator can make his own terms? And can the assembly be blamed for yielding under such a pressure?

Let me cite an instance of the effect the presence of these financial advisers has had upon the executive. During several successive legislatures wholesome bankruptcy bills have been passed, for the express purpose of preventing fraudulent assignments or assignments with preference—in effect they usually amount to the same thing—and these bills have been forwarded to the governor for approval. They were not partisan measures in any sense, but received the support of all parties, and ought to have become law. As these bills neared their final passage the financial advisers of the governor flocked closer to him than before, if possible, and kept keen eyes on every movement of the bills and their promoters.

Senator JONES. When was that?

Mr. RICHARDS. For several successive terms last past. As soon as they reached the executive mansion it became apparent that the bankers would permit no surrender of their power to exact every dollar of indebtedness due them before the jobber or employé could get a cent; and so the bills were vetoed.

With such a flagrant abuse of executive discretion in legislative matters, the people of Utah are beginning to ask who controls the executive on pardons, and how much does it cost to procure one? About

six months ago a man named Griffin was convicted of manslaughter and sentenced by the district court at Ogden, presided over by a Federal judge, to four years imprisonment in the penitentiary. He was believed by a great portion of the community—those who knew the facts—to be guilty of murder. About two months ago he was pardoned by the governor and turned loose on the community. This was done without even conferring with the judge who presided at the trial, or obtaining any opinion or statement from him in regard thereto, and greatly to his surprise, indignation, and disgust. Upon learning of the pardon the judge declared it to be an inexcusable outrage on the community.

Now, gentlemen, I call your attention to an important class of legislation which Congress intended that the legislature of Utah should enact, and which it has, at each session during the past ten years, tried to enact, but the governor's refusal to approve the bills prevented them from becoming law. I refer to the subject of dispensing with the Utah commission, as contemplated in the act of Congress creating it, whereby the people of the Territory might regain control of their own elections. Under these bills hundreds of thousands of dollars would have been retained in the National Treasury, and might have been appropriated to some worthy purpose instead of being expended to widen the breach between the people of Utah and the General Government as much as possible, and indefinitely delay the solution of this painful and unprofitable problem.

Section 9 of the Edmunds act, approved March 22, 1882, declared all the election and registration offices in the Territory vacant, and authorized the Utah commission to appoint persons to perform the duties pertaining thereto; after which it also provided that—

At or after the first meeting of said legislative assembly, whose members shall have been elected and returned according to the provisions of this act, the said legislative assembly may make such laws, conformable to the organic act of said Territory and not inconsistent with other laws of the United States, as it shall deem proper, concerning the filling of the offices in said Territory declared vacant by this act.

The whole object of the provisions of the Edmunds act, so far as they relate to elections, was, first, to prevent polygamists from voting or holding office in the Territory, and, second, to vacate all election offices in the Territory, place them beyond the reach or control of polygamists until an election could be held and a new legislature elected composed of monogamists only, and a law passed by them providing for the filling of such election offices. When that had been accomplished Congress would have turned the polygamists out of office, taken the government from them, placed it in the hands of the monogamists, and the latter provided for administering the same.

It may not be amiss to remind you that while Congress gave the subject of elections in Utah careful consideration at that and other times, it has not disapproved any of the provisions of our election laws, and that is equivalent to an approval of them. By the Edmunds act Congress enlarged our registration oath, vacated the registration and election offices, and authorized the legislature to provide for filling them again. By the Edmunds-Tucker act the governor and assembly are unable to provide for filling the offices until their enactment is approved by Congress. The power now remains with the governor and legislative assembly to pass any kind of an election law that they may agree upon, but no law dispensing with the commission can take effect until it has been approved by Congress.

As contemplated by the Edmunds law, the first legislature elected thereunder assembled in 1884 and passed a bill which would have abolished the commission, and been acceptable to every citizen who desired free elections. This bill was vetoed, and no suggestion made by the governor as to how his approval could be obtained to any such measure.

At each succeeding session, I believe, proper bill have been passed by the assembly on this subject, but each and all of them have failed to become law either by an open veto or a silent refusal to approve. The result is the same, as we are compelled to secure affirmative executive action to give life to any bill.

Now, I desire to make mention of another feature in connection with this legislation. The present governor of the Territory was governor during the session which occurred two years ago. At the time the Edmunds law took effect or soon thereafter, he was the secretary of the Territory, and as such became, by virtue of that office, *ex officio* secretary of the Utah Commission. He kept their records and papers and had access to all of their business. He was thoroughly conversant with all the ins and outs of the registration and election business. To my personal knowledge, he was present and knew of many complaints made on behalf of the people of the Territory in regard to the arbitrary, unjust, and illegal execution of that law, and was fully advised as to the situation. While secretary of the Territory he was appointed a member of this same Commission, and as such had these complaints presented before him, and, to my personal knowledge, attended at elections when the grossest and most flagrant frauds were perpetrated in his presence, and of which he made admission, because it was absolutely impossible to deny the fact that they were going on and were going on in the plain view and face of every voter present at the polls.

Senator DAVIS. Where was that?

Mr. RICHARDS. In Ogden. I make mention of this merely—

The ACTING CHAIRMAN. What was the character of the frauds going on in his presence?

Mr. RICHARDS. There were a number. In the first place—

The ACTING CHAIRMAN. Just give a sample.

Mr. RICHARDS. The willful disregard on the part of the judges of election of challenges for impersonation and for nonresidence of the people who appeared at the polls to vote.

Senator DAVIS. Repeating?

Mr. RICHARDS. There were charges of all kinds.

Senator FAULKNER. Voting on other persons' names or fictitious names?

Mr. RICHARDS. Yes, sir.

The ACTING CHAIRMAN. They declined to investigate the case on challenge?

Mr. RICHARDS. Yes, sir. A voter would challenge a man offering to vote, because he did not live in the city. The answer was "That is no ground for a challenge" and the vote was deposited in the box. Challenge would be made to another on the ground that the person was not registered or "that he was not the person on whose name he asked to vote." In many cases the persons were not even sworn, but were permitted to vote; in a few instances, however, they were sworn and voted, notwithstanding the challenge, and without any investigation.

Senator DAVIS. Were any questions asked him?

Mr. RICHARDS. They would ask whether he was the man.

Mr. SMITH. That was the only thing that was asked.

Senator DAVIS. Was the challenger permitted to examine him?

Mr. RICHARDS. No, sir.

Now, I make mention of this matter simply to call your attention to the fact that two years ago the executive of the Territory knew of these violations as well as we knew of them.

Senator JONES. The violations of the law, which you accuse the governor of having knowledge of, consisted in the fact that some person who was present would make some charge against the party proposing to vote——

Mr. RICHARDS. Yes, sir.

Senator JONES. They would then swear him. Upon his statement upon oath that the charges were not true, they would accept the sworn statement and allow him to vote in preference to an unsworn statement of the other man?

Mr. RICHARDS. No, sir; the suggestion is that these judges of election would not permit any investigation into the fraud; if a man was charged with being a repeater, they would simply ask the question whether he was the person on whose name he attempted to vote. And, if he swore that he was, he would be allowed to vote, and no one was permitted to make any inquiry.

Senator DAVIS. Were any prosecutions instituted for perjury?

Mr. RICHARDS. Yes, sir; for that or other election crime, but we could not get convictions.

Senator DAVIS. Take a man you knew to be a repeater. Did you prosecute any of them?

Mr. RICHARDS. We attempted the prosecution, but that was out of our hands, and in the hands of the district attorney and professional political jurymen.

Senator DAVIS. Is everybody, from the district attorney down, corrupt? It looks like it.

Mr. RICHARDS. I do not say that. We have, however, been able to get very few, if indeed any, convictions. You can draw your own conclusions from the facts.

Senator JONES. When the challenge was made and the challenged voter had answered that the charge made by the challenger was not true, what was the duty of the election officers under the law?

Mr. RICHARDS. I understand it was the duty of the election judges to receive evidence as to the grounds of challenge.

Senator DAVIS. Evidence in contradiction of his?

Mr. RICHARDS. Yes, sir; to ascertain the facts.

Senator DAVIS. Try the man right there?

Senator JONES. You would not have many votes cast in a day if that course was pursued.

Senator FAULKNER. That is the law in my State.

Mr. RICHARDS. It would not take long to settle the question.

Mr. SMITH. As to a question of residence they would not swear them at all.

Mr. RICHARDS. They simply said "it is no ground of challenge," and in that way hundreds and thousands of illegal votes have been cast in that Territory by people not entitled to vote, because they came there and voted on fictitious names, and when they were challenged the judges of election arbitrarily refused to consider any question whatever, and in many cases to even put the men under oath.

Senator SHOUP. Were they not all railroad men?

Mr. RICHARDS. No, sir. They were tramps and hobos who came there for the express purpose. The captain of police in Salt Lake City told me that within a month after one of our elections more than twenty-five of these tramps were arrested on different charges and passed

through his jail, and during their confinement stated that they were taken there for the express purpose of voting, and that they did vote, and were given money for doing so, and were then trying to get back home.

Now, returning to the matter I was speaking of, I make mention of these things for the sole purpose of showing you that the executive had personal knowledge that these election frauds were committed, that complaints had been made to the commission, of which he was a member, of these fraudulent doings at the polls, with the registration lists, and with all these matters pertaining to elections. The Commission had said to the managers of the People's party "You ought to get certain amendments to the law that would make these frauds impossible." We contended that the amendments were unnecessary if they would simply appoint reputable people to execute the law. But, complying with the suggestion, we asked them if they would cooperate with us in procuring the legislation. They said they would. We then prepared amendments to the law, providing that every affidavit should show upon its face the name of the street and number of the house at which the voter resides, so that he could be located, and that the registering should be done in public places and in the daytime between certain hours, instead of in saloons and other places at the option of the registrar, at night; that the affidavits should be kept in public offices, where people could go and inspect them if they desired to do so, instead of remaining in the possession of the registration officers, and they permitted to refuse inspection of them until after the election was held and illegal votes cast thereon.

Other matters that were calculated to make it impossible to perpetrate these frauds were included in the bill. That bill was prepared and submitted to the Utah Commission, and they approved of it, saying that it would be satisfactory to them. It was also submitted to other men of high standing, Federal officials in the Territory, and approved by them, and was taken to the assembly and passed by both houses. When it was sent to the Governor for his approval, in spite of the fact that he knew of these things, he sent it back with his absolute veto, and we have to-day the same condition that we had before. I have been informed by a gentleman who is reliable and I regard as good authority on the matter, that at least a thousand illegal votes were cast at the municipal election held in Salt Lake City last Monday. The tramps who cast those votes were kept there for the purpose of voting, and were held there at the expense of the municipality.

Senator JONES. You state that a thousand people were kept there for the purpose of voting. Who kept them there?

Mr. RICHARDS. They were kept there by the Liberal party, by the party that carried the election.

Senator JONES. Does the Liberal party control the municipal government?

Mr. RICHARDS. Yes, sir; they control the city.

Senator DAVIS. Where do these people belong?

Mr. RICHARDS. Outside the Territory of Utah—God, the Liberal bosses, and they only, know where.

Senator DAVIS. That is a good way off. How do they get there?

Mr. RICHARDS. They are brought there. It is a complete and perfect system of colonization.

Senator DAVIS. They are brought there from where?

Mr. RICHARDS. From Pocatello and other points in Idaho, on the north; from Colorado towns on the east; from towns along the several

railroads running into and through Utah; they are gathered in from the mining camps thereabouts, and transients are held there.

Senator DAVIS. Do they disappear after the election?

Mr. RICHARDS. Yes, sir; if you had gone into the city of Ogden, situated 37 miles from Salt Lake City, two weeks ago, it would have been as impossible to find what we call a hobo in that city as it would be to find one in the paradise of Heaven.

Senator DAVIS. What is a hobo?

Mr. RICHARDS. A tramp who comes there to vote, votes as many times as he can, and gets as much money as possible for doing it.

The ACTING CHAIRMAN. How did the election result?

Mr. RICHARDS. It resulted in about 1,000 majority for the Liberal ticket.

Mr. SMITH. There was a majority for the Liberal ticket?

The ACTING CHAIRMAN. Of how much?

Mr. RICHARDS. About 1,000.

Senator JONES. I would like to know a little more about that.

Mr. RICHARDS. One of my colleagues who will follow me is from Salt Lake, and can furnish you with all the details more accurately than I can.

Senator JONES. We want that.

Mr. RAWLINS. I will state that I have a list of 245 names.

Mr. RICHARDS. Mr. Rawlins has the names in his pocket, and can give you all the information on that point when he addresses you.

These are but a few of the multitude of abuses that have taken place in the executive office during the existence of the Territory, and they are cited as examples of the workings of a pernicious system, which, with a few exceptions, has been used these many years to accomplish selfish ends and abridge the rights and liberties of the people. No more flagrant abuses and usurpations of power than those inflicted upon the people of Utah caused our grandfathers to throw off the yoke of British oppression and proclaim to the world that they were entitled to be a free and independent nation.

Now, gentlemen, I desire to call your attention to the election laws and the methods pursued in conducting elections in our Territory.

In March, 1882, at the time the Edmunds bill became a law and the Utah Commission was appointed under its provisions, the laws of the Territory creating election officers and defining their duties provided that the assessor of each county should be the chief registration officer for his county; that in each voting precinct he should appoint one deputy for whose official conduct he should be responsible under his bond; that the assessor and his deputies, while making their house-to-house canvass for the assessment of property, should visit each and every house in the county, register the name of every voter, and strike from the list the names of any who had died or moved from the precinct since the last registration, and that this canvass should be completed prior to the 1st day of June. It was also provided that for one week after the completion of this canvass the registrar should be at his office at the county seat for the purpose of adding to the list the names of all persons entitled to vote, who might have been omitted or not found while making the house-to-house canvass, and that after the close of that week and prior to the 1st day of July he should deposit the registration list, with all the affidavits and papers connected therewith, in the office of the county clerk, where the same became public records and were subject to examination.

This placed on record in a public office all the papers and records

connected with the election at least five weeks before the election occurred. The statute also provided that all objections to the right to vote of any person whose name appeared on the list should be made before a justice of the peace for the precinct in which the person desired to vote, and should, after timely notice to the voter objected to, be determined by such justice. And further, that the judges of elections should be selected by the county court, or county commissioners, from reputable citizens, voters in the precinct in which they should serve. From the foregoing you will see that the elections were conducted in every particular by men who were responsible to the people, and that the elections themselves were guarded by every possible precaution.

Under the present system the Utah Commission is not responsible to the people in any way. They appoint individuals, not officials, to act in the responsible positions of chief and deputy registrars, who also hear and determine all objections to the right of persons to vote. As the Territorial law never contemplated such a condition of affairs, and Congress failed to provide for the requiring of bonds from these officials, we now have our entire election machinery from one end to the other in the hands of men free from all bonds or financial responsibility to the people. The condition of affairs is such as might have been expected from the hands of strangers long in office in a distant province. The Commission has frequently deprived the people of their sacred rights.

Immediately after reaching the Territory, in plain contradiction to the spirit and letter of the statute under which they had been appointed, they assumed executive, legislative, and judicial functions, and exercised them until they were suppressed by decisions of the Supreme Court of the United States.

If the committee desire the decisions we will make reference to them by title and page.

The law creating the Commission is found in section 9 of the Edmunds act, and is as follows:

SEC. 9. That all the registration and election offices of every description in the Territory of Utah are hereby declared vacant, and each and every duty relating to the registration of voters, the conduct of elections, the receiving or rejection of votes, and the canvassing and returning of the same and the issuing of certificates or other evidence of election in said Territory shall, until other provisions be made by the legislative assembly of said Territory, as is hereinafter by this section provided, be performed under the existing laws of the United States and of said Territory by proper persons, who shall be appointed to execute such offices and perform such duties by a board of five persons, to be appointed by the President, by and with the advice and consent of the Senate, etc,

The language of this section seems so plain that no excuse can be offered for a violation of its provisions.

It declares:

- (1) All election offices in the Territory vacant.
- (2) That every duty relating to elections should be performed by persons appointed by a board of five persons to be appointed by the President.
- (3) That such duties should be performed under the existing laws of the United States and of said Territory.

In spite of this language the Commission at once assumed the right to instruct its appointees and required as absolute obedience to their orders as a principal would exact from his agent. You will observe that there was no change made in the existing election laws of the Territory of Utah, by the act of Congress referred to, and that no power was given to this Commission to make any such changes, but

merely to fill certain offices which said act declared vacant. The Commission was in no way empowered to dictate to election officers and their deputies the manner in which they should perform their duties. The laws then in force fully provided for such matters. The only object Congress had in the creation of this Commission was to temporarily provide for the appointment of certain officers, who should discharge their duties in accordance with the laws of the United States and the Territory of Utah.

In spite of all this, no sooner had the Commission reached Utah than it assumed to take absolute control and direction of all election matters, district, municipal, and territorial. It at once decided that if a person was once a polygamist he was always a polygamist, and arbitrarily required the registration officers to strike from the registration list the names of hundreds of men who had entered into polygamic relations prior to the passage of the first act of Congress prohibiting polygamy (in July, 1862), and whose legal and plural wives had all died before that time, so that at the date of the passage of the first act against polygamy they were without any wives at all, and ever since that time had been widowers. It also ordered that the names of all those who had once been polygamists but had since abandoned the relationship, and whose plural wives had again married and were rearing families in other homes, should be stricken from the list. It also ordered that the names of those who had once been in the polygamic relation, but who had terminated it by an agreement in writing with their plural wives made in good faith and in accordance with the rules of their church, should be stricken from the list.

Believing that these arbitrary proceedings were without any authority of law, and were further than Congress intended in the passage of the act before referred to, test cases were prepared and carried to the Supreme Court of the United States, where these decisions of the Commission were overruled and it was instructed to permit all these people to vote. This course of appealing from the decision of the Commission to the courts, where in almost every instance the Commission has been overruled, has been denounced, and the people charged with obstructing the execution of the law and opposing the Government. Such is not the case. It is unjust to say of these people that they have at any time or in any way resisted the execution of that law; but it can truthfully be said that they have at all times asked that it should be fairly and impartially executed according to the letter and spirit of the act, and have insisted that as American citizens they have a right to appeal to the courts whenever they are being deprived of any right guaranteed to them by the Constitution and laws of the United States.

It has been the practice of this Commission to appoint some person of partial respectability as chief registrar. He is not expected to do any work, and especially none that would attach to him any financial responsibility if corruptly performed. In the selection of the deputy registrar for each precinct, care is taken in all important precincts that an irresponsible and in many instances disreputable elector is chosen. Men who would as soon be engaged in fraudulently striking off and adding names to the list of voters as to be employed in some honorable pursuit are selected to hear and determine objections to the right of electors to vote and to keep personal possession of all election oaths for registration until after the elections are held, and then they are filed with the county clerk, and are subject to inspection. From the decision of these men we are not permitted to appeal. Protests without number and in due form have been made to the Commission against the appointment of men without integrity or responsibility, when there are thou-

sands of honorable and responsible citizens willing to perform the duties of these offices. I need not say that the protests have seldom, if ever, been regarded. As no bonds are taken, the appointment of such irresponsible men is little less than criminal.

The judges of election are appointed in the same way and to a considerable extent from the same class of people. The boldest frauds are perpetrated and these judges sit and smile as the fraudulent ballots are put into the box.

As an illustration I will give one instance which came under my personal observation. One year ago this month a municipal election was held in the city of Ogden. I was one of the judges of election in my ward.

The acting CHAIRMAN. Who appointed you a judge of elections?

Mr. RICHARDS. The same Commission.

Senator JONES. I understood you to say that they did not appoint any but disreputable people?

Mr. RICHARDS. I said to a considerable extent.

Senator DAVIS. You cover that point?

Mr. RICHARDS. A man who had presented himself to vote was challenged on the ground that he did not reside in the ward. He was sworn and testified to the number of his house and the name of the street upon which it was situated, and showed conclusively that he was not a resident of the ward and so was not entitled to vote. The judges all agreed that he did not live within that ward, but in spite of the fact the two other judges decided that if he would swear he was a resident of the ward that his vote would be received. They were only stopped in their mad endeavor to get the voter to perjure himself and secure his vote by threats of criminal prosecution if they received the vote.

At the same election a foreigner came to the window to vote and was challenged on the ground that he was an alien. He was asked if he had his naturalization papers. He replied that he had, and passed in a paper which the chief judge of election read, and stated that he was willing to receive the vote. My suspicions were aroused, and taking the paper I found that the name of the party described therein was no more like the name given by the voter than Jones is like Brown. I showed him the name on the paper and asked him if he would swear that it was his name and that the papers were his. He replied that he would not, and was taken into custody by the sheriff. The judge knew what he was doing and was willing to be a party to the crime.

Such instances are so numerous and flagrant that they could be enumerated almost indefinitely, and have been reported times without number to the Commission. Are such appointments made, and the same persons reappointed year after year because the Commission desires fair elections, or are they made for some other purpose? We leave that for you to answer.

There is another thing to which I desire to call your attention in connection with the extraordinary powers exercised by the Commission—its conduct in dividing the Territory under the act of 1887 for representation in the Territorial legislature. By that apportionment some districts were so arranged that election precincts from as many as four different counties were constituted one district.

Under the act of 1891 it has not only given us "shoe-string" districts but has also undertaken the "bunching" process. The city of Salt Lake, having a population of 50,000, is declared to be but one district for the election of members of the legislature. Three councilmen and six representatives are to-day sitting in the assembly from that one district. These extraordinary and unjustifiable methods are not neces-

sary to a fair and impartial execution of the election laws. As I have before remarked, the people of the Territory have never offered the slightest opposition to the execution of this law. I think I can truthfully say that no polygamist has ever offered to take the registration oath, nor has one appeared and offered to vote since the passage of the Edmunds law ten years ago. This class of people have accepted the situation far more cheerfully than might have been expected and have all the time understood that they were no longer in politics.

I am satisfied that the presence of this Commission in Utah, the past ten years, has done more towards prejudicing the people of the United States against the people of the Territory of Utah and delaying the solution of the unfortunate condition of affairs that has existed in that Territory than all other things combined. The Commission has lost no opportunity of irritating the people and making them feel that the officers appointed by the General Government were their enemies rather than their friends. It has lost no opportunity of misconstruing the motives of the people; of accusing the innocent with the guilty; of making the people of the country believe the condition of affairs in the Territory to be much worse than it ever has been, and of keeping up such an unwarranted and unprofitable agitation of the situation that Congress should feel unwilling to have its valuable services dispensed with.

Let it be understood that we are not complaining of the laws, but of the methods that are employed in their execution.

Now, gentlemen, I desire to call your attention to some other facts connected with our government in the Territory of Utah.

We have in the Territory four courts. They are invested with original civil and criminal jurisdiction in all cases at law and in equity where the amount involved is \$300 and upwards, where the term of imprisonment to be imposed is six months or more, or where the title or boundary of real estate is involved. They also have original jurisdiction, civil and criminal, in all United States cases. They are also the courts of appeals from the decisions of the justices of the peace for twenty-five counties. These courts are located at four points in the Territory, three of them being within a radius of 85 miles. It necessarily follows that the distance traveled by the litigants, witnesses, and jurymen is very great, and that the mileage and expenses of litigation are a terrible burden on the people and on the Territory. This is true to such an extent that in civil cases in which the amount involved is less than \$500, it is unprofitable, if not disastrous, to resort to litigation to recover it.

It practically amounts to a denial of justice to the people of Utah, and they look upon the courts rather as strange enemies than as friendly arbitrators. We think the courts should be taken to the people and not require the people to go to the courts. The amount saved in mileage alone of jurymen and witnesses on the part of the Territory would be sufficient to pay all salaries and expenses incurred by the Faulkner bill.

I have an affidavit from the court commissioner, who pays the jurors and witnesses serving at the court in Ogden, which will give you an idea of some of the unnecessary mileage now being paid at that court, and which I will read. It is as follows:

TERRITORY OF UTAH, County of Weber, ss:

Henry H. Rolapp, of Ogden City, Utah, being first duly sworn, deposes and says:

I am court commissioner of the northern division of the first judicial district, and as such I am by law instructed to pay all jurors and witnesses for services rendered, as evidenced by certificates issued by the clerk of the court of said district.

That the following is a true and correct transcript of a portion of my register of certificates paid :

Jury service.

Name of juror.	Where subpoenaed.	Days served.	Miles traveled.	Amount.	When paid.
					1891.
W. J. Dunlap.....	Territorial line, Box Elder	1	125	\$14. 50	Dec. 16
Joseph Kimball	Meadowville	1	127	14. 70	Dec. 30
Eli Bradley	Hyrum	1	76	16. 00	Dec. 8
Henry Gray.....	Terrace	52	140	118. 00	Dec. 5
Henry Losee	do	30½	140	75. 00	Dec. 5
William Egloy	Newton	5	74	17. 40	Dec. 31
W. J. Frazier	Woodruff	1	110	13. 00	Dec. 31
J. W. Dykins	Randolph	9	110	21. 00	Dec. 22
James Brown	do	15	110	41. 00	Dec. 9

Senator FAULKNER. How does the mileage differ so when the number of miles does not ?

Mr. RICHARDS. There is a difference in the number of days attendance after reaching the court.

Senator SHOUP. Does that include mileage both ways ?

Mr. RICHARDS. No, sir; but one way.

These are instances taken from the different counties from which the litigants, jurors, and witnesses are required to go to Ogden. There are points in the southern part of the Territory where the mileage would probably be double the mileage here. It is safe to say that in some parts of the Territory they have to go from 250 to 300 miles.

Witnesses.

Name of witness.	Where subpoenaed.	Days served.	Miles traveled.	Amount.	When paid.
					1891.
James Bough.....	Wel'sville	1	70	\$16. 00	Dec. 3
Rudolph Walters	George Creek	4	150	38. 00	Dec. 19
Lewis King	Terrace	1	124	14. 40	Dec. 18
R. S. Barnes	Idaho line	3	135	19. 50	Feb. 20
David Dilley	Promontory	3	53	11. 20	May 4
C. G. Smith	Terrace	4	125	20. 50	Dec. 15
William Barnes	One Mile Creek	3	130	19. 00	Dec. 31

R. H. ROLAPP,
Court Commissioner.

Subscribed and sworn to before me this 2d day of February, 1892.

[SEAL.]

DANIEL HAMER,
Notary Pub

The hardships now imposed upon the people who attend the courts, in neglecting their business and home interests, while making the unnecessarily long journey, waiting for the trial of their cases, and then returning to their homes, are a greater loss to the Territory than the actual amounts expended from its treasury. Besides, the court records are so far from the people who do not reside in the four counties where the courts are held that they are practically inaccessible, the distances varying from 25 to 250 miles, and necessitating not only tedious delays in transacting business but the expenses incurred in procuring certified copies of records and papers for reference. Four courts are not enough to transact the business of 250,000 prosperous and progressive people in the busy West.

Our court of appeals, if such it may be called, consists of the four judges who sit separately as district judges and before whom the cases appealed were originally heard. It is true that the justice before whom the case was originally tried stands aside while that case is being heard by his colleagues. It is also true that when the next case is tried the justice who originally heard it steps aside and the first justice returns to the bench. An opportunity is thus afforded the justices of being as considerate with each other's cases as circumstances will permit. And it is an old expression among lawyers that the court of appeals, or supreme court, as it is called, seldom reverses the lower court.

We ask that you will permit us to elect a court of appeals from responsible taxpayers of the Territory who are in nowise connected with the trial of cases in the lower courts, nor interested therein in any way.

Permit me also to remind you that there is not power in the governor and legislative assembly of the Territory to provide for the selection of a single jurymen. They are now selected in such a way that gross abuses are indulged in. It is next to impossible to obtain a conviction for homicide or other serious charge if the defendant is financially able to secure his acquittal. Just here let me say that in the past three years there have been four cold-blooded murders committed in the city of Ogden and in none of these cases has a verdict of murder been returned. There have been only two executions in the Territory in about twenty years. One was fifteen years ago, and the other was Hopt, whose case was three times carried to the Supreme Court of the United States, new trials granted for error, a conviction secured, and the prisoner executed after his fourth trial.

The people of Utah have lived under such a government as this for more than forty years; it has been getting more oppressive each year, and they feel that they have submitted to it long enough. They now ask you as the representatives of a great nation to right the wrongs they have so long endured, and permit them to exercise the powers of self-government.

Gentlemen, I thank you.

STATEMENT OF J. W. JUDD.

Mr. JUDD. Mr. Chairman, and gentlemen of the committee, I congratulate myself upon being able to appear before so learned and impartial a body as this committee, in presenting the causes of complaint that we make. I feel satisfied that you seek none other than the truth. That is all I have come here to give you. In August 1888, I was sent, under a commission of the President of the United States and of the Senate, to Utah as one of the associate justices of the courts of that Territory. I carried with me to Utah, from my State of Tennessee, all the prejudices and hates that had been engendered against Mormonism, intensified by things that had occurred in my own State with reference to Mormon leaders and preachers who had traveled in that Territory. When I arrived in the city of Ogden I was somewhat astonished to find that the people who lived there looked like other people; that they lived in houses, and wore clothes, and walked about the streets, and went about their business, and appeared not differently from the balance of the people I had seen in the United States.

The first thing that was said to me (because, be it known, that whenever a new official or a new judge goes there he has plenty of advisers),

was, "You do not want to go about these Mormons. You do not want to have anything to do with them. If you do they will deceive you and mislead you."

Well, that was strange to me, and had it not been for the fear of being charged with cowardice, without unpacking my grip I would have returned to Tennessee, for the idea of administering justice among a people I could not talk to, associate with, and be a part of, was an idea to my mind so abhorrent that I could not entertain it for a moment.

Mr. Richards, who is sitting there, was one person against whom I had been especially warned, and he called at the hotel to see me two or three days after I arrived. I said to him, "You look like other people; what is the matter with you. I have been told that I should not talk with you, that you would deceive me." The truth is I turned to these people and said, "Gentlemen, you have all been pursuing too narrow a course here. You have been trying to get apart instead of trying to get together. A broader patriotism and a broader sentiment should have characterized people here on both sides of this line, and an effort to reconcile affairs and to bring each into harmony with the Government, rather than this effort to keep apart, should have been made."

Pursuing that line conscientiously I was assigned to the court at Provo, the first circuit. I went there, and during the fourteen months that I held that court under my commission I came in contact with more of these people, more of them were brought before me for polygamic crimes, than any other judge in the Territory.

Let me relate to you my experience, for it is the experience of actual life and speaks the facts of the case. I found this state of things: The young men and young women there were as distinct a stratum in that society from what was known as the polygamist stratum as it was possible to be separated. That did not appear generally on the surface, and I will give you the reason why it did not; and in that allow me to answer a suggestion that has been made so often that Utah is dominated by the priesthood. I went there believing that, but I discovered that the effect was mistaken for the cause.

Now to the facts. The Mormon people, when they settled that country out there, settled it with an attempt to plant upon American soil a civilization of three thousand years ago. Their system of priesthood, for I have studied their theology, and their system from their own standpoint, reading their own literature, was undertaken to be patterned after that of the ancient Jewish priesthood, and included in it, like the latter, the polygamic relation. When they undertook this thing, of course, in the estimation of the civilization of America and of its laws—the first one being passed, however, in 1862—it became a criminal institution. No one recognized that more thoroughly than did Brigham Young, the leader of the Mormon people, and the Mormon people themselves.

When the Congress of the United States and the people began their attack upon that system the necessary result was to weld those people together to defend that institution; and it had the effect, not only to draw to its defense those who occupied the polygamic relation, which was largely the priesthood, but being isolated as they were there, having settled that country and claimed it as their own, they brought to their aid in the defense of that relation the whole population of Utah which was Mormon. Now that condition of things continuing, and being the constant subject of attack, they brought to bear every means of defense which could be summoned to their command, one of which was the political power of the Territory. No man would be elected, of

course by Mormons, to an office who was hostile to, or was attacking their institution, and in that shape the political power became an incident to their civilization and the social system; *not the cause*, but the result.

Now I studied out this conclusion for myself at night by reading their theology, reading their books, talking with the people, and absolutely getting into their civilization with a view to arrive at the exact condition of things.

I began then to talk to the younger men and the younger women, and to see if I could discover whether there was back of that an absolute sentiment in favor of polygamy. I had been told, and the estimates demonstrated beyond doubt, that there was probably not over $2\frac{1}{2}$ or 3 per cent of the male population in polygamy. The settlement of Utah was forty or forty-five years old, and many of the men and women born there were grandfathers or grandmothers. I could not understand how it was that those people were consenting to such continual attacks, to such deprivations, and to such odium in the estimation of their fellow-citizens in the United States, in this condition of things. And, gentlemen, I discovered as clearly a marked line between those who favored polygamy and those who did not, as the banks of the Mississippi River.

The younger people would come to me in my room in private and talked to me about it. I could give names and incidents of Mormons high in life, some of whom the chairman of this committee is acquainted with, who came to me and urged me, saying, "Judge, for God's sake break this thing up. We have had enough trouble. We have had all we can possibly stand of it. We have had one right after another taken from us. We have been put in an awkward attitude before our fellow-citizens of the United States, and for God's sake break it up." Others said to me, notably Reed Smoot, son of the president of a stake, and the Republican candidate for mayor, and himself the product of a polygamous marriage, "Judge, we can not stand this thing, and we will not stand it; it must be settled." And I know whereof I affirm when I say before this committee that when the Mormon Church made its declaration of the abandonment of polygamy it was done as much from a force within as from a force without.

Moreover, I say that when they made that announcement they simply announced what was a foregone fact; that it accomplished nothing. The thing was already accomplished. I do not believe, to-day, sir, that you could any more, by the consent of the people of the Territory of Utah, reestablish polygamy there that you could reestablish slavery in Georgia or Tennessee.

As to the domination of the priesthood in politics, so far as I am concerned—I am not here as a partisan—I want to say to this committee, from my standpoint, that I fear it not, and there are instances in our own recent election that prove to my entire satisfaction and that of my associates that we are able to take care of ourselves, the priesthood and the Mormon Church to the contrary notwithstanding, if it be to the contrary.

Now, so much for a boiled-down statement of the actual condition of things among those people.

I have given you, sir, their sentiment, the actual sentiment as it exists and as I know it exists.

Now, gentlemen, Senator Platt, in our discussion the other day, in answer to a suggestion of one of our speakers, said that it was well in speaking of these things to deal strictly with facts and not with sentiment. I am sorry the honorable Senator is not here to hear my reply to that.

Liberty, gentlemen, is a sentiment. What is it that makes the American's breast well up at the sight of his flag but sentiment? There is no liberty without that sentiment; that is, that love of freedom that is born in the human breast, and that would make us shed our blood upon our soil and redden it with gore in defense of liberty. When we come to you and lay before you our grievances, remember that we come with no cold, icy statue; we come with the living sentiment of human beings and American citizens, asking to be allowed to govern ourselves as other people in these United States are allowed to govern themselves. A broader patriotism should be manifested toward the people of Utah. If the people of Utah suffer in their liberties the people of every other State in this Union suffer in theirs. My friends, no people ever lost their liberty at one stroke. It usually begins in some obscure and weak corner, where custom and precedent are molded, and it spreads like the silent creep of the cold tyrant's hand, until it has grasped the liberty of the whole and subjected them to tyranny.

Talk not to me of sentiment. When we speak of American liberty it is all sentiment, and without it there is no liberty. Pardon the digression, for I felt called upon to make it, to let you gentlemen know how we feel; that in Utah we love liberty, and have sentiment as well as in other parts of this Union.

When you govern a people by men who do not live among them, but who live hundreds and thousands of miles away, and whose daily bread consists in the salary they get for governing that people there is no difference in men, I care not how high or how low their station.

Pilate, who delivered our Master to the crucifiers, was an accredited governor of the Roman Empire, and doubtless beloved by those who gave him his commission. It is the system of government that is wrong. Ireland is to-day almost depopulated and destroyed by that system of government, and yet the accredited agents of the British Government go there and tax her and govern her, and they doubtless have the approbation of the Queen's sign manual as to their respectability and standing.

Gentlemen, to you who live in the States and know what liberty of self-government is; what it is to elect your own officers and hold every man responsible to the people, you can not, sirs, conceive of a Territory, of a dependency governed by people who come from thousands of miles away, and whose interest it is to keep in office to draw their salaries.

I speak plainly, but I speak as an American freeman to the American Congress, and I proclaim that I have the right to challenge any such system of government, and if the individual must suffer I am not responsible.

Now, gentlemen, let me bring you down to facts that are within my knowledge, and without arraiguing any individual let me show you what the Utah Commission has done within the last eighteen months. There can not be any doubt about what I shall say, for here [exhibiting] are the records of the supreme court of the Territory of Utah. In August, 1890, there was an election held in Salt Lake City for county officers. After it was held I never heard such charges as were made of fraud and unfair dealing. The charges were galore and the air was blue with them. I received a commission from Col. Godfrey, chairman of the Utah Commission, a friend of mine, and than whom no more upright, honorable gentleman lives, appointing me a member of the board of canvassers for the county and the Territory. When we came to canvass Salt Lake County, we struck Bingham, the precinct which is in Bingham Camp, across on the west side of Salt Lake County, in Bingham Canyon.

Let me state that the registration lists of this Territory are in this fix: They have not been revised for years. They run right along like an unbroken stream; and when a man dies his name is not stricken off; if he moves away his name is not taken off; and there are hundreds and thousands of names upon that list of men who are dead or have moved away from the Territory; for there are, as gentlemen know, in all of these Western States, a traveling gentry, commonly known as tramps, and that is where these colonizers come from, that my young friend was trying to tell you about, who stuff the ballot boxes.

Mr. RICHARDS. The bill presented to the governor two years ago was intended to correct this by providing for a reregistration.

Mr. JUDD. I was going to say that the bill provided for a new registration so as to get at the actual people who lived there. The governor vetoed that. That is a small thing, however, for he vetoes everything that does not happen to suit him.

Senator DAVIS. Does not the law under the Federal act of 1882 provide for purging the registration list?

Mr. JUDD. Yes, sir.

Senator DAVIS. Do you mean to say that it has not been done?

Mr. JUDD. Yes, sir; it has not been done.

Senator JONES. And yet you say that that friend of yours on the commission is an honest man?

Mr. JUDD. Yes, sir. Now let me settle that question once for all.

Senator JONES. We will be glad to have it done.

Mr. JUDD. They are all honest and honorable men, but they do not live there. They do not know our people. They are not responsible to our people, and they have to take what somebody tells them, and they are apt to listen to those they most favor.

Senator JONES. For these reasons they deliberately violate their oaths of office constantly?

Mr. JUDD. I do not say that.

Senator JONES. I do not see how you avoid it when they disregard the law, as you say they do.

Mr. JUDD. The statement is mine, the conclusion yours.

Senator JONES. If your statement is correct the conclusion follows.

Senator FAULKNER. They need not necessarily be bad officers. They act conscientiously in these matters, yet they act erroneously.

Mr. JUDD. Let me ask the Senator from Arkansas a question. Suppose a man from Tennessee, another from Alabama, another from Kentucky, another from Georgia, and another from North Carolina were sent annually to Arkansas, about two weeks before the election, to appoint your election officers, to hold your elections, and then packed up and went back until the next election comes, what do you think would be the result?

Senator JONES. I could not say what would be the result.

Mr. JUDD. No; you could not, and no man can.

Senator JONES. That is not parallel to the Utah Commission?

Mr. JUDD. Yes, sir; they do not stay there. They never come there until an election occurs.

Senator JONES. Do they only get there two weeks before an election?

Mr. JUDD. Yes, sir; and sometimes they do not get there that early.

Senator JONES. And they leave immediately after.

Mr. JUDD. Yes, sir; they leave sometimes while the votes are being counted, and some do not go at all.

Now, those are the facts; but to get back to my instance. When we

struck Bingham Camp there came a charge that some 15 or 20 or 30 men, at one precinct in Bingham, had voted on names of dead men or men who had gone away. There came another charge that in Cottonwood precinct the registration officers on the morning of the election struck enough legal voters off the list to change the result of the election and to have given Ferguson a majority of 8, if they had not been struck off, but to leave Allen with a majority of 7 if they were stricken off.

Senator DAVIS. Seven to 8?

Mr. JUDD. Yes, sir; 7 to 8, only as the result will prove here, I will show it was worse than 7 to 8.

Coming back to that, however, I said to Mr. Brown, the attorney for the contestant, Ferguson, that "this canvassing board has no authority to hold any election, and we can not count any votes that were not actually cast." The contest went to the court. The result was, as I will show you from the findings of fact in the case by Judge Miner, the supreme judge, who gave the opinion that Judge Anderson, one of the present judges, who is now in the city, found that in the Bingham precinct what was charged was true, and knocked off all the illegal votes that Allen had there, so as to bring his majority over Ferguson down to 7. Then they came to the 14 who had been arbitrarily stricken off at Cottonwood precinct. The case went from the district into the supreme court, and here is what the court says:

In this case it appears that each of these fifteen electors had their names properly enrolled; that they were legal voters and entitled to vote at this election; that the deputy register, without any authority of law whatever, erroneously and illegally ordered their names stricken from the lists of qualified electors on the morning of the election; that each of them went and tendered a vote for the contestant, with an affidavit of their qualifications as legal voters. They were refused because their names had been illegally and erroneously stricken from the list of voters by order of the deputy register. This illegal act, if it was such, upon the part of the registration officers, can not be justified upon any pretext whatever.

And yet the court go on and, in their opinion, say, "but we have no power to right it, because we can not count a vote that has not been cast," and that elected a man to the county clerk's office in Salt Lake City, with a salary of \$10,000 a year, by 7 votes, when Ferguson, his opponent, was honestly elected by a majority of 8 votes. He now holds that office; and I undertake to say that if that same Commission ran your elections you would have the same result in Arkansas, and you in Georgia, and you in Idaho.

Senator DAVIS. Did the court there decline to hold that election void?

Mr. JUDD. Yes, sir. Here is the case. There is not any doubt about it. The Senators can read it for themselves.

Senator DAVIS. They might have declined to decide that Ferguson was elected for the reason stated; but they might have also gone on and held that the election was void.

Senator JONES. I do not see how they could have held otherwise than that that election was void.

Mr. RAWLINS. We made the point and cited authorities—they are very numerous throughout the country by different courts—that that election was void, and that they could not avoid declaring it such.

Senator DAVIS. Irrespective of whether they could declare the other man elected or not?

Mr. RAWLINS. Yes, sir.

Mr. JUDD. I do not believe those judges are corrupt; I know them all; they are all honorable upright men; but mark you, those judges

are not responsible to the people of Utah. There is the vice of the system.

Senator JONES. If they had been responsible to the people of Utah do you think they would have decided differently?

Mr. JUDD. I do.

(Subsequently on revising his remarks Mr. Judd substituted the following reply to the interrogatory of Senator Jones:)

Mr. JUDD. I would not say as to this, but possibly.

Senator JONES. And yet you say they are honorable men.

Mr. JUDD. Why, certainly they are. Can you not imagine yourself sent to a foreign land to govern a people on a salary drawn from a foreign government and surrounded by enemies of the people, with prejudice poked into your mind until you could not see things straight, and then be an honest man? I have no doubt the men were honest from their standpoint, and that they did the best they could. I do not and will not charge anybody with corruption, but I arraign the system.

Now, I could give you instances galore of all this. I could show you that within the last four or five weeks men with wagons and picks and shovels have been going around Salt Lake City absolutely picking the snow out of the streets and the ice out of the gutters and hauling it off in order to be kept in the employ of that city until after the election, and as soon as the election was over if any man can find a wagon or a pick or a shovel picking up ice in the streets of that city I will give him a land warrant for the nicest place in the valley of Salt Lake.

You do not understand them. It is the system of government which has grown up by common consent and long usage. The people of Utah have been kicked and cuffed so much until absolutely they do not resent. That is the truth of it. In the State that I came from if a thing of that kind occurred, no questions would be asked. They would say "get, and get quick, too." And he would get.

Now, are our people entitled to and fit to be trusted with their local self-government? I am now coming, gentlemen, to the final end of what I have to say. I desire to make a lodgment upon your minds at this point, that they are American citizens; that Utah is a part of the territory of the United States, and that we have the same right to appeal to the Congress of the United States as any other people, and that we are just as loyal to that flag as any other people.

Now, as I have said, the political power was an incident to the social system there. I belonged to what was called the Liberal party, as you know. I fought the Mormon Church, and fought the People's party, and we all said without a single exception, as Senator Stewart knows—

Whenever you abandon polygamy and disband your People's party and divide on party lines like other people in the United States, then the war ceases. The Government does not seek to oppress the people of Utah. It does not seek to treat them as outlaws. It only seeks to have them conform to the civilization and the laws of their Government.

That is what we said. And when it came that they did that, if we had not accepted it, sir, we would have discounted our own manhood as American citizens.

In October, 1890, the Mormon Church, by an authoritative announcement, confirmed by the semiannual council in the tabernacle at Salt Lake, passed a resolution abandoning and forbidding the practice and teaching of polygamy. I know that no one has been indicted for a polygamous marriage by the grand jury or brought to light in Utah since 1889. And that man, upon his own confession, was sent to the

penitentiary. He was married in April, 1888. That is the last case that has been discovered of a polygamous marriage under the Mormon Church. There are one or two other cases of bigamy. The parties were not Mormons.

Senator FAULKNER. Gentiles?

Mr. JUDD. Yes, sir. The last one is Dr. West, from the State of Washington, who is now in the penitentiary at Salt Lake.

Now, gentlemen, when these people did that I had a long talk with Chief Justice Zane, who was the judge, sent there by President Arthur in 1884. He was the judge who went through all the thickest of all this fight, and was the first judge who absolutely began to enforce these prosecutions with vigor and effect. I went and I had a long talk with Judge Zane about that, and as I had been associated with him upon the bench, we were very intimate and friendly. Differing in politics as we did, I desired to see what opinion he had of the resolution. I sat in his chamber for a whole afternoon and discussed it with him, and he declared to me that he had no doubt on earth of the sincerity of the people, and I have in my pocket introductory letters to both Senators Cullom and Palmer, in which he authorizes me to state to them that polygamy is a dead issue; that the people of Utah are rehabilitated, and that they are fit for statehood.

Who can doubt the loyalty and the sincerity of Chief Justice Zane, a man who went through the thickest of this fight? There is Judge Blackburn, another district judge, who says the same thing. There is Judge Miner, another district judge, who says the same thing. There is Judge Anderson, another district judge, who says the same thing.

Senator JONES. Were Judge Zane and Judge Anderson on the bench at the time this decision was rendered?

Mr. JUDD. Yes, sir.

Senator JONES. Both of them?

Mr. JUDD. Yes, sir. There is the opinion for the Senator to read.

Now, we divided on party lines. The People's party came together, and absolutely dissolved their party. They said, "Go where you please, according to your preferences." They commenced going. We had an election in August, the first one, and we have had since that an election in Kaysville, and an election in Salt Lake, an election in Provo, and the returns show that the Mormon people have stood by their guns, as they said they would when they left the People's party, and that they have not shifted from party to party.

Moreover, I undertake to say upon my responsibility as a man and from my knowledge of them, that they can not be delivered by the priesthood to any political party. I stand here in defense of people who I know have done wrong in the past, but who are now worse wronged than they ever wronged anybody else.

Understanding the prejudices of the people of the United States, heretofore engendered, we have not thought that we could procure from the Congress of the United States an enabling act allowing us to be a State. Hence we come with an humble petition asking to be allowed to elect our own officers and pay them ourselves, and see whether we behave ourselves, whether we conform to the civilization and laws of the country, and if we do not, take us by the throat again and remand us to this position of political servitude that we seek to be relieved from.

Of course, if you gentlemen, in your wisdom, after being properly informed, think we ought to have statehood, we are more than anxious for it, and my word for it, if you will give it to us the people of

the United States will not be afflicted with any trouble any more in Utah. The chairman of this committee said to me, "Judge, you do not probably understand that the pulpits are yet full of oratory against Mormonism." I said, "You are mistaken, Senator; I do understand it; because some pulpits keep their hopper running by appealing to the prejudices of the East against the Mormons of the West." I perfectly understand that. Senators and Members are peculiarly sensitive to public opinion, and well they should be, for they are the representatives of a great and free people. But you run no risk in giving us the home rule bill. Public sentiment will approve, and your consciences will approve it. Let us have this measure of home rule, if you think we are not entitled to statehood, and then let us test to you our sincerity and our honesty.

Now, gentlemen, have we divided honestly upon party lines? Let me read to you what the governor of Utah says in his report. I ask every gentleman of this committee to read the history of the parties of the last eighteen months in Utah, as he summarizes it here, for it is a fair statement, although done by our governor, of whom we complain so much. I say it is a fair statement from his standpoint of the situation, and even he now winds up by saying:

I believe the mass of the people have gone into the party movement in perfect sincerity, and that it is their present determination not to retrace their steps.

That is what the governor said in this report made to this session of the Fifty-second Congress.

He is not too friendly to our move. He has never yet joined it, but remains with the Liberal party after having made that statement. Would you believe it?

Now gentlemen, I come to a fact which I have learned since I came here. It was known that there was circulated and was circulating a petition all over Utah to the President of the United States to grant general amnesty to polygamists who were disfranchised under the Edmunds and Edmunds-Tucker law. Everybody there sympathizes with that petition, because they feel that the people have been sufficiently punished; that the reformation is sufficiently complete, and that it would be an act of magnanimity upon the part of the Government to say to these people "come and shelter under the laws, and you shall be treated as American citizens."

Now there is on file here in the Department of Justice in this city a petition signed by President Woodruff, and probably every one of the apostles of the Mormon Church, in which they state, substantially, that the condition of things has changed; that polygamy is a dead issue; that that is acknowledged on all hands; that the people have conformed themselves to the laws of the United States; that they are in harmony with the civilization of their Government; that they have been sufficiently punished, and they humbly pray the President to grant amnesty to those who have been heretofore disfranchised. My friends, disfranchisement to an American citizen means to strip him of all that is dear to him. Take that from him and you take all. The right to go to the ballot box, the expression of the ultimate sovereignty of the greatest Government that to-day graces the face of the earth, to put the ballot into the box and have it counted, is a right upon which depends every structure of liberty of the American citizen; and when you shall have bereft him of that you have taken that which makes him poor indeed, but enriches you not.

Gentlemen, I speak earnestly of this thing, but I speak that which I have felt in the past, and which I feel now as an American citizen—the right to govern myself.

Now, accompanying that petition is another petition saying that “what is stated by these people we believe to be true,” and they join in the prayer of that petition to the President, and ask him to extend amnesty to these people. That petition is signed by the governor of the Territory, Arthur L. Thomas; by Sells, the secretary of the State; by Godfrey, the chairman of the Utah Commission; by Saunders, a member of that Commission; by every judge of the Territory. Answer me, gentlemen, upon your responsibility as representatives of the American people, for you are such, of Utah as well as the State you come from, can you now say that we are not fit for home rule and local self-government, when the officials of the Territory, who are unfriendly to our bill, and who make adverse reports, so sign a petition to the President, asking that the polygamists of Utah be restored to full citizenship?

Senator FAULKNER. Upon what authority do you make that statement?

Mr. JUDD. I make it upon the authority of Judge Anderson, one of the district judges, who is now in this city. The papers are on file, and there is no dispute about it. Attorney-General Miller in his office showed the petition to Judge Anderson (who came here to look after his sick wife), and asked him if he had any objections to signing it, and the judge said, “I have none, because it states the truth.”

Now, gentlemen, I have said my say. We have not come here to appeal to your prejudices. We have not come here to buttonhole and annoy you with the habit of a lobbyist. We have come here and left our business at heavy expense and sacrifice of time to lay our complaints before you as the representatives of the American people, and we make our appeal to you; and if you can not give us that sovereignty that the States which surround us have, at least accord to us the right to select our own officers, and to pay them and to govern ourselves.

Gentlemen, I thank you for your attention. I have spoken earnestly; I am an earnest man. I state my convictions, or I do not speak at all. If there is anything of me different from that, none of my friends have discovered it. I beg pardon if I have been too emphatic, but I speak my feelings, and I speak them because I feel confidence in the justice of my cause as trusted with you men who have the liberties of American citizens in your holding.

STATEMENT OF FRANKLIN S. RICHARDS.

Mr. RICHARDS. Mr. Chairman and gentlemen of the committee, I shall endeavor to briefly treat upon some branches of the subject under discussion that have not been dwelt upon by those who have preceded me.

The ACTING CHAIRMAN. I think the most important part of this whole thing is the present condition and the disposition of the people there. I think that there is a general conviction in the country that the Territorial form of government is inadequate, and it is very desirable that the people should have the right of self-government. That is manifest, self-evident, universal in the estimation of both Houses of Congress. The question is whether it is safe and expedient.

Mr. RICHARDS. It is upon that point that I desire to address the committee,

Senator JONES. I would like to ask you right here, if you have no objection, if you agree with the charges that have been made, of corruption on the part of officers in the Territory. I have known you for a good long time, and I have a great deal of confidence in your frank statement of things. I do not think you are likely to go wild or make a statement for buncomb. I would like to know whether you agree with the previous speakers?

Mr. RICHARDS. I fully appreciate the compliment, and shall try to deserve it. To the best of my knowledge and belief, the facts that have been stated here are true and can be substantiated, and when I say that, I make no charge of corruption against anyone, nor do I believe that my associates intended to make any charge of corruption against the gentlemen named. I can reconcile with an honest conviction of right and sense of duty all that they have done. In my opinion they have felt that the peculiar conditions existing in the Territory were such as to warrant extreme measures, and that the end would justify the means. I believe they have proceeded upon that theory and acted conscientiously.

Senator JONES. The previous speaker stated, in reply to a question of mine, that if these judges had been accountable to the people there they would have rendered a different decision from that which was rendered. I can conceive of no more wholesale charge of either incompetency or dishonesty against the bench than that. Now, it seems to me that, if the case has been correctly stated, they clearly decided wrong in not declaring that office vacant, if the whole case has been stated fairly.

Mr. RICHARDS. Is it not possible that a court may render a wrong decision and yet not be dishonest?

Senator JONES. Certainly, but the point I ask about is the statement made by the gentleman, that if they had been accountable to the people they would have decided the other way. That is as much as to say that they understood the question, they knew the facts, but because they were not accountable to the people of Utah they deliberately decided the case wrong.

Mr. RICHARDS. I did not so construe the expression.

Senator JONES. That is sufficient.

Mr. RICHARDS. As I said to the committee, I make no charge of corruption in this matter. I am willing to throw the mantle of charity over ever act our officials have done, and to admit that they have acted with the conscientious belief that they were doing right. But that they have made grave mistakes, there can be no doubt.

Senator JONES. I understood the gentleman to say that the Utah Commission, in selecting the judges of election, had been careful to select—I do not recollect the exact language—bad men.

Mr. RICHARDS. Irresponsible men.

Senator JONES. It was a good deal stronger than that.

Mr. RICHARDS. Men who were irresponsible, who could not be made to respond in damages for anything they might do, and in some instances corrupt men. That is true.

Senator JONES. They carefully selected the judges of election from that class of men?

Mr. RICHARDS. I say that class of men has been selected, and in some cases repeatedly.

Senator FAULKNER. After protest?

Mr. RICHARDS. Yes, sir; after protest. I know whereof I speak in this matter.

Senator JONES. I understood the statement to be that they had carefully selected such men.

Mr. C. C. RICHARDS. What I did say was that in the selection of deputy registers, who were authorized to add names to the list and to strike names from the list, not only irresponsible but, in some instances, dishonest men—

Senator JONES. Had been carefully selected?

Mr. C. C. RICHARDS. The Commission have appointed men who were known to be professional gamblers, without any pecuniary responsibility, and whose word would scarcely be taken on oath.

Senator JONES. The gravamen of this thing is that I understand you to say that these people have been carefully selected; that, as a matter of preference, the Utah commission picked out such people intentionally.

Mr. C. C. RICHARDS. These names were submitted, and when we complained that the men had no property or standing of responsibility; that they had no reputation or character at stake in the matter; that they had no bond; and we asked them for heaven's sake to give us a man who would be liable individually, if not officially, we were turned away without relief, and if their appointee was so corrupt that they did not feel that they could appoint him again, they were liable to pick up another man exactly like him in the same community and appoint him with the same result. The system and practice is wrong and it is of that we complain.

Senator JONES. You believe that is a correct statement of the case?

Mr. F. S. RICHARDS. I know that that class of people have been appointed, but I say I am willing to place the most charitable construction upon the acts of the Commission.

This is not the first time that I have had the honor of appearing in this presence, to plead for the people of Utah.

In 1882 a constitutional convention was held there and a constitution adopted. I was appointed as one of the delegates to bear it to Washington and see that it was submitted to both Houses of Congress. It was submitted, but no action was taken upon it, because there was a public sentiment then that would not admit of any relief being granted to the people of Utah. It was said at that time, "You need not come here with a constitution that does not contain a declaration against the practice of polygamy."

In 1887 another constitutional convention was held in the city of Salt Lake. That convention was composed of men who had never violated any law of the land; men who had never had a plurality of wives; men who had taken the oath required by the act of Congress of March 3, 1887, to the effect that they had not violated and would not violate the laws of the United States relating to polygamy and kindred offenses in any of their provisions. These men formed a constitution, and they inserted in it the following section:

SEC. 12. Bigamy and polygamy being considered incompatible with "a republican form of government," each of them is hereby forbidden and declared a misdemeanor.

Any person who shall violate this section shall, on conviction thereof, be punished by a fine of not more than \$1,000 and imprisonment for a term not less than six months nor more than three years, in the discretion of the court. This section shall be construed as operative without the aid of legislation, and the offenses prohibited by this section shall not be barred by any statute of limitation within three years after the Commission of the offense; nor shall the power of pardon extend thereto until such pardon shall be approved by the President of the United States.

By another section the foregoing provision was made irrevocable. It was said to us when that constitution was presented—and I will re-

mark in passing that I have never yet heard from either end of the Capitol, or elsewhere, a valid objection to the constitution, unless it be upon this point—it was said, “perhaps this may be changed afterwards and your effort to make it irrevocable and irrevocable may be a futile one, and therefore it may not be safe to grant the admission of Utah.” The question of sincerity and good faith was raised, and all the time during the hearing before this committee, and in the hearing before the House committee, I vouched for the sincerity of the men who framed that constitution and the people who voted for it. It is gratifying to me that the history of the last five years fully demonstrates the truth of what I then said. Four years ago next Thursday, while speaking of that constitutional convention, I said:

No body of men that have ever met to consider questions of civil polity, since the immortal patriots of 1776 signed their memorable declaration, were more conscientious and God-fearing in their deliberations and conclusions than were the men who framed this constitution. The issues presented to them were of extraordinary magnitude. They were to consider questions involving on the one hand the civil liberties of a great people, and on the other hand the sacred rights of conscience and religious belief. They approached the task with fear and trembling, but with a firm reliance upon the guidance of Almighty God. They bravely faced the situation and prayerfully drew the line where it would give to the State all that its most zealous and exacting advocates had claimed, and at the same time leave untrammelled the consciences and religious beliefs of a sincere and devout people.

I say the history of the past five years has demonstrated the truth of that assertion. Only one Mormon, as I am informed by the Federal judges, has been convicted of contracting a polygamous marriage since the adoption of that constitution. The convention had tolled the death knell of polygamy in Utah. Soon the evidences of this began to appear. Plural marriages were prohibited in the temples and I called the attention of this committee to the fact, in March, 1888, but no one believed it and I could not blame them for doubting, even in the face of the testimony offered. The expression of confidence by the Senator from Arkansas this morning is most gratifying to me, because in all my communications to you I have endeavored to be frank and honest, and have never intentionally misrepresented anything or misled the committee in any way.

As I have said, the fruits of the labors of that convention began to appear as early as February, 1888. In my statement here I quoted from the testimony of Angus M. Cannon in regard to the solemnization of plural marriages in Utah. He was testifying in a proceeding brought by the United States to obtain possession of the property of the Mormon Church, and, when interrogated by counsel for the receiver, who represented the Government, Mr. Cannon said:

Q. Do not the authorities of the church perform polygamous marriages in the temple now?—A. No sir. It has been discontinued. It must have been for nearly a year that persons who have applied have been refused.

Q. Are these marriages which have been discontinued permanent?—A. I can not say.

Q. Why was it suspended?—A. I don't know, unless it is that it has entailed so much suffering upon the people and brought them in conflict with the Government. But we feel that the responsibility rests upon those who prevent us, and it is out of honor for the laws.

Q. Why have you refused to recommend persons to the temple?—A. Because I have heard that President Woodruff would not indorse their recommendations.

Q. Do you refuse to grant or indorse recommends on hearsay?—A. No, sir; I wrote to President Woodruff, and he told me he could not grant recommends to the temple for such marriages.

Q. How long has this been stopped?—A. I should think about a year.

Q. Mr. Cannon, are there any other ordinances performed in these temples, or do they continue these marriages?—A. No, sir; the authorities of the church have seen best to discontinue them.

Senator JONES. Whose testimony is that?

Mr. RICHARDS. Angus M. Cannon's.

Senator JONES. What relation is he to George Q. Cannon?

Mr. RICHARDS. His brother, and he occupies a high position in the Mormon Church.

Senator JONES. If there had been polygamous marriages contracted, was Mr. Cannon in such a position that he would necessarily have known the fact?

Mr. RICHARDS. Yes, sir; if the parties resided in his stake.

Mr. JUDD. He is president of a stake?

Mr. RICHARDS. A man could not have contracted a polygamous marriage without getting a recommend from him.

Senator JONES. How large was his stake?

Mr. RICHARDS. It comprised the city and county of Salt Lake.

Now, I say, gentlemen of the committee, as has been stated by Judge Judd, there is evidence of only one polygamous marriage having been contracted since 1887, and that occurred in 1888, without the sanction of the authorities of the church, and when it was discovered strong condemnation was expressed by the president of the church, who had the building where it was solemnized demolished to prevent a repetition of the offense.

Senator FAULKNER. Was it actually torn down?

Mr. RICHARDS. Yes, sir; completely.

Senator JONES. At how many places in Utah were these marriages solemnized under the practices of the church?

Mr. RICHARDS. In three temples and in the endowment house which was torn down.

Senator JONES. Only four buildings?

Mr. RICHARDS. They were only permitted in the temples after their completion, but the endowment house had been used before, and the polygamous marriage I refer to took place in it, contrary to the direction of the presidency of the church, and so it was torn down.

Senator JONES. Where are those temples located?

Mr. RICHARDS. There is one at Logan, one at Manti, and one at St. George; the Salt Lake temple is not yet completed.

Senator JONES. Then the Endowment House was used for that purpose instead of the temple, as the temple was not finished?

Mr. RICHARDS. Yes, sir; the Endowment House was used before the completion of the temples.

Senator JONES. You state that Mr. Cannon would have been cognizant of all plural marriages in Salt Lake. Were there not other places where they were solemnized?

Mr. RICHARDS. Yes, sir; there were the three temples I have referred to, but no man could obtain admission to any of them without a recommend signed by the president of the stake in which he lived, so that no man living in Salt Lake stake where Mr. Cannon lived could have married without a recommend from him.

Senator JONES. That might be so and yet is it not possible that parties elsewhere in the Territory might have entered into these marriages without his knowledge?

Mr. RICHARDS. Yes, sir; but no man could have been admitted without a recommend from the president of his stake.

Senator JONES. He would not necessarily have had to get it from Mr. Cannon. He might have lived in some other stake.

Senator GORDON. Suppose he resided in some other stake, that is what the Senator means,

Mr. RICHARDS. Pardon me, I did not understand the question. Of course a man who did not live in Mr. Cannon's stake would not require a recommend from him, but—

Senator DAVIS. It was necessary to have permission from President Woodruff?

Mr. RICHARDS. Yes, sir; that is the point. You will see that Mr. Cannon's refusal was based upon the fact that President Woodruff had forbidden these marriages and would not indorse the recommends, and no man would be admitted to the temple without a recommend signed by President Woodruff.

Senator JONES. Has President Woodruff ever made any statement, such as Mr. Cannon's, that the practice of polygamy has been forbidden?

Mr. RICHARDS. Yes, sir; he has so stated in the most solemn manner, and I will read his words to the committee. I desire the leaders of the Mormon people, and the people themselves, to be judged out of their own mouths. I am going to give you testimony from their own lips, and you can judge them by that testimony. I am willing to rest our case upon it.

As I was saying, the time the Constitutional Convention of 1887 was held, which was participated in only by men who had never violated the law, the practice of polygamy virtually ceased, and only one case of polygamy has transpired against a Mormon since 1887.

Senator DAVIS. How many Gentiles have been convicted? Two of them, I understand.

Mr. RICHARDS. More than that, I think.

There remains in the Territory since 1887 practically nothing but the status of polygamy. The law has never prescribed a method by which that status may be changed; and the Supreme Court of the United States has said that it is not necessary that it should be changed in order to conform to the requirements of the law.

While only those people who had not violated the law took part in framing the constitution of 1887, it met the approval and support of those who were polygamists. That is evident from the action of President Woodruff in refusing to permit such marriages and from the general conduct of the people. It met their sanction and support, and from that time on the practice was virtually discontinued.

It has been impossible, with all these evidences of sincerity, to convince some people that we were acting in good faith. The Utah Commission reported each year to the Secretary of the Interior that reports had been received by the Commission of a certain number of persons who "are believed to have entered into polygamous marriages during the year." When request was made of them in most respectful but urgent terms for the names of those persons and for evidence that such marriages had been contracted, in order that the real facts might be known and the guilty punished, or the innocent vindicated, as the case might be, there was no response. But the next report of the Commission contained like insinuations as to violations of the law.

On September 25, 1890, the president of the church issued a manifesto on the subject, which was called out by insinuations of the Commission. There is force in the statement made by Judge Judd that this declaration was the result of a sentiment and pressure from within as well as a force from without. I ask you to mark the language used in this paper. It not only declares against future violations of the law, but it says that the accusation of past offenses is untrue. In other words, it says: "We have obeyed the law, and we advise obedience to

it in the future." This was in keeping with the testimony of President Angus M. Cannon, as to the discontinuance of plural marriages, given nearly three years before.

Senator SHOUP. The word "advised" is used in that manifesto. Would that have the same effect with the people as if he had used the words "I command?"

Mr. RICHARDS. Yes, sir; I will show from the sworn testimony of the first presidency of the church that this paper has all the binding force of a revelation, and it is so regarded by the Mormon people.

Senator JONES. What is the date of that?

Mr. RICHARDS. September 25, 1890. It reads as follows:

To whom it may concern:

Press-dispatches having been sent for political purposes from Salt Lake City, which have been widely published, to the effect that the Utah Commission, in their recent report to the Secretary of the Interior, allege that plural marriages are still being solemnized, and that forty or more such marriages have been contracted in Utah since last June or during the past year; also that in public discourses the leaders of the church have taught, encouraged, and urged the continuance of the practice of polygamy:

I, therefore, as president of the Church of Jesus Christ of Latter Day Saints, do hereby, in the most solemn manner, declare that these charges are false. We are not teaching polygamy, or plural marriage, nor permitting any person to enter into its practice, and I deny that either forty or any number of plural marriages have during that period been solemnized in our temples or in any other place in the Territory.

One case has been reported in which the parties alleged that the marriage was performed in the endowment house, in Salt Lake City, in the spring of 1889.

Mr. JUDD. He means 1888. That is a misprint.

Mr. RICHARDS. You should know as to that, for the conviction took place in your court.

But I have not been able to learn who performed the ceremony. Whatever was done in the matter was without my knowledge. In consequence of this alleged occurrence the endowment house was, by my instructions, taken down without delay.

Inasmuch as laws have been enacted by Congress forbidding plural marriages, which laws have been pronounced constitutional by the court of last resort, I hereby declare my intention to submit to those laws, and to use my influence with the members of the church over which I preside to have them do likewise.

There is nothing in my teachings to the church or in those of my associates, during the time specified, which can be reasonably construed to inculcate or encourage polygamy, and when any elder of the church has used language which appeared to convey any such teaching he has been promptly reproofed, and I now publicly declare that my advice to the Latter-Day Saints is to refrain from contracting any marriage forbidden by the laws of the land.

WILFORD WOODRUFF,

President of the Church of Jesus Christ of Latter-Day Saints.

On the 6th day of October, 1890, eleven days after the manifesto was issued, the church met in general conference. It is estimated that from ten to fifteen thousand people were present. Every quorum and council of the church, from the first presidency and twelve apostles, down to the least authority in the church, were represented. There were officers and members present from every stake in Utah, and from all the country round about. This manifesto was read to that assembly and the following resolution offered by Lorenzo Snow, the president of the council of apostles, the next highest authority in the church to the first presidency, and the resolution was unanimously adopted by the people.

President Lorenzo Snow said:

I move that, recognizing Wilford Woodruff as the president of the Church of Jesus Christ of Latter-Day Saints, and the only man on the earth at the present time who holds the keys of the sealing ordinances, we consider him fully authorized by virtue of his position to issue the manifesto which has been read in our hearing and which is dated September 25, 1890, and that, as a church in general conference assembled, we accept his declaration concerning plural marriage as authoritative and binding.

Senator JONES. What is that you are reading from?

Mr. RICHARDS. I read the manifesto from the governor's report to the Secretary of the Interior for the year 1891.

Mr. JUDD. You might state that the governor himself says that he believes that it was made in sincerity.

Mr. RICHARDS. In speaking of this matter, in that report he says:

I have no doubt that, as they have been led to believe it was put forth by divine sanction, it will be received by the members of the Mormon Church as an authoritative rule of conduct, and that, in effect, the practice of polygamy is formally renounced by the people.

Senator JONES. That manifesto was indorsed by the unanimous vote of the church. Does the power repose in Mr. Woodruff to revoke that if he sees fit?

Mr. RICHARDS. No, sir; I think not.

Senator JONES. Could he do it by the unanimous vote of the church?

Mr. RICHARDS. Revoke the manifesto?

Senator JONES. Restore the condition of things which existed before it was adopted.

Mr. RICHARDS. I hardly know how to answer that. He could not reëstablish the practice of polygamy, if that is what you mean.

Senator JONES. I thought you were familiar with the rules of the church. I can understand why it might be difficult to answer that question.

Mr. RICHARDS. There is no disposition on the part of the Mormon people to reëstablish polygamy, nor has anyone the power to do it. There is no sentiment that would sustain it. It is just as impossible to do that as it would be to reëstablish slavery in any State of this Union. It can not be done. The people were ready for the manifesto. Many of them wanted it. Only a small part of the people were ever engaged in the practice of polygamy. It commenced soon after the settlement of the Territory. In 1882, when the Utah Commission went there, and, under the act of Congress, excluded from the polls every man and woman who was then or ever had been in the polygamous relation, 12,000 people, men and women, were disfranchised.

The Commission afterwards announced, as I remember, in their next report, that 3,000 were restored to franchise by decision of the Supreme Court of the United States, leaving 9,000 disfranchised.

Prior to 1862 there had been no law against it. In 1862 an act was passed declaring it a crime to have more than one wife. For fifteen years this law was a dead letter on the statute book. The Mormons believed it unconstitutional, and they were fortified in that belief by the opinion of some of the ablest constitutional lawyers in the country; and so confident were they of the correctness of their position that when the time came for the test to be made, they themselves furnished the evidence. In 1879 the Supreme Court of the United States affirmed the validity of the law in the case of *Reynolds vs. The United States*, reported in 98 U. S. Then there were no further prosecutions except, perhaps, a case or two until 1882, and yet, with all this in its favor, the number of persons in that relation was, as I have shown, insignificantly small.

Senator JONES. In a population of how many?

Mr. RICHARDS. One hundred and forty-four thousand in 1880. They were mostly old men. The young men have not engaged in this practice to any considerable extent, and but few of middle age. Time is solving the problem, and would have solved it more effectively than the Government of the United States, if it had been left alone. These

people are rapidly passing away and their numbers diminish every year. A large number have died since 1882. I give it as my opinion, to-day, from my knowledge of the facts, that the record of convictions of persons for unlawful cohabitation and other offenses under the acts of Congress, amounting to about 1,000 persons, discloses nearly the sum total of men who to-day occupy the polygamous status in the Territory of Utah.—

Mr. JUDD. They were not convicted of polygamy. It was for unlawful cohabitation.

Mr. RICHARDS. Yes, sir; and they are not now living with their plural wives. Of course when I say that 9,000 persons have been in this relation, I mean both men and women. A man must have more than one wife to be a polygamist. He must have two at least. If you divide the 9,000, and say two wives for each man, there were but 3,000 men in 1882; if some of them had more than two wives, then the number of men would be still less. I think that what I said here four years ago is true, that not to exceed 2,500 men in 1882 were in that relation, and a large number of them are now dead, and others have removed from the Territory.

Senator DAVIS. Is there any information showing how many men and how many women have contracted that relation since 1882?

Mr. RICHARDS. I do not know of any.

Mr. JUDD. I can answer the Senator's question, as to the court at Provo. I had before me an immense number of these people. They were all charged with unlawful cohabitation, except the one case of polygamy, which I cited. Invariably I asked a man when he appeared before me when he contracted the relation of polygamy, and I found that probably of all those who came before me, from ten to fifteen per cent contracted it between 1882 and 1887, and only one after 1887.

In that connection I may say that the present legislative assembly of the Territory, composed largely of Mormons, have passed laws against polygamy, unlawful cohabitation, adultery, fornication, incest, and all of the offenses that are defined by the acts of Congress, and have attached a penalty as severe as that imposed by the Federal law, so that any man who now commits these offenses not only violates the laws of Congress but also subjects himself to prosecution under the laws of the Territory.

Senator JONES. Are they made a felony or a misdemeanor under your laws?

Mr. RICHARDS. I have not seen the law, but understand that the offenses are classed the same as in the acts of Congress.

Senator JONES. Punishable by imprisonment in the penitentiary?

Mr. RICHARDS. Yes, sir.

Senator FAULKNER. Is there not an instance in which a simple communicant of your church, in a recent election, was arrayed against an apostle of the church, and the apostle was defeated?

Mr. RICHARDS. Yes, sir. Such an instance occurred in San Pete County. Mr. Lund, one of the twelve apostles, and a very able and popular gentleman, was defeated by Mr. Graves, one of his brethren, who held no prominent position in the church.

Senator FAULKNER. Defeated on party lines?

Mr. RICHARDS. Yes, sir; strictly so.

Senator JONES. I would like to inquire whether polygamy is made a felony or a misdemeanor under your laws. My recollection of the clause in the constitution against polygamy and illegal cohabitation is that it made both misdemeanors.

Mr. RICHARDS. I am not positive about that, because the law has been passed since I left home, but I understand it is declared a felony punishable by five years imprisonment in the penitentiary and \$1,000 fine.

Mr. RAWLINS. The new statute makes polygamy a felony and imposes a punishment of not to exceed \$1,000 fine and five years in the penitentiary.

Senator JONES. What is the lowest amount?

Mr. RAWLINS. It is the same as in the act of Congress.

Mr. RICHARDS. I will read from the constitution of 1887.

Any person who shall violate this section shall, on conviction thereof, be punished by a fine of not more than \$1,000 and imprisonment for a term not less than six months nor more than three years, in the discretion of the court.

The question of polygamy or plural marriage came before the conference of the church held October 6, 1891, arising in the same way as before. The Utah Commission had reported that 18 persons were believed to have entered into polygamous marriages during the year. In answer to that charge the presidency of the church made the following declaration, which was unanimously endorsed by the conference:

DECLARATION BY THE FIRST PRESIDENCY OF THE CHURCH.

Concerning the official report of the Utah Commission made to the Secretary of the Interior, in which they allege, "during the past year, notwithstanding the 'manifesto,' reports have been received by the Commission of 18 male persons who, with an equal number of females, are believed to have entered into polygamous marriages" during the year, we have to say it is utterly without foundation in truth. We repeat in the most solemn manner the declaration made by President Wilford Woodruff at our general conference held last October, that there have been no plural marriages solemnized during the period named.

Polygamy or plural marriage has not been taught, neither has there been given permission to any person to enter into its practice, but, on the contrary, it has been strictly forbidden.

WILFORD WOODRUFF.

GEORGE Q. CANNON.

JOSEPH F. SMITH.

These three men constitute the first presidency and presiding authority of the church.

As there may be some question in your minds as to why the manifesto itself, when first issued, was only signed by President Woodruff, I will say that in the revelation on celestial marriage, under which plural marriages were permitted, it is provided that "there is never but one man on the earth at a time on whom this sealing power and the keys of this priesthood are conferred." And that is why it was necessary that President Woodruff, who held that power, should sign permits or recommend for such marriages before they could be contracted. Having this authority, he issued the manifesto and afterwards submitted it to the conference, where it was approved by the church, as I have already shown.

I repeat, that when the declaration was made it did not announce anything new to the Mormon people.

There was nothing strange about it to them. They had known for months, yea, for years, that plural marriages were forbidden, but the head of the church had not publicly stated the fact till then. They knew the fact to be that the practice of polygamy had virtually ceased since 1887.

Now I come to the suggestion made by the Senator from Idaho, as to the binding force of the manifesto. Though its language seems to

be of admonition rather than command, as I shall show you, all the forces of revelation is claimed for it and conceded by the people. In November last there was a hearing before the master in chancery who had been appointed by the supreme court of the Territory of Utah to take testimony as to what disposition should be made of about \$400,000 worth of money and personal property belonging to the Church of Jesus Christ of Latter Day Saints, which had been taken by the strong arm of the Government and placed in the hands of a receiver. At the same time the personal property was taken the temple and tabernacle were seized and the church was required to pay rent for worshipping in its own tabernacle till the court gave it back to them. At the same time the residence of the president of the church was siezed and we have never been able to get it back, although the law under which it was taken exempts parsonages, and it is an admitted fact in the case that this had been the home of the president of the church for ten years before it was siezed. The rest of the church property, consisting of three pieces of real estate, was also taken, and it has been declared escheated to the United States.

On the hearing before the master, through which he was to determine what should be done with this property—whether it should go to the public schools of the Territory or be devoted to some charitable purpose that was akin to that for which it had been given—Presidents Wilford Woodruff, George Q. Cannon, and Joseph F. Smith, the first presidency of the church, and Lorenzo Snow, president of the twelve apostles, and other witnesses, were examined on this subject, and this is what they say under oath:

WILFORD WOODRUFF, being duly sworn as a witness in behalf of the defendants, testified as follows:

Direct examination by Mr. RICHARDS:

- Q. President Woodruff, what is your age?—A. I am 84, the first day of last March.
 Q. Where were you born?—A. In Farmington, Conn.
 Q. Where do you reside?—A. In Salt Lake County, Utah T.
 Q. How long have you resided in this Territory?—A. Ever since 1847; I came into the valley with the pioneers on the 24th of July of that year.
 Q. What official position, if any, do you occupy in the Church of Jesus Christ of Latter Day Saints?—A. I am the president of that church.
 Q. How long have you held that position?—A. Since April, 1889.
 Q. What position did you hold in the church prior to April, 1889?—A. I have been a member of the quorum of the twelve apostles ever since 1839; I have presided over the twelve apostles from the time their president, Taylor, was elected president of the church, which was, I think, in 1879.

Then the manifesto which I have read to you was presented to the witness.

Q. (Showing paper to witness.) Just examine that paper, please. Do you recognize it?—A. Yes, sir.

Q. What is it?—A. It is a manifesto which I issued as president of the church, on the 25th day of September, 1890.

Mr. RICHARDS. This is Exhibit A, if your honor please, to the proposed scheme.

Q. What was your object and purpose in issuing the manifesto?—A. It was to announce to the world that plural marriage had been forbidden by the church, and that it could not be practiced thereafter.

Q. State whether or not the manifesto was ever presented to the members of the church for their approval?—A. It was presented to the quorum of the Twelve Apostles, and accepted by them. It was afterwards presented to the officers and members of the church assembled at the sixty-first semiannual conference on the 6th day of October, 1890.

Q. What action, if any, was taken by the conference of the church in relation to the manifesto?—A. The conference received and adopted it by a universal vote.

Q. How many officers and members of the church were present on that occasion?—A. About 10,000, and we had a fair representation—a large representation of both officers and members from the whole Territory, from the various stakes and branches and from other places.

Q. State whether or not you have ever heard any opposition to the manifesto, or any dissent from it by any members of the church?—A. I have not.

Q. State whether or not, to the best of your knowledge, the members of the church, willingly, accepted and adopted it?—A. They have, as far as I know.

Q. State whether or not it would be contrary to the law of the church for any member of the church to enter into or contract a plural marriage?—A. It would be contrary to the laws of the church.

Q. What would be the penalty?—A. Any person entering into plural marriage after that date would be liable to become excommunicated from the church.

Q. State whether or not, to your knowledge, since the date of the manifesto, there has been any polygamous or plural marriage entered into or contracted by any member of the church?—A. There has not, to my knowledge.

Q. Have you in any manner, since that date, advised, encouraged, or assented to the practice of bigamy, polygamy, or plural marriage, by any members of the church?—A. I have not.

Q. Do you know of any other officer of the church that has advised, encouraged, or assented to the practice?—A. I do not.

Q. State whether or not you have any hope or expectation that the practice of polygamy or plural marriage will ever be reestablished in the future?—A. I have not.

Mr. RICHARDS. Substantially the same questions as those put to President Woodruff were asked of Presidents George Q. Cannon and Joseph F. Smith, and they all answered the same way, showing clearly what their idea was of the meaning of the manifesto.

Senator JONES. Let the statements of those other gentlemen be given to the stenographer, so that they can be printed.

Mr. RICHARDS. I will do so. The statements are as follows:

GEORGE Q. CANNON, being sworn as a witness in behalf of the defense, testified as follows:

Q. (Showing witness Exhibit A to defendant's scheme.) Do you recognize that paper?—A. Yes, sir.

Q. What is it?—A. It is a copy of the manifesto that was issued last fall.

Q. By whom?—A. By President Wilford Woodruff.

Q. Do you remember the date that it was issued?—A. It was, if I remember right, the 25th of September, 1890.

Q. State whether or not this manifesto met with your approval and indorsement?—A. It did, my entire approval.

Q. Were you present at the conference of the church held on the 6th of October, 1890, when this manifesto was presented?—A. I was present.

Q. State what action, if any, the church took in relation to the manifesto?—A. It was adopted by the entire conference.

Q. Was there any dissent?—A. Not any.

Q. About how many of the officers and members of the church were present on that occasion?—A. Well, I would think there were 10,000, and may have been 12,000. The house was very much crowded, and the seating capacity was estimated, I believe, at 10,000; there was fully that, and probably more.

Q. State whether or not the different branches of the church, in this Territory and elsewhere, were represented?—A. There was very full representation there from all the stakes, as we term them.

Q. Have you ever heard any dissent or disapproval to that manifesto from any member of the church?—A. I have never heard from any dissent of anyone.

Q. State what you understand to be the object and purpose of the manifesto, and the intention of President Woodruff in issuing it?

Mr. VARIAN. I suppose President Woodruff will speak as to his own intent.

Mr. DICKSON. As to what he understands his intent to have been?

A. It was that the world should know that the practice of plural marriage had ceased, and also that the members of the church should know that it was forbidden.

Q. State whether or not you believe that manifesto was given by inspiration from God to President Woodruff?—A. I believed it then, and have always, and am still of that opinion, that he was inspired to issue it.

Q. Did you state that to the conference when this manifesto was presented?—A. I made such a statement.

Q. Has that statement been made by you and other persons of high authority in

church before the public assemblies of the saints since then?—A. It has been, whenever alluded to in any way; it has always been stated that it was the inspiration of the Lord.

Q. Do you believe that it would be pleasing or displeasing in the sight of the Almighty for any member of the church to enter into plural marriage?—A. I think it would be displeasing in the sight of the Lord.

Q. State whether or not it would be a violation of the law of the church for any of the members of the church to contract a plural or polygamous marriage?—A. It would be a violation of church rules.

Q. What would be the penalty?—A. The person would be in danger of being dealt with and severed from the church.

Q. State whether or not, to your knowledge, since the issuance of the manifesto, any members of the church have entered into or contracted any polygamous or plural marriages?—A. Not to my knowledge; I have no knowledge, and never have heard of any.

Q. State whether or not since that date you have advised, encouraged, or assented to the practice of bigamy, polygamy, or unlawful cohabitation by any members of the church?—A. I have not.

Q. Do you know of any other officers of the church who have advised, encouraged, or assented to that?—A. I don't know of any.

Q. State whether or not you have any hope or expectation that the practice of polygamy or plural marriage will ever be reestablished by the church.—A. I have not.

JOSEPH F. SMITH, being sworn as a witness in behalf of the defense, testified as follows:

Direct examination by Mr. RICHARDS:

Q. What is your age, Mr. Smith?—A. 52.

Q. Where do you reside?—A. I reside at present in Salt Lake City.

Q. How long have you resided in Salt Lake City?—A. I came to this place, where Salt Lake City stands, in 1848. My home has been here, whenever I have had a home, most of the time since then.

Q. This has been your place of residence all the time, has it not, since that time—since 1848?—A. Yes, sir.

Q. It has been your home all the time?—A. It has been my home.

Q. You have been absent from the Territory at different times, I suppose, during that period?—A. Yes, sir; very frequently.

Q. How has it been since 1885—state whether or not you have been absent from the Territory most of that time?—A. I have been absent from the Territory most of the time since 1885.

Q. What official position, if any, do you occupy in the Church of Jesus Christ of Latter Day Saints?—A. I am second counselor to President Woodruff.

Q. One of the first presidency of the church, are you?—A. One of the first presidency of the church.

Q. Well, how long have you occupied that position?—A. Well, as counselor to President Woodruff I have occupied the position since 1889.

Q. Were you ever a member of the first presidency in the church prior to that?—A. Yes, sir.

Q. During what period?—A. During the presidency of President Taylor.

Q. That was from 1880 to 1887, was it?—A. 1880, I think, to 1887; I don't recall the dates.

Q. What other position in the church have you occupied?—A. I have been since 1867, if my memory serves me right, one of the twelve apostles—belonging to the quorum of the twelve.

Q. (Showing witness Exhibit A to defendant's scheme.) Just examine that document, and tell me whether you recognize it, and if so, what it is?—A. I understand it to be the document which is termed the manifesto of President Woodruff.

Q. When was it issued?—A. It was issued in September, 1890.

Q. Were you present at the conference when that was presented?—A. No, sir.

Q. State whether or not this manifesto met with your approval and indorsement.—A. Yes, sir; it has met with my approval.

Q. State whether or not it has received the approval and sanction of the members of the church generally as far as your knowledge extends.—A. Well, I have had very little opportunity to know anything about that on account of my absence from the people; I have not mingled with them, and I don't know much about their sentiment in regard to it. The little that I have had opportunity to learn about it, I am satisfied that it has met with their approval.

Q. The reason you don't know more about it is because of your absence from home, and not mingling with the people?—A. Yes, sir.

Q. Have you ever heard any dissent or disapproval of it by any members of the

church?—A. Well, not by more than one person, I think. I think I received a letter at one time from an individual that was rather opposed to it. With that exception I don't know of any objections I have ever heard.

Q. What do you understand to be the purpose and object of President Woodruff and his intention in issuing the manifesto?—A. Well, I understood it to be for the stopping of the practice of polygamy in the church.

Q. Do you believe that President Woodruff was inspired of Almighty God to issue that manifesto?—A. I do believe he was inspired to do it.

Q. Do you know whether the officers of the church have so stated to the people—members of the church in public congregations?—A. I have read.

Mr. VARIAN. That is not evidence.

Mr. RICHARDS. No; state whether you know—whether you have been present at any time when it has been stated to the congregation?—A. I don't think I have; I have read it though—read statements of that kind.

Mr. VARIAN. That won't do.

Mr. RICHARDS. Do you believe it would be pleasing or displeasing in the sight of God for any members of the church to enter into polygamous or plural marriage?—A. Well, I don't know that I am prepared to say whether I believe it would be pleasing or displeasing to the sight of God, but I believe that it would be entirely contrary to the rules of the church for any man to do it.

Q. It would be a violation of the rules of the church?—A. Yes, sir.

Q. What would be the penalty for such violation?—A. I think that any person doing any such thing would be called in question as to his fellowship, and would be liable to excommunication from the church.

Q. State whether or not, to your knowledge, since the issuance of the manifesto, there has been any polygamous or plural marriage, contracted or entered into, by any of the members of the church?—A. There never has been anything of the kind to my knowledge.

Q. State whether or not since that time you have in any manner advised, encouraged, or assented to the practice of polygamy or plural marriages by any members of the church?—A. I have not, but I have advised to the contrary.

Q. Do you know of any officers of the church who have advised, encouraged, or assented to that practice during that period?—A. No, sir.

Q. Have you any expectation that the practice of bigamy or plural marriage will ever be reestablished in the church?—A. Well, from my present knowledge I don't see how it would be possible; I don't see how it could be possible.

Q. You may explain why.—A. Well, I think that so long as the circumstances continue to exist which have brought about the result that it would be impossible and inconsistent to suppose that any such thing could be.

Q. Then you don't expect that any such thing will be?—A. No, sir.

Senator SHOUP. Was there not a cross-examination in this case as respects this testimony?

Mr. RICHARDS. Yes, sir; quite a lengthy cross-examination.

Senator SHOUP. Does President Woodruff not admit that he might, at a later day, revoke this advisory declaration?

Mr. RICHARDS. He says, as I remember, that it is possible that a revelation may be given; but he also says in the same connection that the practice has been permanently abandoned and gives the reasons for its abandonment. He states all about the conflict with the Government, the fact that it had become apparent to the leaders of the church that it must yield to the supremacy of the law, and that the surrender was made in absolute good faith.

Senator SHOUP. I make the request, if the direct examination is published in your remarks, that the cross-examination be published as well.

The ACTING CHAIRMAN. I suppose there is no objection to that.

Mr. RICHARDS. None whatever; but it is quite voluminous.

Senator JONES. What I asked to have printed was the statement of Mr. Cannon and others to the same effect as Mr. Woodruff's statement, so that the Senate might understand that the practice has been forbidden by the leading members of the church.

The ACTING CHAIRMAN. As this is a very important question I think you had better put it all in.

Senator FAULKNER. The cross-examination on the same point.

Mr. RICHARDS. You simply desire the cross-examinations on this subject?

The ACTING CHAIRMAN. Yes, sir.

Senator DAVIS. On that one point.

Mr. RICHARDS. I request that it be published as an appendix to my remarks, so that my statement will not be broken up by it.

The ACTING CHAIRMAN. That will be done.

(The matter referred to will be found at the conclusion of Mr. Richards's remarks.)

Mr. RICHARDS. The master, in his findings on this subject that he was investigating, found this fact:

Fourth. That since the rendition of the decree in this cause, the practice of polygamy has been abandoned by the Church of Jesus Christ of Latter-Day Saints, but that the principle is still retained by the church as one of the tenets and cardinal points of its faith.

He makes that finding from the testimony.

I will now read from an address by President Woodruff, delivered at Logan, Utah, November 1, 1891, in which he says:

I have had some revelations of late, and very important ones to me, and I will tell you what the Lord has said to me. Let me bring your minds to what is termed the manifesto. The Lord has told me by revelation that there are many members of the church throughout Zion who are sorely tried in their hearts because of that manifesto, and also because of the testimony of the presidency of this church and the apostles before the master in chancery. Since I received that revelation I have heard of many who are tried in these things, though I had not heard of any before that particularly. Now, the Lord has commanded me to do one thing, and I fulfilled that commandment at the conference at Brigham City last Sunday, and I will do the same here to-day. The Lord has told me to ask the Latter-Day Saints a question, and he also told me that if they would listen to what I said to them and answer the question put to them by the spirit and power of God, they would all answer alike, and they would all believe alike with regard to this matter. The question is this: Which is the wisest course for the Latter-Day Saints to pursue—to continue to attempt to practice plural marriage, with the laws of the nation against it and the opposition of sixty millions of people, and at the cost of the confiscation and loss of all the temples, and the stopping of all the ordinances therein, both for the living and the dead, and the imprisonment of the First Presidency and Twelve and the heads of families in the church, and the confiscation of personal property of the people (all of which of themselves would stop the practice), or after doing and suffering what we have through our adherence to this principle to cease the practice and submit to the law, and through doing so leave the prophets, apostles, and fathers at home, so that they can instruct the people and attend to the duties of the church, and also leave the temples in the hands of the saints, so that they can attend to the ordinances of the gospel, both for the living and the dead?

The Lord showed me by vision and revelation exactly what would take place if we did not stop this practice. If we had not stopped it you would have had no use for Brother Merrill, for Brother Edlefsen, for Brother Roskelley, for Brother Leishman, or for any of the men in this temple at Logan; for all ordinances would be stopped throughout the Land of Zion. Confusion would reign throughout Israel, and many men would be made prisoners. This trouble would have come upon the whole church, and we should have been compelled to stop the practice. Now, the question is, whether it should be stopped in this manner, or in the way the Lord has manifested to us, and leave our prophets, and apostles, and fathers, free men, and the temples in the hands of the people, so that the dead may be redeemed. A large number has already been delivered from the prison house in the spirit world by this people, and shall the work go on or stop? This is the question I lay before the Latter-Day Saints. You have to judge for yourselves. I want you to answer it for yourselves. I shall not answer it; but I say to you that that is exactly the condition we as a people would have been in had we not taken the course we have.

I know there are a good many men, and probably some leading men, in this church who have been tried, and felt as though President Woodruff had lost the spirit of God and was about to apostatize. Now, I want you to understand that he has not lost the spirit, nor is he about to apostatize. The Lord is with him and with his people. He has told me exactly what to do and what the result would be if we did not do it.

I have been called upon by friends outside of the church and urged to take some steps with regard to this matter. They knew the course which the Government were determined to take. This feeling has also been manifested more or less by members of the church. I saw exactly what would come to pass if there was not something done. I have had this spirit upon me for a long time. But I want to say this: I should have let all the temples go out of our hands; I should have gone to prison myself and let every other man go there had not the God of Heaven commanded me to do what I did do; and when the hour came that I was commanded to do that, it was all clear to me. I went before the Lord, and I wrote what the Lord told me to write. I laid it before my brethren, such strong men as brother George Q. Cannon, brother Joseph F. Smith, and the twelve apostles. I might as well undertake to turn an army with banners out of its course as to turn them out of a course that they considered to be right. These men agreed with me, and ten thousand Latter-Day Saints also agreed with me. Why? Because they were moved upon by the spirit of God and by the revelations of Jesus Christ to do it.

That is the statement of Wilford Woodruff, the president of the Mormon Church. A more conscientious man never lived. In this very same sermon he tells of his early life and, in the humility of his soul, remarks, that he had been a miller, with no higher ambition, so far as this world was concerned. Any man who knows him will say with me that if there ever was a man without guile, Wilford Woodruff is that man.

I remind you again that this declaration was simply the announcement of a fact that already existed. The practice did not then exist. It had been abandoned. There is no disposition among any class of the Mormon people to restore that practice. And even if the inclination existed, it would be impossible, in the very nature of things, to reestablish it. It could not be done. It yielded to the decree of fate and is gone forever.

The other point that I desire to call your attention to is the alleged domination of the church in political affairs. This is one of the objections I have met when pleading the cause of my people. It has been claimed that the leaders of the church have dictated to the people and not left them free to act for themselves in political matters, and that they claim the right to do this. I will tell you how I understand this matter. During the last twenty years there has existed in the Territory of Utah a political party, composed principally of members of the Mormon Church, which has recently been dissolved. It was called the People's party, and for a long time there has been a disposition among its members to divide on national party lines. That has been so for years.

An effort was made by members of the People's party in 1888 to affiliate with the national parties in Utah, but the effort was futile. While polygamy existed, and even after the practice had ceased, and up to the very time that the church made its official declaration on the subject, there seemed to be an insuperable barrier between the Mormons and non-Mormons on this subject, and it seemed to be impossible for them to get together on national party lines.

When this declaration had been made, and there were no more polygamous marriages, some of our Gentile friends, as they are called, became convinced. Both the Democratic and Republican parties adopted platforms upon which all American citizens could stand, and the members of the People's party were not slow to accept their invitation and joined the two great parties.

On the 29th of May, 1892, having been duly called, the county central committee of the People's party, at Salt Lake City, assembled. There were prominent men present who represented all the organizations of that party in every precinct in the county, and they unanimously adopted these resolutions:

Whereas the People's party has been maintained for the purposes of resisting attempts to curtail and destroy the political rights and privileges of the majority of the people of Utah, and its chief opponent has been the so-called "Liberal" party, whose members, while entertaining different views on national politics, have combined on local issues; and

Whereas there is a manifest disposition on the part of both the Republicans and Democrats to dissolve the unnatural union that has heretofore bound them together, to accord full rights and privileges to all citizens, and to afford them opportunity for organizing with the national parties and espousing the respective political creeds to which their individual consciences may incline; and

Whereas the existence of local political parties to the exclusion of the great political parties is an anomaly which ought not to exist in any part of the nation unless made necessary by special conditions and emergencies, a fact which has ever been recognized by the members of the People's party; and

Whereas the necessity which has heretofore existed for the maintenance of the People's party seems to be passing away in the change of conditions, and its members are desirous of realizing the hope they have long entertained of resuming and taking their respective places in the national parties as soon as the public safety would permit, with the hope that former animosities may be obliterated and local differences forgotten in a united effort, by all classes of citizens, to promote the growth, development, and progress of that grand Commonwealth which our fathers founded in the Great American Desert: Now, therefore, be it

Resolved, That it is the sense of the People's county central committee, the precinct committees, and the officers of the political clubs in Salt Lake County, that the People's party should be dissolved and its members left free to ally themselves with the respective national parties according to their individual preferences.

Senator DAVIS. When was that?

Mr. RICHARDS. On the 29th of May, 1891. On the 10th day of June the Territorial central committee of the People's party met in Salt Lake City, at which were representatives from all parts of the Territory, and these resolutions were unanimously adopted:

Whereas a radical change has taken place in the political situation in this Territory, the progressive people of various parties having determined to bury old strifes, to dissolve merely local combinations, and to make national questions paramount;

Whereas both Democrats and Republicans, who formerly united with the so-called "Liberal" party for the purpose of overcoming the People's party, have severed their connection and have organized under their respective party titles and principles;

Whereas each of these organizations has repudiated the "liberal" policy, designed to destroy the political liberties of the majority of our people, and have declared against disfranchisement except for crime determined by due process of law;

Whereas they have each invited the citizens of Utah, regardless of difference in religious views, to join with them in working for the political redemption of this Territory;

Whereas the chief necessity for the existence of the People's party has been the compact union and destructive designs of the "liberal" faction, which is now in process of reluctant dissolution;

Whereas the People's party has always cherished the great principles of popular sovereignty, local self-government, and national supremacy in national affairs, which both the great political parties recognize while differing as to minor matters;

Whereas several of the county organizations of the People's party have determined that the time has come when they can safely dissolve their local party associations and can labor more efficiently both for the welfare of Utah and the growth and glory of the United States by uniting with one or other of the national parties; and

Whereas it is desirable that the dissensions and struggles which have heretofore hindered the development and progress of the Territory should be left behind and obliterated in the march of its people toward their high destiny: Now, therefore, be it

Resolved, That it is the sense of the Territorial central committee of the People's party of Utah that the party throughout the Territory should dissolve and leave its members free to unite with the great national parties according to their individual preferences.

This action of the Territorial committee was approved by members of the People's party in all parts of the Territory. From that date the party was practically dissolved, and it has had no existence since. The former members of the party in almost every county and precinct in

the Territory have joined the great national parties, and all classes of people, without regard to creed or condition, are working together for the advancement of the interests of their respective parties. So, I say to-day, that the Church neither exercises control over them nor does it claim the right to do so. The people are as free to act for themselves in these matters and to follow their own predilections as other people are in any part of the land. I ask you to judge the leaders of the Church on that point by their own utterances. They have repeatedly and in the most emphatic terms said that the people are absolutely free, not only from their dictation, but even from advice, and they do not desire to control them in any of these matters, but want them to act on their own responsibility and do as they please.

Senator GORDON. Was the People's party constituted entirely of believers in the Mormon doctrine of polygamy?

Mr. RICHARDS. No, sir.

The ACTING CHAIRMAN. You said, and you have shown that the authorities of the church have refrained from exercising any political influence over the members, and that they are now free. If they desired to exercise it as a part of their faith could they, and have they such authority; and if they did exert it, and desired to influence the voting of the members of the church would the members of the church have the same standing if they refused to follow the dictation of the church?

Mr. RICHARDS. No, sir; they could not. They have no such authority, and the people would not permit them to exercise it, but when I have read their disclaimers on this point you will see that they not only lack the power but also the disposition to interfere in these matters.

It was charged by our opponents when the People's party dissolved that the church had done it, and that the people were not acting in good faith. That charge was absolutely false. As chairman of the Territorial central committee, I know it was not true.

On the 23d day of June, the Times, a newspaper in Salt Lake City, of Republican proclivities, I think—

Mr. RAWLINS. It was the organ of the Republican party at that time.

Mr. RICHARDS. The Times published an interview with Presidents Wilford Woodruff and George Q. Cannon. I will quote from that interview. I read from it as reproduced in the Deseret Weekly, the church organ, in its issue of July 4, 1891, in which the interview was editorially indorsed.

There has never been any question about its authenticity. It has been recognized by everybody in Utah as the authoritative expression of the views of those gentlemen on the subjects discussed. The Times says:

These queries were laid before President Woodruff, and he and President Cannon jointly gave the Times the following as their deliberately expressed views on every question touched upon:

"It is asserted that the People's party was dissolved by direction of the church. Is there any foundation for that charge?

"The People's party was dissolved, as we understand, by the action of its leading members. They have stated to us their convictions that the time had come for a division on national party lines. There has been a growing feeling in this direction for a long time, and the dissolution of the People's party is the result of that sentiment and not the fiat or instruction of the church. The first intimation we had of dividing on party lines came to us from Ogden. There is, therefore, no foundation for the charge that the church brought about the dissolution of the People's party.

"Does the church claim the right to dictate to its members in political matters?

"The church does not claim any such right.

"The Times has held that the appearance of church management of the People's party during recent times resulted purely from the fact that the party was composed almost entirely of members of the church, with prominent churchmen taking part in its affairs, and that there has not been church rule as charged. Is this view correct?

"The Times has correctly stated the facts connected with the appearance of church management of the People's party. That party having been composed principally of members of the church, and self-defense having compelled them to consult together and to decide concerning the best steps to be taken to preserve their rights, some color has been given to the charge that it was a church party. But this has not been done in a church capacity. Men have had influence in that party and been listened to according to their experience, and not because of their official position in the church.

"That being true, are we to understand that the church will not assert any right to control the political action of its members in the future?"

The reporter evidently wanted to get at the bottom facts.

"This is what we wish to convey and have you understand. As officers of the church we disclaim the right to control the political action of the members of our body."

It is not very difficult for people of ordinary intelligence to understand such language as that. I say, when such utterances as these go forth to the world from men occupying the positions that Presidents Woodruff and Cannon do, it is the height of absurdity to say that they can ever exercise the power that is here disclaimed.

"Will there be any reason why members of the church should come together and vote solidly, if political conditions here are similar to those which prevail elsewhere?"

"We can not perceive any reason why they should do this in the future, if, as you say, political conditions should exist here as they prevail elsewhere.

"Would leaders of the church counsel the support of church members, irrespective of party affiliation?"

"It is not probable that the leaders of the church would give any counsel upon such subjects, and certainly would not discriminate against equally suitable men because they were not members of the church. We would be in favor of voting for suitable men, regardless of their religious beliefs or associations.

"Do you understand that those who join the Republican and Democratic parties will vote and work for Gentile candidates of those parties as freely as for Mormon candidates?"

"This is certainly our understanding, and we fully expect that former members of the People's party who join the two national parties will be true to their party convictions and sustain the nominees of their respective parties, though they may not be members of the Mormon Church.

"Is it your intention to advise members of the Mormon Church, when the People's party members have divided, and after the Liberal party has been broken up, to unite in favor of the Mormon Church and against the Gentiles? Do you know of any intention or understanding on the part of the heads of the church to advise the members of the church, if statehood should be obtained, to unite and coöperate in respect to the interests of the church against the Gentiles?"

"We have refrained from interfering in political matters because of our position, we ourselves not having a vote. But we would consider it the height of folly, even if we had a disposition to direct the members of our church upon political matters, to advise them to unite in favor of our church and against the nonmembers thereof, if the present political movement should continue. We see no good reason, if the 'Liberal' party should break up, for any such division as has heretofore existed between Mormons and non-Mormons. We have deplored the existence of this class feeling, and believe it has been a fruitful source of trouble. We shall hail with unfeigned gratification the time when the people of Utah, without regard to their religious views, can unite as citizens and labor for the advancement and prosperity of the Territory. If statehood should ever be obtained, all the influence we could use to break down the distinctions which have created such bitterness in the past would be exerted.

"Do you believe that if Utah should be admitted as a State the Mormons will unite in electing members of the church to the legislature, and that the legislature will make laws favorable to the Mormons and unfavorable to the non-Mormons?"

"As we have already intimated, whatever influence we can use will be exerted in favor of legislation that will be in the interest and for the benefit of the whole people. It would be most unfortunate if any attempt were made to pass laws favorable to the Mormons and unfavorable to non-Mormons. Any such attempt would be sure to bring upon the Mormon people evils which they are desirous of averting. It is to our interest to furnish no pretext for the formation of an anti-Mormon party, which would no doubt be the result if members of the church in the legislature were to attempt to discriminate by legislation in favor of their coreligionists.

"Is it your understanding that the People's party has honestly and in good faith dissolved, and that they will unite with the Democratic and Republican parties according to their convictions of what is right?"

"This certainly is our understanding. We can perceive no reason why the representatives of the People's party should have taken their recent action, unless it was their honest intention to unite themselves with the national parties."

"Do you know of any intention on the part of the church or any of its officers or members ever to organize a political party with respect to the conceived interests of the Mormon Church?"

"We know of no such intention on the part of anyone, and can see no object to be attained, under the new conditions which now surround us, by organizing any such party."

"Do you understand that it is the wish of the Mormon Church to maintain a separation of church and state with respect to all political questions?"

"However much appearances may have indicated that we have favored the union of church and state, and notwithstanding the many assertions which have been made of this nature, there is no real disposition among the people of our church to unite church and state; in fact, we believe there should be a separation between the two. But in past times the situation in this Territory was such that officers of the church were frequently elected to civil office. If the people availed themselves of the best talent of the community they were under the necessity very frequently of selecting officers of the church to fill these positions. You must understand that nearly every reputable male member of the Mormon Church holds office in the church. Of course, where the people, as was the case in many localities, were all Mormons, if they elected any of their own members they had to choose men who held position in the church. Men were selected for bishops because of their superior ability to care for and manage the affairs of their wards. They were the practical and experienced men of their several communities, and in the estimation of the people were suitable for legislators, etc. Their election to civil offices led to the idea that there was a union of church and state."

"Do you believe that it is the wish of the Mormon people to unite with the great national parties, and to conduct politics in this Territory as they are conducted in all other States?"

"That is the impression we have received from conversation with the men among us who take the greatest interest in political matters."

"Is there any reason why the members of the church should not act freely with the national parties at all times?"

"We know of no reason why they should not."

"Would the leaders of the church, under any circumstances, countenance defiance of the laws against polygamy?"

"Speaking for ourselves, in view of the experience of the past, 'No, they would not.'"

"Would leaders of the church, if placed in official position, wink at violations of the antipolygamy laws?"

"We can not say what others might do, but for ourselves we say, 'We would not wink at violations of the law.'"

"Would there be any desire among church leaders to abolish the laws against polygamy or to make them less stringent if Utah were admitted to Statehood?"

"You may rest assured that church leaders would neither attempt themselves, nor advise others to attempt, to abolish those laws, if Utah were to become a State."

Senator JONES. I should like to ask whether polygamy is made a felony or a misdemeanor under your laws? My recollection of the clause in the Constitution against polygamy and illegal cohabitation is that they were both declared to be misdemeanors.

Mr. RICHARDS. I am not sure. It is a felony under the present law.

Mr. RAWLINS. The new statute makes polygamy a felony, and imposes punishment not to exceed \$1,000 and imprisonment in the penitentiary for not to exceed five years.

Senator JONES. What is the lowest amount?

Mr. RAWLINS. It is the same as in the act of Congress.

Mr. RICHARDS. I will read the language of the Constitution.

Any person who shall violate this section shall, on conviction thereof, be punished by a fine of not more than \$1,000 and imprisonment for a term not less than six months nor more than three years, in the discretion of the court.

It does not say whether it is a felony or not.

Mr. JONES. The fine might be nominal and the imprisonment six months only.

Mr. RICHARDS. Continuing, the interview says:

"Is it your understanding that if a member of the Mormon Church, since the issuance of the manifesto and its adoption by the church, should enter into polygamy he would thereby violate the creed of the church, and would it be wrong for him to do so?"

"We ought to state to you that we have no creed. We have what are called the Articles of Faith, among which, however, there is nothing said concerning polygamy. A member of the church who should now enter into that relation would violate the rule of the church, and he would be considered a wrongdoer.

"Would you or any officer of the church authorize a polygamous marriage or countenance the practice of unlawful cohabitation?"

"Again we have to say we can only speak for ourselves, and say that we would not authorize any such marriage or any practice violative of the law.

"Is it your understanding that the Mormon people are in good faith observing the laws of the United States prohibiting polygamy and unlawful cohabitation?"

"That is our understanding.

"Is there any foundation for the charge that the Mormon leaders are now engaged in a political conspiracy to secure political power for the church?"

"There is not the least ground for any such statement. We are not engaged in any conspiracy of this character.

"Is there anything to be gained for the church by securing political control in Utah with or without Statehood?"

"We see nothing to be gained for the church in this way.

"Is it not true that the members and leaders of the church desire to place it in a position in the community like that occupied by other church societies?"

"The only protection the church desires is that which it should obtain under general laws which secure the rights of all denominations. It would be most unwise for the Mormon people to endeavor to secure any advantage not shared in by other religious people. All that we ask is to have equal rights before the law.

"Is it your understanding that the Mormon people differ as to the Republican and Democratic parties, and that they will act in accordance with their convictions in uniting with those parties?"

"That is our understanding.

"Is it your wish that the Republican and Democratic parties should organize and present their principles to the Mormon people, and that they should unite with them according to their honest convictions?"

"Personally we have felt that the time would come when the two great parties would be organized in this Territory, and we have felt that if an attempt of this kind should be made, each should have the fullest opportunity to lay its principles before the people, so that they might have a clear understanding of the issues and be able to decide in the light of facts presented to them, to which of the parties they would belong.

"That being true, could anything be gained by bad faith even if it should be contemplated by any of the former members of the People's party?"

"Certainly not.

"The opponents of party division on national lines declare that they want evidence of the sincerity of the Mormon people. The Times would ask you to state whether the declarations of sincerity on the part of those leaders who have been before the public reflect your views and meet with your approval."

After the dissolution of the People's party, prominent men who had been members of that party commenced to advocate Republicanism and others Democracy. The object of the reporter, as I understand it, was to find out whether this was approved by the gentlemen he was interviewing. They say:

"Those declarations express our views and have our entire approval. What greater evidence can be asked than those which have already been furnished? The statement has been repeatedly made that the great objection to us was our belief in and practice of patriarchal marriage. In entire good faith the manifesto was written, signed by the leading men, and adopted by one of the largest conferences of the church ever held—a conference composed of about 15,000 people. It has been asserted, in addition, that the people were governed by the priesthood in political matters. This is now disproved by the dissolution of the People's party and the union of its members with the two national parties. What could possibly be gained by the action of the people if they were not sincere? If the elements of sincerity were wanting, such a movement would result in entire demoralization."

And so say all the Mormon people.

At 1 o'clock p. m. the committee adjourned until Monday, February 15, at 10 o'clock a. m.

WASHINGTON, D. C., *February 15, 1892.*

The committee met at 10 o'clock a. m., pursuant to adjournment.

Present: Senators Stewart (acting chairman), Shoup, Jones, Carlisle, Faulkner, and Gordon.

STATEMENT OF FRANKLIN S. RICHARDS—Continued.

Mr. RICHARDS. Mr. Chairman and gentlemen of the committee, before proceeding with my argument, in order that there may be no misapprehension as to our position because of what has been or may be said, I desire to say again that we are not here to reflect upon any of the individuals who have composed the Utah Commission, nor are we here to assail or criticise them collectively, nor indeed any Federal official. As has already been stated, it is the system that was created by Congress that we are criticising. That system, no matter how high the character of the men, under the circumstances and surroundings is, as we think, vicious, because it is calculated to induce errors, just such as have occurred.

Other men would likely have fallen into the same errors. The system is wrong, and it is of that that we complain and not of the men. This system deprives the people of all power in respect of these local affairs. The Commission appoints officers who are in no way responsible to the people for their acts. The result has been most pernicious, as has already appeared and will further appear as we go along.

What we are here for is to point out the inherent vice of the system, by showing what has occurred under it, and not to criticise the men who have been discharging duties under it. It invites mistakes, and we think that the only way to deal with it is to abolish the system and remit the selection of the local officers to the people, and let them be subject to such responsibility as the people may impose.

When the committee adjourned on Saturday I was showing by the testimony of leaders of the Mormon people that polygamy had been permanently abandoned, in good faith, and that those leaders disclaimed the right to dictate or control in political matters.

As you will remember, I had read the manifesto issued by the president of the church on the subject of plural marriages; I had recited the action of the conference of the church affirming and indorsing that manifesto; I had explained how the People's party came to be dissolved through a desire, on the part of the people themselves, to affiliate with the national political parties; I had quoted extensively from an interview had with Presidents Wilford Woodruff and George Q. Cannon, two of the first presidency of the church, in which they emphatically disclaimed any right or desire to dictate to the people in political matters, believing that each person should be left perfectly free to follow his own inclinations.

Pursuing the same line a little further, I will read the preamble and resolutions adopted by the Mormon Church in general conference assembled on the 6th day of October, 1891. These resolutions were prepared by a committee appointed by the conference for that purpose, the action having been taken because of insinuation of the Utah Commission, contained in their report to the Secretary of the Interior for the year 1891, that plural marriages were still being contracted in the Territory. I stated on Saturday, as you will perhaps remember, and as appears in their report, that they claimed to have received reports that

certain persons "are believed" to have entered into polygamous marriages during the year.

Senator FAULKNER. I do not understand that the report says they believe that "certain persons" have entered into this relation, but that some eighteen male persons, whose name they do not give, have.

Mr. RICHARDS. You are right; they do not give the names. On the contrary, we have asked for them repeatedly, but have never yet obtained a single name in the five years that these insinuations have been made since polygamy was abandoned.

These are the resolutions that were unanimously adopted by the conference:

PREAMBLE AND RESOLUTIONS.

Whereas the Utah Commission, with one exception, in their report to the Secretary of the Interior for 1891, have made many untruthful statements concerning the Church of Jesus Christ of Latter Day Saints and the attitude of its members in relation to political affairs; and

Whereas said report is an official document and is likely to greatly prejudice the people of the nation against our church and its members, and it is therefore unwise to allow its erroneous statements to pass unnoticed: Now, therefore, be it

Resolved by the Church of Jesus Christ of Latter Day Saints, in general conference assembled, That we deny most emphatically the assertion of the Commission that the church dominates its members in political matters and that church and state are united.

That was one of the points made by the Commission.

Whatever appearance there may have been in past times of a union of church and state, because men holding ecclesiastical authority were elected to civil office by popular vote, there is now no foundation or excuse for the statement that church and state are united in Utah or that the leaders of the church dictate the members in political matters; that no coercion or any influence whatever of an ecclesiastical nature has been exercised over us by our church leaders in reference to which political party we shall join, and that we have been and are perfectly free to unite with any or no political party as we may individually elect; that the People's party has been entirely and finally dissolved and that our fealty henceforth will be to such national political party as seems to us best suited to the purposes of republican government.

Also, be it resolved, That we do not believe there have been any polygamous marriages solemnized among the Latter Day Saints during the period named by the Utah Commission, and we denounce the statements which convey the idea that such marriages have been contracted as false and misleading, and that we protest against the perversions of fact and principle and intent contained in the report of the Commission, and declare that the manifesto of President Woodruff forbidding future plural marriages was adopted at the last October conference in all sincerity and good faith, and that we have every reason to believe that it has been carried out in letter and in spirit, and all statements to the contrary are entirely destitute of truth.

And be it further resolved, That we appeal to the press and people of this country to accept our united declaration and protest, to give it publicity, and to aid in disseminating the truth, that falsehood may be refuted and justice be done to a people continually maligned and almost universally misunderstood. And may God defend the right.

There were present at this conference representatives of all the orders of the priesthood in the church and members from all parts of the country, a congregation of from 10,000 to 15,000 people.

At the same conference the first presidency of the church made the declaration concerning the falsity of the charge that polygamous marriages had been contracted which I have already quoted.

I need not remind you, gentlemen, that this was a serious thing to do. Is it probable that so many people would enact such a solemn farce and promulgate these things to the world if they were untrue? The Mormons have never been accused of being fools. Idiocy has not been included in the multitude of offenses charged against them. They must have known, as any sane man would know, that if a false declara-

tion were made the evidence of its falsity would eventually appear. But, as I have already stated, they knew the statement to be true, as they had known when the manifesto was issued that it was true, and that plural marriages had been forbidden since the year 1887.

In regard to the charge of union of church and state, or the domination of the priesthood in political matters, the statements of the presidency, which I have read conclusively disprove the charge. They are in harmony with the law of the church. I read now from the doctrine and covenants, or Book of Revelation, from the chapter on government:

We believe that governments were instituted of God for the benefit of man, and that He holds men accountable for their acts in relation to them, either in making laws or administering them for the good and safety of society. We believe that no government can exist in peace except such laws are framed and held inviolate as will secure to each individual the free exercise of conscience, the right and control of property, and the protection of life. * * *

We do not believe it just to mingle religious influence with civil government, whereby one religious society is fostered and another proscribed in its spiritual privileges and the individual rights of its members as citizens denied.

And again in the same Book of Revelations we find this:

Wherefore be subject to the powers that be, until He reigns whose right it is to reign, and subdues all enemies under His feet. Behold, the laws which ye have received are the laws of the church, and in this light shall ye hold them forth. Importune for redress and redemption by the hands of those who are placed as rulers and are in authority over you, according to the laws and constitution of the people which I have suffered to be established, and should be maintained for the rights and protection of all flesh according to just and holy principles. That every man may act in doctrine and principle pertaining to futurity, according to the moral agency which I have given unto them, that every man may be accountable for his own sins in the day of judgment. Therefore it is not right that any man should be in bondage, one to another. And for this purpose have I established the constitution of this land, by the hands of wise men whom I raised up unto this very purpose.

No longer ago than the 29th day of last month, the Deseret News, the official organ of the church, declared in an editorial, among other things, that the church was "out of politics." That is generally understood and fully recognized by the members of the church.

One more extract will close my remarks on this point. I read from an interview had with Judge Zane, chief justice of the supreme court of Utah. His views having been asked with regard to the enabling act that is now pending in the Senate, known as the Teller bill, he said:

My views as to the bill for an enabling act for Utah Territory, introduced into the United States Senate yesterday by Senator Teller, are that I am for the passage of the bill, without any mental reservation. I further state unhesitatingly that it is my opinion that the Republican party of Utah should declare in favor of its passage and insist upon it becoming a law. The Church of Jesus Christ of Latter Day Saints has taken a stand against the practice of polygamy, and I have no doubt that its members desire to cooperate with non-Mormons politically for the common good. If Utah becomes a State the Mormons will understand that their material and political interests, their welfare and happiness, are so related to and connected with those of the Gentiles, that laws benefiting the latter will be good for the former, and such laws as oppress and injure the one class will be detrimental to the other.

More than 200,000 people in Utah are building its cities, opening and working its mines of incalculable wealth, improving and cultivating vast numbers of productive and valuable farms, and herding their flocks in its valleys and upon its hills. Comparatively speaking, these people are temperate, industrious, and honest. They are sufficient in numbers and possess the requisite wealth and intelligence to be admitted into the sisterhood of States. I say let statehood come. The "Mormon" scare has blown over. "I am unable to see under statehood the alarming apparitions and hobgoblins conjured up by timidity and fear or by prejudice. The time has come to abandon the enmities, the contention, and prejudice of the past and to lay the foundation of the State of Utah deep and sure upon civil and religious liberty—upon the great principle of equality before the law. We are yet at the foot of the hill, the summit of which will be scaled in distant ages through generations of

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progress and prosperity. The people of the Territory of Utah, with the citizens of the United States in other parts of its wide borders, are entitled to national self-sovereignty and to those powers delegated by the Constitution of the United States to the Federal Government and to State sovereignty as to those powers not so delegated. I am for statehood according to the provisions of the Teller bill, so far as they have been reported to me.

During the contest that has gone on in Utah for the past eight years, no man has been more zealous in his endeavors to enforce the law than Chief Justice Zane. He was among the first to recognize the change of conditions in the Territory. He speaks with no uncertain sound. He not only recommends all that is asked for in the Faulkner bill, but he advocates the granting of statehood, and I tell you he is right. Utah is entitled to it on every conceivable ground.

There are statements in the reports of the governor and Utah Commission, to the Secretary of the Interior, for the year 1891, which go to sustain our position and show that the people can be trusted to govern themselves, but I must not detain you by reading them. The minority report of Commissioner McClelland is especially commended for your perusal.

You were told on Saturday that there was a petition on file in the Department of Justice signed by the leaders of the Mormon people, in which they say polygamy has been abandoned, and they bow in submission to the laws of the land. The good faith of the petitioners, and the fact that satisfactory conditions exist, are vouched for by the indorsements of the governor, the secretary, two members of the Utah Commission, and every Federal judge in Utah, who ask for the restoration of political rights and privileges to the disfranchised people of that Territory. Surely such evidence as that will move you to give favorable consideration to the request we make to be permitted to govern ourselves.

I shall now call your attention, briefly, to the history of Congressional legislation and the administration of the laws in Utah. And in doing so, I desire it to be distinctly understood that I make no complaint, either of the legislation itself or of the administration of the law, or of any man who has taken part in executing it. I simply wish to state plain, unvarnished facts, not for the purpose of sentiment, but that you may draw from those facts conclusions that I think are irresistible to an impartial mind.

As you know, there was no statute against polygamy in Utah till 1862. In that year an act of Congress was passed, making it an offense. This law was not enforced. It was generally believed to be unconstitutional, and remained a dead letter for fifteen years. Then a test case was made—the Reynolds case—and the law was declared constitutional in 1879. Nothing further was done for three or four years till the Edmunds law was passed, in 1882. That act not only reenacted the law of 1862, but it disfranchised and disqualified polygamists from holding office. It also created the offense of unlawful cohabitation. This law was not enforced till 1884. In that year prosecutions were commenced under it. A number of indictments were found for unlawful cohabitation, and the first question to be determined, under the law, was, what constituted the offense. The statute simply says that a man who “cohabits with more than one woman” is guilty of a misdemeanor. What was the meaning of the term cohabit, as used in this law? It was believed by many attorneys of high standing and respectability at the bar in Utah, that the rule which has always prevailed in this country and in England, making sexual intercourse an essential element of a criminal cohabitation, would apply to this statute. Some of the per-

sons affected by the law had regulated their conduct to conform with that theory. That construction was contended for, but denied by the Supreme Court of the United States, though a dissenting opinion was filed by Justices Miller and Field.

When the law was so declared it became a very serious question what line of conduct was necessary on the part of this class of persons to enable them to avoid the penalties of the law and, at the same time, discharge the moral duties that devolved upon them by reason of their peculiar status, for they had wives and children that must be supported. The courts held that any association as husband and wife might constitute the offense. Many men were convicted and sent to the penitentiary for what is known in Utah as "constructive cohabitation," which did not involve any marital association whatever. You can imagine the anxiety and apprehension that would naturally prevail in a community where such conditions existed.

But that was not all. Soon another step was taken to make these prosecutions more severe. The famous segregation doctrine was announced. Unlawful cohabitation, which has always been a continuous offense, was taken out of that category by the local courts. It was contended that a grand jury might investigate the conduct of an individual for the past three years, and carve out of his acts as many offenses as they saw fit—one for every month, or for every week, or for every day of that period. Numerous segregated indictments were found. A test case was taken to the Supreme Court of the United States, where it was held to be a continuous offense until the indictment is found, and so that theory was exploded. But not until it had struck terror to the hearts of many people, some of whom fled from the jurisdiction of the court, rather than face a series of prosecutions that might entail penalties so great as to require the fortune of a Croesus and the life of a Methuselah to cancel the fines and imprisonment imposed.

The next dodge was segregation in another form. It was said that while the same grand jury could not indict a man twice for unlawful cohabitation, they might indict him for adultery and unlawful cohabitation with the same women, during the same period of time. That was tried. The Supreme Court again said "No;" and that scheme failed.

Senator GORDON. Were there convictions by the Utah courts on the double plea of cohabitation and adultery?

Mr. RICHARDS. Yes, sir.

Senator GORDON. And were they convicted?

Mr. RICHARDS. Yes, sir; but the Supreme Court reversed the Territorial courts.

While these things were going on, it will be remembered that, in addition to the ordinary facilities for criminal prosecution, the Government possessed the extraordinary powers conferred by acts of Congress, to exclude from the jury every person shown to have any belief in polygamy or sympathy with the defendant; to attach witnesses without a previous subpoena and compel their immediate attendance; to permit the legal wife to testify against her husband; to compel the attendance and testimony of the alleged plural wife, the children and neighbors of the defendant; to employ a horde of marshals, possessing all the powers of peace officers, to detect, obtain evidence against, and arrest violators of the law, and who were spurred on to extra diligence by liberal fees and backed by a strong hostile public sentiment, which justified any extremes against a polygamous suspect.

I repeat that these things are not stated by way of complaint; I say them rather in sorrow than in anger, but they illustrate the point of

my argument. The grand result of all this extra judicial prosecution sums up about one thousand convictions for all offenses against the laws of Congress. Is that not confirmatory, in the highest degree, of what I told you on Saturday about the small number of polygamists in Utah? That is my point.

There are gentlemen in this room who have had experience in the administration of these laws, one as judge, another as United States marshal, and they will tell you, if asked, that it was impossible for the guilty to escape; that the men who have violated the law, even under these extreme constructions, have been convicted and punished therefor. Do you not think the demands of justice have been fully satisfied and even vengeance appeased?

Senator FAULKNER. What percentage of that thousand cases was indictments for polygamous marriages as distinguished from cohabitation or adultery?

Mr. RICHARDS. I should say from 3 to 5 per cent. Certainly not more.

Senator SHOUP. How many were convicted on the double charge of cohabitation and adultery?

Mr. RICHARDS. I do not know how many. There were several such convictions, but most of the indictments were quashed after the decision of the Supreme Court.

I say, then, that we have shown the very small number of offenders against the law, and even these few old men are not now living with their wives, nor cohabitating with them, even constructively. What possible menace can they be to society?

Senator FAULKNER. I will ask you for information, whether or not those offenses of cohabitation, without the sanction of the church as to the solemnization of plural marriages, were not in violation of the rules of the church?

Mr. RICHARDS. Yes, sir; it appears from the testimony of Presidents Woodruff, Cannon, and Smith, which will be made an appendix to my remarks, that unlawful cohabitation is a violation of the law of the church as well as the laws of the land.

Senator JONES. You mean by that cohabitation as at present defined by the courts?

Mr. RICHARDS. Yes, sir.

Another point is clear from the facts stated. It bears upon the question of sincerity and seems to me conclusive. You have been told that there was not an hour during this period of eight or ten years of sorrow and suffering on the part of these people, of misery and distress, of heartburnings and trying ordeals—the story of which will never be fully told—I say there never was an hour during all this reign of terror that these men could not have relieved themselves from all penalties by simply saying “Yes” when they were asked to promise obedience to the law.

If they had made the pledge then you might have questioned their sincerity, for there was much at stake and great inducements to make the promise. But with heroic fortitude they marched into the prison cell and satisfied the demands of the law to the uttermost farthing. Then they come forward and say, “We bow to the majesty of the law and will yield a lawful obedience to it.” I say that a people who will endure what these have suffered for conscience sake can not be insincere; and you know, gentlemen, that what I say is true. Human nature is the same the world over. The strongest possible evidence of the good faith of the Mormon people lies in the fact that they waited till

every penalty had been paid and the demands of the law satisfied before making their unconditional surrender.

It would seem that the suffering of these people had been severe enough to satisfy the most exacting demands, but the punishment did not fall upon the guilty alone, as is the rule among civilized nations. The innocent have been made to suffer for the misdoings of their brethren. Church property that had been contributed by all classes of members of the church, which represented the gift of the banker and the mite of the widow, the contributions of thousands of persons who had never violated any law of their country was seized by the Government for confiscation; and what is a thousand times worse than that, nearly a quarter of a million American citizens are consigned to political slavery.

You may think that a strong term, gentlemen, but it is absolutely true. If every man and woman who has ever lived in a polygamous relation was to leave Utah to-day, there would remain over 200,000 law abiding people who are now in a condition worse than that of colonial vassalage. And why? Not because they have ever violated the law, nor because anybody else is now violating the law, but because, years ago, a few men lived in polygamy, who are now law-abiding and exemplary citizens.

We ask you, as we have asked our political opponents, "What more can we do to establish our right to freedom?" If there is anything lacking, in the name of conscience and for the sake of humanity, do point it out and tell us what to do. Remember, our fathers, as well as yours, made the grandest declaration of human liberty that the world has ever known, and they maintained it with their lives, their fortunes, and their sacred honor. We have inherited a love for liberty. Our devotion to country is not excelled by any in the land. We have been taught from childhood that the Constitution of the United States is an inspired charter of human freedom. We have listened to the story of our country's greatness, as it fell from our mothers' sacred lips. We have read the glorious achievements of our patriot fathers, and the fire of liberty burns in our breasts. The very air we breathe, the grand old mountains that surround our homes, the pure streams of living water that flows from the eternal snows, all make us long for liberty and the rights of freemen. We ask you for such measure of freedom as will enable us to feel that the great declaration of human equality is no longer a solemn mockery to us. And I promise you that every man who lifts his voice for the emancipation of the people of Utah will receive the grateful benedictions of thousands of patriotic and God-fearing people, which will ascend to the throne of grace like sweet incense. And when Utah gets her deserts, the rough diamond in the mountains will become a sparkling gem and the crowning jewel in Columbia's diadem.

The extracts from the testimony, referred to in the statement of Mr. Richards, are as follows:

CROSS-EXAMINATION OF WILFORD WOODRUFF.

By Mr. VARIAN:

Q. Mr. Woodruff, is this Exhibit A, annexed to this paper, the original manifesto or announcement by you, or isn't this one that was made subsequently in answer to statements appearing in the telegraphic dispatches and press of the country?—A. I never made but one that I recollect.

Q. Did you understand by this declaration tenet or principle of faith of the church over which you presided was changed in any degree?—A. No, sir; I don't know that I did; with regard to the principle of —

Q. (Interrupting.) Does your church derive its principles of faith and rules of conduct from the Bible, the Book of Mormon, of doctrines and covenants, and the revelations of Almighty God?—A. Yes, sir.

Q. Was the principle of plural or celestial marriage derived through a revelation?—A. Yes, sir; the principle that has been adopted by the church was.

Q. Had there been any principle of faith or tenet of your church ever incorporated in its creed through the vote of the members?—A. No, sir; I think not.

Q. Has it not always—A. (Interrupting.) Any further, I will say, of course, the principles of faith of the church have been presented to the church and voted upon by them as a reception; to receive those principles has been by vote.

Q. Has any principle or tenet having its foundation in revelation been submitted to the membership of the church with a view to their accepting or rejecting it by vote?—A. Yes, sir; I think all revelations that we have received have been accepted by vote.

Q. Has there ever been an instance of one being rejected?—A. Not as a general principle.

Q. Well, has there ever been an instance of it being rejected at all, where it purported to come through proper channels from the higher power?—A. No, sir.

Q. Is not the principle of plural marriage still a tenet of the faith of your church?—A. Yes; I believe the church believes in the principle.

Q. Would it not have to be changed by the same power and authority from which it is derived as a principle?—A. Yes, sir. I would remark that a principle may be believed in by the church—a true principle, and still not be practiced.

Q. You don't understand, then, that the people of your church indicated, by accepting your declaration, that their views or beliefs upon the principle involved were at all changed, but only that they were willing to follow your advice in submitting to the conditions that confronted them?—A. Yes, sir; I view that to be about the ground.

Q. Did you state more or intend to convey more in this declaration than the fact that you yourself intended to submit to the law referred to, and to use your influence with the members of your church to have them do likewise?—A. Well, in that declaration, of course, I expected to obey the laws of the land, and request that the Latter Day Saints do the same, and to carry out that principle in obeying the law, whether it was all stated or not—that was the ground.

Q. Does this declaration anywhere indicate to your people that a failure to follow your advice would become a subject of church discipline?—A. Well, it would become so, whether it is stated or not.

Q. But does it so state here, Mr. President?—A. I don't know that I can say that it does.

Q. Did you intend to confine this declaration solely to the forming of new relations by entering into new marriages?—A. I don't know that I understand the question.

Q. Did you intend to confine your declaration and advice to the church solely to the question of forming new marriages without reference to those that were existing—plural marriages?—A. The intention of the proclamation was to obey the law myself—all the laws of the land on that subject—and expecting that the church would do the same.

Q. You mean to include, then, in your general statement, the laws forbidding association in plural marriages, as well as the forming of new marriages?—A. Whatever there is in the law with regard to that—the law of the land.

Q. Let me read the language and you will understand me perhaps better. "Inasmuch as laws have been enacted by Congress forbidding plural marriages, I hereby declare," etc.; did you intend by that general statement of intention to make the application to existing conditions where the plural marriages already existed?—A. Yes, sir.

Q. As to living in the state of plural marriage?—A. Yes, sir; that is, to the obeying of the law.

Q. In the concluding portion of your statement, you say: "I now publicly declare that my advice to the Latter Day Saints is to refrain from contracting any marriage forbidden by the law of the land." Do you understand that that language was to be expanded and to include the further statement of living or associating in plural marriage by those already in the status?—A. Yes, sir; I intended the proclamation to cover the ground, to keep the laws—to obey the law myself, and expected the people to obey the law.

Q. Well, what law?—A. The laws of the land.

Q. The law against contracting marriage, which is the one you refer to?—A. Yes, sir; contracting marriage, or breaking the law appertaining to polygamy, plural marriage.

Q. Was the sole reason of this declaration because of those laws that you speak of?—A. Well, if I might make an explanation—

Q. Certainly.--A. Of this matter I would say, there was no law against this principle, no law against polygamy or the patriarchal order of marriage, that was practiced by the Latter Day Saints, until 1862. The members of this church did not believe that law was constitutional, and I myself hardly believed—I think there were but very few outside of the church who were judges, lawyers, first in the law and Constitution of the country, who believed themselves that that was the constitutional law—and of course that law remained upon the statute books a dead letter for many years, I don't know how many; and one of our own people, an elder in this church, came forward and furnished testimony himself, as a test case; that was Mr. Reynolds, he believing that he would be dealt leniently with; and until that was proved or represented to be a constitutional law there was nothing against the practice. After that there was—of course it is known publicly, there were a thousand or perhaps more of the leading men of the church who went to prison rather than desert their families, and to prove of course their faith and their feelings with regard to the position that they occupied; and after doing this of course this was the position we were in.

There were but few of this church who had entered into polygamy, a very small percentage, probably 5 per cent of the people would cover the whole ground, and there was 95 per cent of the community who occupied this position with those who had been called criminal. They were innocent—were in a position apparently that they would all suffer; the public sentiment of the whole nation, as well as the laws, were against it, and I will say for myself, I became thoroughly convinced that this subject would have to be changed. After I was appointed president of the church I looked this question over, and for a good while was satisfied in my own mind that this subject would have to be changed; that plural marriages would have to be stopped in this church altogether. It was not ourselves who were suffering, but a large portion of the people who had not entered into it. This principle was upon my mind, and I took no steps after I was made president of the church to advocate the principle. It was among our people, for that was what I saw before me, and it was upon that ground that I issued that manifesto, I will say, as I viewed it, by inspiration; I believed it was my duty; I believed it was the duty of our people to obey that law and to leave events in the hands of God. Now, if the gentleman can understand my views upon it, there is where I stand.

Q. Well, was the action predicated upon the fact of this condition of affairs arising out of this legislation and the enforcement of the law?—A. Well, of course, as I said before, that had its influence; it was upon that ground that the subject was made manifest what was before us.

Q. Was the manifesto intended to apply to the church everywhere?—A. Yes, sir.

Q. In every nation and every country?—A. Yes, sir; as far as I have knowledge in the matter.

Q. In places outside of the United States as well as in the United States?—A. Yes, sir; we are given no liberties for entering into that principle anywhere.

Q. But I don't understand you as saying that a failure to follow the advice herein contained would result in authorized church discipline?—A. No; it might not have been stated there; still that would be the—

Q. (Interrupting.) Could it be so followed?—A. Yes, sir; it would; any man entering into that principle without, would be the same as before the law was revealed; any person entering into the principle of plurality of wives, making an addition to his family, would be liable to be turned from the church—excommunicated from the church.

Q. Do you understand, then, that the original law, as it appears in your books of authority, is revoked, changed, finally disposed of by this declaration?—A. I have nothing to say particularly upon that subject; of course it covers the ground of our acts, and the acts of the people—our lives.

Q. Would it not, of necessity, require a declaration from as high a source as that from which the original law came to revoke or change that law governing the principle of plural marriage?—A. Yes, sir; I suppose it would.

Q. Are you willing to say, Mr. Woodruff, that you now consider by reason of this act of yours and of your people, in conference assembled, that the principle of plural marriage, as originally given, and subsequently followed and practiced by your people, is no longer the law of the church or of God?—A. I have nothing to say with regard to the law of God, particularly—as I have said, it is against the law of the church—law of God to us. We are required to abandon that law—that doctrine or tenet of our faith in our practice.

CROSS-EXAMINATION OF GEORGE Q. CANNON.

Q. Now, Mr. Cannon, calling your attention to the so-called manifesto, I understand the original law of the church was derived from revelation given to Joseph Smith?—A. Yes, sir.

Q. The prophet of the church; that it as given by him, was carried into the church creed, and mentioned in the church publications.—A. Yes, sir.

Q. I have forgotten whether it was the Book of Mormon.—A. (Interrupting.) It is in the Book of Doctrine and Covenants.

Q. How do you understand that that principle, as announced through that revelation, is no longer the true principle as a tenet of the faith of the church?—A. I believe and know, as I may say, as much as human being can know from a divine source, that that revelation was from God, but circumstances have arisen of such a character as to compel us to no longer obey it.

Q. To suspend its operation?—A. Yes, sir; not to suspend its operation, but to cease its practice.

Q. Well, to cease its practice?—A. Yes, sir.

Q. Cease the practice and suspend the operation of what is still a divine principle?—A. Yes, sir.

Q. The truth is never anything but the truth, is it?—A. Oh, it is unchangeable.

Q. Unchangeable; that is the idea that I wanted to direct your attention to?—A. Yes, sir.

Q. Then you don't understand that God has changed that principle?—A. Not in the least.

Q. But that he has given permission to cease the practice—is that the idea?—A. Circumstances have been such, surrounding us for so many years, that of course I could not help but see in the position that I occupied, having had to pass through some pretty severe ordeals on that question, that unless there was some wonderful interposition of Providence, the force of public opinion becoming intensified as the years rolled by, would eventually compel us either to abandon—that is, to cease its practice, or we would be crushed; that seemed to me an inevitable consequence. I hoped for years that there would be some such interposition of Providence in our behalf; I hoped for years that the nation would give us credit for our sincerity, and that they would see that in this practice we were animated by the sincerest and best of motives; that it was not licentiousness—no sensual feeling, for the reason that if it had been licentiousness and sensuality we could have observed it without such consequences.

Q. You will observe, Mr. Cannon, that I wasn't asking that; I was simply getting at what the fact was.

WITNESS. I only wish to make one remark in connection with the question, and that is that there being no Divine interposition of a miraculous character to save us, after having made all these sacrifices, I believe that God inspired President Woodruff to say unto us that we had gone far enough.

Q. You see I didn't ask that.—A. You will pardon me for saying what I have said; I didn't intend to go beyond what I thought was a proper answer in the matter.

Q. This manifesto is the advice of President Woodruff personally, is it not?—A. Yes, sir.

Q. It is not a command, is it?—A. President Woodruff is a very modest man—

Q. (Interrupting.) I didn't ask that; I asked you, is it advice or command?—A. I want to explain that it would have been a command if some men had issued it, and it was a command really.

Q. Well, that is the answer to it; it was a command really?—A. Yes, sir.

Q. You say you believe it is by inspiration; what is the cause or the foundation of that belief?—A. The testimony that I myself received.

Q. Was that testimony personal to yourself?—A. To myself.

Q. You don't know whether the church at large received that testimony?—A. I am fully persuaded they did.

Q. What proportion of the membership of the church did that ten or twelve thousand people represent?—A. Well, I would think that of the men, women, and children, they approached one-twentieth, probably more.

Q. What proportion of women and children composed that audience of ten or twelve thousand people?—A. There were very few children; they were about equally divided, probably, between the sexes.

Q. Men and women?—A. Men and women; yes, sir.

Q. You say the manifesto was unanimously accepted?—A. Unanimously accepted, so far as I know, and I watched the congregation closely, when the resolution was proposed.

CROSS-EXAMINATION OF JOSEPH F. SMITH.

By Mr. VARIAN:

Q. How long have you been in the Territory since your return to the Territory; when did you return?—A. The last time I returned to the Territory was on the 10th, I think, of last month; it was the 10th of last month, I believe.

Q. You had been absent for some long period of time, had you not?—A. I left this Territory in 1884.

Q. From that time until the date you mention, last month, you have, as you say, had little or nothing to do with the people?—A. Nothing to do with the people generally in the Territory.

Q. You were absent during all that time and of course could know nothing?—A. I was absent the most of the time.

Q. Do you believe that the principle of plural marriage came through a revelation of God to Joseph Smith, and through him to this people?—A. Yes, sir, I do.

Q. Do you believe that God has recalled it—revoked it, changed it, as a true principle?—A. I believe that He has suffered it to be revoked; that is, so far as the practice of it is concerned.

Q. No; I am speaking of the principle itself—plural marriage?—A. I don't think that He has revoked the principle at all.

Q. Do you understand that the revelation and law concerning it is to be eliminated from the church book and doctrine?—A. I don't know that I do.

Q. Do you understand that the manifesto applies to cohabitation of men and women in plural marriage where it already existed?—A. I can not say whether it does or not.

Q. It does not in terms say so, does it?—A. No; I think, however, the effect of it is so; I don't see how the effect of it can be otherwise.

Q. You say that you don't see now how it is possible for any change to take place in the attitude of the church and the people upon this question from that announced by President Woodruff; you say you don't see how it is possible a condition could arise?—A. Yes, sir; I say that I don't see how it is possible under the circumstances.

Q. And therefore you do not now expect that any such change will take place?—A. No, sir.

Q. You assume in making that answer that the laws prohibiting it—the human law prohibiting it—will continue to exist, do you not?—A. I have no idea as to whether it will continue to exist or not. That has nothing to do with my belief in regard to the condition of the people respecting plural marriage.

Q. Yes; but you give as a reason for entertaining that expectation, I believe, that you did not now see how conditions could change, did you not? By that you mean how the laws could change which brought it about?—A. No; I don't mean that; I mean the condition of the people; I mean our standing and position in regard to this principle.

Q. Do you understand that this manifesto is the result of direct revelation?—A. I understand it to be the result of inspiration upon President Woodruff.

Q. What is the distinction between revelation and inspiration?—A. Well, I regard direct revelation as a species of command, and inspiration as a principle of enlightenment of the mind, and the moving upon the mind to do.

Q. Coming inwardly?—A. To do what is done; what might be done.

Q. Revelation comes from the outside?—A. I don't know, but it may be a distinction without a difference, as far as that is concerned; I draw a distinction, though, in my own mind of the two.

Q. Do you understand from the language of that manifesto that it is a permanent revocation of the law defining the principle of plural marriage?—A. I consider it a permanent estoppel of the practice of polygamy.

Q. I understand that, but is it the nature of a command to stop the practice?—A. Yes, sir.

Q. But do you understand it as in the nature of an inspiration or a revelation, to do away with or revoke the law giving the principle?—A. Well, I understand it as a command, or as a revelation, to do away with or revoke the law giving the principle direction by the presidency of the church and the authorities of the church to stop the practice of plural marriage.

Q. And the same authority acting through similar inspiration, you believe, could revoke this command as well as give it?—A. I presume it could.

Q. And, in the event of such action being had, it would receive the same acceptance and obedience that this manifesto would receive?—A. Yes; no doubt it would if all the circumstances were favorable toward it.

Q. If conditions changed?—A. If conditions all changed.

Q. If it could be done lawfully?—A. If it could be done lawfully.

Redirect examination by Mr. DICKSON:

Q. One of the conditions that you take into consideration in that answer is the public sentiment of the nation, I suppose, is it not?—A. Yes, sir.

Q. With respect to this question, apart from the laws that had been enacted?—A. Yes; that is why I said that while the conditions that now work the present condition of things brought it about exist, I don't see how it is possible to reestablish the principle.

Q. You think if it was attempted to reestablish it, though there was no law against the public sentiment of the nation, would bring about the same result that had been reached?—A. Yes, sir.

Q. And therefore you think it never can be reestablished?—A. That would be my opinion or impression.

Mr. VARIAN:

Q. Suppose the conditions should so change that public sentiment of the nation, through its laws, could have no effect within Territorial lines here, would the public sentiment of the nation have anything to do with the enforcement of the principles of religion here?—A. I think under the circumstances that it would have something to do in relation to this principle, after the experience that we have had.

STATEMENT OF J. L. RAWLINS.

Mr. RAWLINS. Mr. Chairman and gentlemen of the committee: Utah is to-day as if a subjugated province of this country, with a government superimposed upon it, not derived by the consent of the governed, and where the officials who are called upon to administer it in their official acts can feel no conscious responsibility to those most directly affected in case of their incompetency or misconduct.

It is not necessary now to dwell upon the causes which led to the creation of this system of government, and whether it was wisely or unwisely created. It is enough for us to know to-day that the causes or conditions that brought it about no longer exist.

From an American standpoint I take it that every gentleman here will agree with me when I say that such a system of government should not be perpetuated one moment beyond the necessity which brought it into existence, and that necessity must be an imperative and urgent one. To keep the whole people under the yoke of political bondage can not be excused upon any other ground.

Three things are true in respect to the affairs of Utah to a moral certainty. First, that polygamy is dead beyond all hope of resurrection. Secondly, that the church, or People's party, has gone out of existence, and those who formerly adhered to it have allied themselves with one or the other of the great national parties in accordance with their individual convictions and preferences, and, thirdly, as there is no longer any church party, there is no longer any church denomination in political matters in Utah; that its restoration, if it were willed by the leaders of the church, would, under the present condition of things, be an impossibility. If these things are true, the Government of the United States can not afford to treat us as if it were necessary to keep us in a state of subjugation. The people of Utah are not and have not been arrayed in rebellion or hostility to the United States. Their rightful authority, the supremacy of their law, are there now universally recognized. The people yield actual and universal obedience to those laws, so far as could, under any circumstances, be expected, when you take into consideration exceptional individual cases of perversity and infirmity. We have more than 200,000 civilized people, American citizens, engaged in their varied vocations of peaceful industry and useful enterprise.

If you should go out to the Territory of Utah you would find no dis-

inction there. You would not be able to tell a Mormon from a non-Mormon. They are moving along hand in hand for the development of their Territory and its resources. If you go into the circles of society you will see the Mormon and the non-Mormon greeting each other in hearty good-fellowship, and no gentleman will have the hardihood to come here and say that he, being a Gentile or a Liberal Gentile opposed to home rule or statehood, is any better, any more capable, any more honest, any more devoted to the institutions of his country, than his fellow-laborer who is or who has been a Mormon. They will not make any such pretense that I am holier than thou.

I have remarked as to the system of our government. It has been sufficiently developed in your presence. As to the past administration of that government it is not necessary to speak. Whether the officials under that system have been honest or dishonest, good or bad, is now irrelevant. We have had good men, patriotic men, able men, in official positions in Utah. We have had some who were not so competent, so able, or so just. We have had them as they have been sent to us. We have not selected them. We have had no voice in that; and when an able or capable man has come among us and shown his capacity, manifested his good will to us and to our people, his merit has been generally recognized.

We have had a system of government, and have it to-day, which tends to alienate people from the Government. When an officer is selected by the people they are responsible for what he does. His acts in a measure are their acts, and when they are performed the people look upon as the embodiment of their sentiment. They approve of them, and do the best they can to make them profitable to themselves and to him.

If the same individual were imposed upon the people from abroad, and he should do the same acts, that which the people might otherwise be satisfied with they would be inclined to censure and criticise.

I am somewhat familiar with the history of Utah. I was born there. It has always been my home. I have associated with those people since the time when I was old enough to appreciate any kind of association, and my life, in a measure, has been their life. I think I know them. I am a competent witness as to their characteristics, their habits, and their inclinations. I shall endeavor to be a truthful witness.

When I attained the years of manhood my individual conviction led me, so far as religion is concerned, to take another road from that which was pursued by my father and my mother. I came to the conclusion that these people were on the wrong road, and that they were going to get into trouble. In a friendly way I endeavored to call their attention to that fact. I called their attention to the fact that the institution of polygamy was incongruous with the sentiment of the age, a practice in hostility to the laws of the nation; that Anglo-Saxons have never tolerated polygamy and would not, and its perpetuation in this Territory would be an impossibility.

I have from that time on been an earnest advocate of this notion, with how much success the history of Utah, of course, will disclose. I do not desire to claim any credit for the situation, but I do know this, that many of those who now say that Utah is not ready for self-government, either in the form of home rule or of statehood, have during the many years that I have lived there claimed this: "Let these people cease to practice and maintain the institution of polygamy in their lives and in their teaching; let the church go out of politics and its members align themselves with political parties according to their individual conviction."

tions, and all the troubles which afflict Utah will have ceased and the nation will be ready to receive us with open arms."

Am I mistaken about this? I certainly am not.

You will pardon me for making some personal allusions, because I do it in the capacity of a witness, and I can not disassociate myself with the transactions that have occurred. In 1884, eight years ago, in furtherance of a policy which I conceived to be the only one that should be adopted by the people of Utah, a number of young men who were more or less intimately connected with the Mormon Church, or whose parents were connected with it, endeavored to organize a party upon the basis of certain principles, and to show what those principles were I read from the platform which they adopted.

The third subdivision of the platform reads as follows:

Third. That in such government a trust is devolved upon every citizen, after informing himself upon any question of policy or government, to act, politically, as his best individual judgment would direct, absolutely free from coercion, control, or dictation, ecclesiastical or otherwise. While the State has given a constitutional pledge not to interfere with religion, there is a reciprocal obligation on the part of religion not to interfere with the State. For it to do so is dangerous, both to itself and the existence of free government. This would become the more evident if each of the many denominations should independently engage in a struggle for political supremacy.

Politically, all men are created free and equal, the priest and the layman must stand upon the same plane. Therefore, we reaffirm that the affairs of church and state ought to and must be forever separate and distinct, locally and nationally.

That was one of the planks of our platform; one of the principles we advocated.

Another was:

Eighth. We firmly repudiate the idea that any citizen is under obligation to take his political counsel from those whose avowed purpose is a continued violation of law.

Ninth. We shall struggle to make predominant the sentiment that every citizen should and must obey every law until, by legitimate agitation, if obnoxious or unjust, its abrogation or repeal can be secured.

Eleventh. To the end that free local self-government may be secured and participation in national affairs had and maintained, upon the basis of these principles, we severally pledge ourselves to support them and to struggle that they may become predominant, and invite all good citizens, who believe that the principles thus enunciated should be supreme, irrespective of religious belief or previous political affiliations, to unite with and aid us to consummate this end.

Under the auspices of this organization a public meeting was held early in the year 1885 at the Salt Lake Theater, and thousands of people, embracing all classes and denominations, were in attendance. Speeches were delivered expounding those principles and setting forth as well as able the reasons why they should be adopted. The platform of principles was quoted.

A circular letter had prior to this been sent out to the different counties in the Territory, to the different leading men who were also connected with the church. Responses were obtained, and if I had those letters here—I well recollect them—they would show the sentiment that then existed and was then developing in favor of the adoption by the people of the principles announced in that platform, because the platform was sent out with the circular letter to these men and their consideration of it invited, and they were requested to communicate their ideas to the corresponding secretary of the club.

When those doctrines were made public, I invite attention to the manner in which they were received by the public press representing all classes.

The Deseret News is the organ of the Mormon Church. It did not

undertake to question, except in one particular, the truth or the justice of the position which was assumed there. It used this language:

Mr. Rawlins delivered the most elaborate speech of the evening, and many of his propositions and much of his reasoning were sound.

I have a copy of the speech which I made there, and it could be furnished to show exactly what was said in respect to the situation. It was published in most of the local papers at that time.

The Deseret News goes on to say:

Still there were many points upon which issue could be successfully taken with him. He laid down an unsupportable base upon which he held that existing laws should be invariably obeyed. This needs qualification with a vengeance. To illustrate: There are, as Mr. Rawlins must know, men who conscientiously entered into the relation of plural marriage before any law against that institution existed; therefore they broke no law. A subsequent statute renders them liable to fine and imprisonment for perpetuating the relationship thus formed. To obey the later law means that a man shall cast off the wives he, in infringement of no law, contracted to protect and cherish and who have borne him children. Mr. Rawlins complained that men had not been selected for civil office because they differ in religious sentiment from the majority; but is it surprising, for instance, that men who assume such an attitude as this regarding ties that are deemed sacred to the majority should not be placed in influential positions that would give their opposition to the best interests of the people more potency? Self-preservation is the first law of nature, and Mr. Rawlins will freely admit that, in scanning the world over, it enters largely into politics. We thought we could observe throughout the speaker's reasoning in favor of a strong line of demarcation between church and state too much of a leaning to the idea that because a man held a position in the church he should be curtailed in wielding an influence in the politics of the state.

That shows the attitude of the organ of the Mormon Church at that time.

The Salt Lake Herald, which was then the organ of the People's party, which was considered the church party, contented itself with saying that there was much force and logic in the reasoning presented in support of these principles.

The Salt Lake Tribune, which has always been the organ of the Liberal or anti-Mormon party, the exponent of its views, also had something to say upon this matter.

I will read briefly what it said, but before reading I desire to call attention to the position we assumed, the position to which everybody in Salt Lake now, except the Liberal party, has come. Obedience to the law and the alignment of the people in politics according to the individual conviction were the two prominent things there held forth and in respect to which the people were urged to act.

What did these people say about this at that time? I read:

If these two young men—Messrs. Rawlins and Young—will but be true to themselves they can be the Moses and the Aaron to lead this people out of the Egyptian darkness which envelops them; out into the light of freedom; out into the sunshine of peace; out to the plains where Hope sits smiling; out to where the men and women of the Union will meet them with outstretched hands and welcome them into full fellowship in songs sweeter than Miriam sang for the deliverance of her people.

Again it was said:

If these two young men please, they can be the evangelists of Utah. To make them strong they can readily repeat to themselves that they are on the side of real liberty, and that, if they succeed, they will save their people from woes indescribable; that they will throttle a despotism which, whenever tried, has resulted in complete national decay, and draw around Utah not only the mantle of liberty, but secure to it also the scepter and the diadem of sovereignty. No sneers can stop their work, if they are strong enough to carry it on; no hisses will drown the truth as they have begun to speak it to their people. The hearts of thousands here are secretly yearning for some champions with souls sustained enough to lead the way out of the darkness and unrest, and the nation waits to congratulate them. Heaven give them the courage to persevere.

That was seven years ago. It has been said that those of us in Utah who have organized on the basis of national politics and think that is the proper policy to pursue are renegades and Hessians, have departed from some policy or purpose that the Liberal organization had in view, and that we were traitors to a just cause.

Is that so? Has not every Gentile, every Liberal in the Territory for a period of twenty years said to the Mormon people, "Accept the doctrine which is laid down in that platform and which is thus commended by the Liberal organ and you will have reached the plain where Hope sits smiling, where the people of this nation will be ready to receive you with open arms."

It is true that that organization did not meet with immediate success. Why? There was no opportunity left for peaceful agitation. The Government at once began to bring to bear upon these people all the pressure and force applied in a most rigorous execution of the laws. Homes were broken up, families were disrupted, men driven from the Territory, everything thrown into consternation and distress. There was no opportunity to appeal to the forces of reason and of justice. It was a life and death struggle. In their zeal in the execution of the law the officers of the law sometimes overstepped its limitations, as has been pointed out. Still this sentiment was at work as it had been for many years. There was going on the process of evolution.

Two years later this same platform came to the front. A few young men of the Territory, men who had been connected with the Mormon Church and who were still connected with it, espoused the same cause. They had no newspaper. They were confronted on the one side by the Liberal party and on the other by the People's party. Both sides used their utmost endeavors to prevent any dissension in their ranks. The people were in no manner reached with the doctrine except in one or two localities. Meetings were held in but few places, notably in American Fork and in Kaysville. Speeches were there delivered, and what was the result? In spite of the efforts of the People's party, called the Church party, and in spite of the efforts of the Liberal party, in American Forks nearly one-half of the votes—and they were mostly Mormon—were cast in support of the principles thus enunciated. In Kaysville there was a similar result, and the general dissatisfaction at the existing order of things was further manifest in the vote of the candidate of the People's party for Congress.

Mr. Caine, who was naturally popular, but who represented not the cause that was the embodiment of the sentiment which I have read, received but one-half of the votes to which he was legitimately entitled, about 10,000. The Liberal candidate received a less proportion than he would naturally be entitled to if the people were espousing the cause represented by those two parties. That is manifest from the fact that two years later, when Mr. Caine ran against Mr. Goodwin, the editor of the Tribune, where the issue was not as presented in this platform, but as to whether Congress should pass a law disfranchising the people of Utah, Mr. Caine received more than double the number of votes he had received at the previous election.

I refer to these things, gentlemen, to show that the dissolution of the People's party and the abandonment of polygamy were not the growth of a day nor an hour. It is the natural result of causes which have been operating for years.

We have had a university out there, and an average of two hundred students are educated every year. That has been going on for twenty years, and the number of persons who have emerged from that univer-

sity would, during that course of time, be in the neighborhood of four thousand. They have been distributed over the Territory. They represent the youth and the life of the Territory. Those men are now and have been in sympathy, either secretly or openly, with the movement which has finally resulted in the dissolution of the People's party.

Now, the members of the Mormon Church are of Anglo-Saxon blood. Their instincts and aspirations are to be free. Political enthusiasm and passions, when once fully aroused, are among the strongest of human passions; they override even religious and personal ties and friendships.

The Mormon Church has said to the Mormon people, "Go to this party and to that party, according to your individual conviction." They were ready to do it before this announcement was made, and would have done it through the influence of peaceful agitation.

Some of them are Democrats and some of them are Republicans. What is the result? In Provo at the recent election in which the contest was between Republicans and Democrats, both sides earnestly advocating the cause of their parties, people espousing that cause or this cause with zeal and energy and enthusiasm, the election was pretty evenly balanced, but one side triumphed over the other. Was this all a delusion and a fraud? There was no manifestation of it, because that victory was celebrated with red fire. The victors resorted to all the usual means of exultation over their fallen brethren.

It is possible for an artful and cunning man to engage in a scheme of fraud for the purpose of deceiving his fellow-men, and through a course of conduct so comport himself as not to reveal his hypocrisy, but did you ever hear of an entire people able to do a thing of that kind?

If you should go to Utah and through the Territory advocating the cause of a political party, you would meet with such evidence of the sincerity of the people upon the division of national lines that you would come away absolutely convinced that such a thing as insincerity is impossible.

It will be said here, as I apprehend, by gentlemen who are in my presence now, advocates of the cause of the Liberal party, that it would be unsafe to trust the people of Utah to govern themselves. There was an election in Salt Lake City. The Liberal party carried the election by quite a large majority. There was also a Republican and a Democratic party. It will be said that the Liberals, who announced that they were not in favor of either home rule or statehood, were victorious, and that the vote there indicates that the people in Salt Lake City are hostile to the measure now pending here.

I hold in my hand the Salt Lake Tribune. Speaking of what they claimed was an outrage perpetrated in the Fourth precinct, they say:

It is a sample of what was in the old days, and would be again, could the Faulkner bill become a law.

What was that? Always heretofore the Utah Commission have appointed two Liberals for judges of election and one of the opposite party. At this last election there were three parties in the field. They had to recognize the Liberal party. They could not very well refuse to recognize the Democratic party, and as the national Republican committee have recognized the local Republican organization there they could not refuse it a representative. In the Fourth precinct of Salt Lake City there was one Democrat, one Republican, and one Liberal judge. One of the Republican judges was Mr. Arthur Brown, a very able and a leading lawyer in the Territory, who would be recognized as

such in any country. He is not a Mormon. He came from Michigan. He has made a fortune there in the practice of his profession, and it all exists there, and he has espoused the cause of the Republican party. He was appointed one of the judges of that election.

Before I left Salt Lake City it was universally understood that some of the officers of the city were going to carry this election by an increased majority, so as to give evidence to the American people that the sentiment there was hostile to these measures of local government. They had control of the county treasury, the county offices, the city treasury, and the city offices. In midwinter, when men can work to no public advantage, it was generally understood that they were employing large numbers of persons, imported from different localities, tramps and stragglers, and colonizing them within the city of Salt Lake. I happen to reside in the Fourth precinct of Salt Lake City. Before I left there I had a demand made upon the superintendent of the water works for a list of his pay roll, to know how many of these men were in his employ, as I was advised that they were being located and it was intended they should vote in the Fourth precinct. He at first refused. In the presence of the mayor a demand was again made, and the mayor said, "You furnish it." Then I got the list of these men, and there are 245 names on it. I have it here [exhibiting]. I had it examined with reference to all the latest city directories in Salt Lake City, and scarcely a man upon the whole list has his residence in that Fourth precinct. Many of them did not reside in the city at all at the time the last directory was prepared.

Senator FAULKNER. When was that directory prepared?

Mr. RAWLINS. It was published less than three months ago. It is the latest directory prepared in Salt Lake City, and is supposed to be complete.

Mr. JUDD. It was prepared and delivered in January, 1892; at least my copy was delivered to my office at that time.

Mr. RAWLINS. These men were quartered by dozens and in fifties upon public land, upon lands belonging to the city, reserved for public works, and at City Creek Cañon. They were huddled together in houses; they were living in tents, and were pretending to do some kind of work upon the hill tops to develop the water-works system.

Senator SHOUR. Please make that list of names a part of your remarks.

Mr. RAWLINS. I will do so.

The list is as follows:

Alexander, T. J.
Atkinson, C.
Adlington, J. B.
Allred, Louis
Allen, R. T.
Anderson, John
Brown, A. C.
Baetty, J.
Berry, C. A.
Burton, Joe
Burton, F.
Brenning, F.
Beck, John
Barry, John
Bevins, F.
Burley, C.
Brown, J.
Brockway, C. E.
Burke, J. F.

Barnes, Henry
Brunton, John
Bean, A. J.
Bell, R. B.
Bastin, Henry
Brainard, N. E.
Briggs, S.
Brennan, J. C.
Banks, William
Briscoe, Gus.
Bryant, Frank
Buffum, A. C.
Blair, Hugh
Burns, W. M.
Cramer, J. L.
Connell, T.
Connors, Wm.
Clovis, F.
Cosgrove, J.

Chowning, Doc.
Cassidy, J.
Clovis, N. A.
Cherry, P.
Cassidy, T.
Cregan, Daniel
Curran, Geo. M.
Campbell, Wm.
Cudmore, Mike
Curley, Thos.
Conroy, E. J.
Croke, M.
Cushing, J. T.
Clarey, Pat.
Clary, John
Carlson, C. E.
Connors, John
Coomes, W. E.
Currie, Robt.

Coburn, E. C.
 Carney, John
 Colter, Frank
 Curtin, James
 Devanney, Jas.
 Dnnlap, W. H.
 De Friest, Frank
 Doyle, C.
 Durkin, J. H.
 Dellana, A.
 Desmond, J.
 Deasey, Daniel
 Downey, John
 Dutro, Ed.
 Dower, Ed.
 Dillon, Dan.
 Davis, Fred.
 Duke, John
 Doles, L. A.
 Durkin, Mike
 Daly, Jas.
 Evans, W.
 Evans, T. P.
 Eldred, C. H.
 Evans, D. L.
 Edwards, L.
 English, A. B.
 Ebersole, D. C.
 Flohn, J.
 Ford, H.
 Fortune, Albert
 Foley, A. J.
 Gossett, W. J.
 Green, Joe.
 Goddard, Wm.
 Goddard, H.
 Goddard, Joe.
 Grundy, J.
 Gaskill, J.
 Gilman, Ed.
 Garey, John
 Gallagher, John
 Gray, F. D. R.
 Goodloe, Joe A.
 Goldie, Jas.
 Green, W. T.
 Hanlon, E.
 Harman, J.
 Hallman, C.
 Hegney, C.
 Hoke, J. L.
 Hupfer, Jas.
 Huston, J. H.
 Hoag, C. M.
 Handley, Chas.
 Hencley, J.
 Hill, B. F.
 Hughes, Thos.
 Hale, Jos.
 Hardaway, W. H.
 Hamilton, Chas.
 Houstine, A. C.
 Hirschvogel, J. F.

Hinton, David
 Hansen, Wm.
 Henderson, Wm.
 Harrigan, Frank
 Jones, J.
 Jackson, E.
 Jeffers, L. E.
 Johnson, S. C.
 James, H. F.
 Johnson, A. H.
 Jones, John
 Jensen, S. C.
 Jensen, Mike
 James, W. F.
 Krouts, Wm.
 Kelly, John
 Kenyon, Hoyt
 Legat, H.
 Larimer, T. G.
 Lawson, P.
 Lucey, P.
 Lowery, L.
 Lee, J.
 Lecuyer, P.
 Leonard, H. T.
 Lewis, A. H.
 Larimer, W. S.
 Luby, D. J.
 Moses, C. F.
 Maddison, Annie
 McCallum, James
 Mattos, Joe
 McGrath, J. B.
 McLaughlin, Pat.
 Mahaffy, J.
 Matthews, Thos.
 McCutcheon, Jas.
 McQuania, A.
 Moffat, P.
 Murray, J.
 Miller, A.
 McCarty, Stephen
 Mears, Arthur
 Mahoney, W. P.
 Moore, Thos.
 McCloskey, A.
 McGovern, Pat.
 Morrissey, Ed.
 McNulty, Jas.
 McCarty, Jas.
 McDermott, Dan.
 Meyer, Frank
 Merlan, Gus.
 Mehan, John
 Miller, Fritz
 Morris, L. L.
 Martin, Chas.
 Mills, Jas.
 McGrath, J. E.
 Meyers, John
 Newton, H. E.
 Nevins, Pat.

Noonan, John
 Pischel, Wm.
 Paul, J. C.
 Pittsburly, J. S.
 Peterson, W.
 Plotts, A.
 Pitts, A. B.
 Pettit, Geo.
 Pickford, P. J.
 Purcell, Jas.
 Quinn, J.
 Roy, Wm.
 Robbins, J. L.
 Ripley, S. B.
 Reilly, J. J.
 Rainey, A. C.
 Ryan, Dennis
 Roberts, J. J.
 Ritchie, J.
 Ryan, Thos.
 Riley, M. P.
 Randall, L. S.
 Ryan, Mike.
 Russell, Alex.
 Riley, Ed.
 Redden, John
 Sheffield, Wm.
 Stevens, J. E.
 Schill, Sam.
 Stevens, Oscar
 Sullivan, M.
 Shrimmir, Wm.
 Scanlon, John
 Sandberg, John
 Springhall, Jos.
 Shaw, W. M.
 Seward, Thos.
 Shea, M. D.
 Stevens, L. A.
 Severe, Don.
 Seeley, F. E.
 Sullivan, Dan.
 Showell, Geo.
 Tobin, James
 Thomson, H.
 Tyler, W. H.
 Tucker, S. F.
 Taylor, H. F.
 Taylor, C. E.
 Tripp, Loren.
 Vinson, Byron
 Van Steeter, John
 Vandewater, G. E.
 Waddill, R.
 Whittmore, E. W.
 White, W.
 Walsh, P.
 Wilson, W. R.
 Warner, W. J.
 Webster, John
 Walsh, John
 Young, G. S.

Mr. RAWLINS. The real bona fide citizens of Salt Lake City were shocked at this outrage upon their suffrage, and we had men searching out and tracing down so far as it was possible who these men were and where they came from.

I may state one instance where a number of them had left a boarding-house in another part of the city, and had stated to the landlady that they were going away until after the election, and that after the election they would return and board with her again.

They were not registered upon the former registration list and they were not in the directory, but they were represented on the registration for the city election and their names were upon the roll of the city.

Senator FAULKNER. Let me ask you a question. How long residence do your laws require as a qualification for voting?

Mr. RAWLINS. A continuous residence in the Territory of at least six months and in the precinct at least thirty days.

Now, I desire to call your attention, and to cite you, to Paine on Elections, section 42, in respect to the meaning and the sense of the word "residence." It is there said:

The primary significance of the word residence is the same as that of the word domicile. It means the place where a man establishes his abode, makes the seat of his property, and exercises his civil and political rights. In the absence of a different definition, express or implied, that is the meaning of the term when used in a State constitution. The word "residence," as used in the constitution of Pennsylvania and as ordinarily used in constitutional or statutory provisions relating to the qualifications of voters, is equivalent to "domicile," not in the sense in which a man may have a commercial domicile, or residence, in one state or country while his domicile of origin and allegiance is in another, but in the broadest sense of the term.

The gentlemen of the committee will well understand what that means. It implies a fixed permanent habitation, where a man, if he departs from it, expects to return. It does not mean a mere sojourn. It does not mean a man who lives there temporarily while he has employment and intends to go somewhere else, which is his fixed abode, when his term of employment shall have ceased.

Of course these gentlemen intended to prevent this outrage if possible. The Salt Lake paper which has come to hand contains a list of the names of 110 of them who were excluded from the polls. They are identical with the names upon my list. They were employés of the city who had no previous location in that precinct, according to the latest directory and the registration lists. They were huddled together in tents. The same names found upon my list will be found in this list of persons excluded from the polls. The first man of them who appeared was catechised by Mr. Brown, who is not a Mormon, never has been a Mormon, and an able and distinguished lawyer, a former resident of the State of Michigan. He said to him:

Where did you say you lived?

At Brunton's camp, sor.

Where's that?

Up City Creek cañon.

What number?

There is no number; it's a tint.

Oh, it's a "tint," is it? How long have you lived there?

Well, three or four wakes, may be more.

Where did you live before that?

In this city.

Where?

In the Second precinct.

Whereabouts?

At the D. & R. G.

Who gave you your job up City Creek?

Mr. Ryan, I believe.

He is the man who furnished this list.

Any family up there?

No.

Do you pay any rent?

Yes.

How much?

Half a dollar a day.

How do you pay it?

It's taken out of me wages.

How long are you intending to stay here after you vote?

Wal, I dunno.

Dunno, eh; where's your wife?

In Wisconsin.

So you think of bringing her out here?

No.

Don't think you'll settle away out here, eh? Expect to go back to your wife?

Yes.

"Well," said Mr. Brown, turning to the other judges with his nonchalant jerk of the head, "I hold that this man is not a bona fide resident; has no intention of living here, and has no home in the precinct."

After some further questioning, the other judge concurred with Mr. Brown, and the man was rejected. There were 110 of them rejected out of the 245 that appear in Mr. Ryan's list, and who had been colonized there.

What did these men, who say that the Mormons can not be trusted, that the Gentiles, not adherents to the Liberal party, can not be trusted with self-government in Utah, do? Yield obedience to the law, or attempt to perpetrate a foul fraud upon the elective franchise there? I will tell you what they did. It appears in the report of the Salt Lake Tribune; it appears in the report of the Salt Lake Herald. They selected a slugger—a fighter—to go into line, to go to the polls, with the intention of slugging a man who was there performing his duty. When he got up there he happened to mistake the Democrat for the Republican judge, and he aimed a fearful blow at him, barely grazed his face, and when the officer who was there attempted to arrest him he was immediately assailed by the same representative of this same Liberal party. Then these men, two hundred of them and more, corralled in a large tent, if the officers had not been there in such force would have raided (as represented by the Tribune and the Herald) the polls, and perhaps destroyed the lives of the men who were there performing their duty.

Senator JONES. Whom do you mean when you say "they" had a slugger at the polls?

Mr. RAWLINS. The men in with these Hobos.

Senator JONES. Who had control of the officers of the law?

Mr. RAWLINS. The United States marshal and the sheriff and the police were there.

Senator JONES. Does the municipal government control the police?

Mr. RAWLINS. Yes, sir. When Mr. Pratt aimed a blow and struck him over the head with his cane, he, a deputy marshal, was arrested by the police.

Mr. ALLEN. Is it not a fact that after the man was arrested Mr. Pratt took his cane and struck him over the head?

Mr. RAWLINS. Not according to the report.

Mr. ALLEN. Is it not a fact that he was not put in line by anybody?

Mr. RAWLINS. I know nothing about it except what I read.

Senator JONES. You stated that the officers of the law prevented violence on the part of 200 people who had assembled. I want to know who the marshals were.

Mr. RAWLINS. They were the United States marshals, and the sheriff and his deputies, and the police, so far as I know. I do not know who they were personally. I know some of them personally. I have no per-

sonal knowledge of it. What I state I read in both the papers. There were 110 of them excluded. And that is given here by the Tribune as one reason why the people of the Territory of Utah can not be trusted with self-government.

Senator JONES. Were the other 135 entitled to vote or not?

Mr. RAWLINS. Those who were not disqualified were permitted to vote. It was stated in the Tribune that many of those who were excluded afterwards resumed their positions in the line.

Senator JONES. Who selected those three officers of election?

Mr. RAWLINS. The Utah Commission. The Utah Commission selected one representative of each party. The Democratic and the Republican representatives stood together upon this ruling, that these men were not entitled to vote. The Liberal representative dissented from it. The man who urged this action was Arthur Brown. It is stated here that he is a Mormon from Michigan. Gentlemen who know him will readily appreciate that kind of criticism.

Senator JONES. How was it that the slugger mistook the Republican and struck at the Democrat? How do you arrive at that fact?

Mr. RAWLINS. Only from the newspaper reports. He said that he intended to hit Brown, while in reality he struck at the Democratic representative. I do not know anything more about it than what is here represented in the public press.

Senator FAULKNER. In both papers?

Mr. RAWLINS. It is substantially the same in both papers. That occurred last Monday, since we were here. I was not present at that election. I have been here some time.

I only refer to this because of this statement in the organ of the Liberal party that this is one illustration of why the people of Utah can not be trusted with self-government.

The Utah Commission—I am not going to personally assail any of those gentlemen, or any Federal officer; some of them are my friends; some I have indorsed the applications of for appointment; many of them have been faithful officers; some have exceeded their authority. For instance, the Utah Commission are charged with the discretion and power of appointing election officers. Under the laws of Utah if a judge of election appointed by the Commission does not appear, the vacancy must be filled by the electors who may be present at the time. Instead of pursuing that course, the Utah Commission illegally, as I claim, assumed to delegate their discretion and authorize the registers of election to fill the vacancies. The registers of election at Salt Lake are universally members of the Liberal party. The Utah Commission have, in the past, as the Liberal party has been the assumed champion of law and the advocate of reformation of the condition there, generally recognized the representatives of that party. Whatever excuse or justification there may have been at the time, when any number of the Mormon people were defying the law, the moment they ceased to do it and the people divided upon national lines, then any excuse for it ceased. There was a partial recognition of that at this election in the appointment of one judge of election from each party.

Now one further thing about it. There were but two precincts where the parties, except the Liberal party, had any organization. One of these was in the fourth. The Liberals changed their minority to a plurality by these methods. In the third precinct they were defeated. In the three other precincts they had absolute control. How many of the votes that were there cast for the Liberal party were of residents and people of Salt Lake, and who represented its interests, probably

no man can tell. It is well known there that this colonization scheme has been carried on. It is well known there that the governor vetoed the election bill which intended to consolidate elections in order that this fraud—— I do not say that was the governor's purpose, but it was at the behest of the Liberal party, who intended to carry the election in this form. It is given as a reason in his message, at all events.

Senator GORDON. What was given as a reason?

Mr. RAWLINS. He gave as a reason that there was about to be held an election in Salt Lake City and two or three other cities, and that it would be wrong to prevent the election; and for that reason, as the election would be postponed to November and the old officers would be continued to that time, it was desirable to let the people there elect their officers, and so he vetoed the bill. I believe the message is in the record here.

Senator SHOUP. I believe you stated that in this precinct where these votes were rejected there was one Republican, one Liberal, and one Democratic judge?

Mr. RAWLINS. Yes, sir.

Mr. SHOUP. Was that system carried out throughout the city?

Mr. RAWLINS. Yes, sir; the appointments were made in that form throughout the entire city. In some of the precincts of the city some of the judges did not get there on time, and their places were filled by appointment by the registers of election, under the system which has been in vogue there—the vacancy filled by Liberals.

Mr. ALLEN. Did you understand that where there were two Liberal judges—in the second precinct, for instance, there was one judge from the Democratic or Republican party who did not appear, and a Liberal was appointed in his place—did you understand that those polls were the only ones in the city where no Liberal and no Democrat and no Republican found fault with the way the election was carried on?

Mr. RAWLINS. I did not contend that. I contended that in the fourth precinct there was objection to the manner in which the election was carried on, and in the third precinct——

Senator FAULKNER. May that not have been because there were a majority of the same views at the other polls, and therefore there was no difficulty at all?

Mr. RAWLINS. That may be so.

Senator JONES. Were there no complaints on the outside?

Mr. RAWLINS. Fully three-fourths of the people of Utah Territory, including very many Gentiles, and many prominent residents there, who have valuable property rights, are in favor of the enactment of a law granting home rule or statehood. A majority of the people of the Territory of Utah would prefer the full measure of relief, and they think it can be safely granted to them. If they can not get that, they desire some measure of relief, and that which is represented in the home-rule bill here presented.

The matter has been so thoroughly presented that I do not deem it necessary to reiterate anything that has been said on the subject. It has been called to the attention of the committee that the conditions in Utah have changed. It is not necessary for me to elaborate upon that proposition. The testimony of that has been presented here quite fully. The governor bears his testimony to that; all the judges have done the same thing. The Utah Commission in its last report questioned that. They have latterly been convinced that the conditions have changed. For instance, the last majority report was signed by three gentlemen of the Commission, I think. One member filed a

minority report, Gen. McClelland, who, in his minority report, fully states the conditions there, and that there is no longer any excuse, really, for the perpetuation of the present system of government. The chairman of that Commission, Mr. Godfrey, and Mr. Saunders, who, together with Gen. McClelland, constitute a majority of the Commission, all now attest that polygamy has been abandoned in good faith, because these two gentlemen have joined in a petition to the President to grant amnesty to all the polygamists of Utah. They would not do that of course unless they believed that these people had given up this practice in good faith and would for the future uphold and yield obedience to the law. They are possessed of no bias in favor of these people which would lead them to a misrepresentation of the facts. Then we have officially presented to the Congress of the United States the belief of all the prominent officials of the Territory that polygamy is dead.

The governor tells you further through his report that the people have divided. There is no church party; no church dictation.

The Commission intimate the same thing, and that if it progresses it will lead to very desirable results. The Mormon people have come to an attitude according to the requirements which have been made of them by the Government and by the Liberal party, and by the Gentiles of Utah—many Gentiles, thousands of them. Outside of Salt Lake City, a fragment in Ogden and at Park City, there is no Liberal party in Utah. All the people have divided upon party lines; everybody knows it. That being so, are we not ready to be intrusted with our own government?

Senator JONES. You say there is no Liberal party?

Mr. RAWLINS. No, sir; there is not, outside of the places which I have named; practically not. At the election in Provo, where there is a large number of Gentiles, according to the returns there was not a Liberal ballot cast.

Mr. SMITH. There were 10 Liberal ballots cast.

Mr. JUDD. In the August election there were 105.

Mr. RAWLINS. Two or three years ago the Liberal party polled between two and three hundred votes.

Senator GORDON. How many votes altogether were polled there?

Mr. JUDD. At Provo?

Senator GORDON. Yes.

Mr. JUDD. Between seven and eight hundred.

Mr. H. W. SMITH. A thousand and eighteen was the total vote.

Mr. RAWLINS. Part of the Republican and part of the Democratic ticket were elected.

Senator GORDON. There was a total of 1,018 votes at this election you speak of, in which only 10 Liberal votes were cast.

Mr. SMITH. Yes, sir; only 10.

Mr. JUDD. All the balance were Democratic and Republican.

Mr. RAWLINS. The Liberal party—that fragment of it that still exists—might be called the spoiled children of the Republic. Heretofore when the Government has had any good things to bestow in the way of offices or official patronage they have been the recipients of it.

Mr. ALLEN. May I ask you a question?

Mr. RAWLINS. Yes, sir; but the committee are desirous that I shall get through.

Mr. ALLEN. Do you mean that the Liberal party has ever come here and asked for offices?

Mr. RAWLINS. Not the Liberal party, but the Liberals have.

Mr. ALLEN. Of course when the Republicans were in power the

Republicans came here, and when the Democrats had the administration they came here.

Mr. RAWLINS. I say as a rule it has gone to the Liberal party, and they have come in their own estimation to think that they embody all the loyalty and patriotism that exists out there, and that gentlemen like Mr. Smith from Kentucky and Arthur Brown and Judge Bennett and a host of others, old residents, Gentiles, most respectable men, and men who would be respected in any community, are worse than Mormons. After this division took place it has been said, "We do not fear the Mormons, but we distrust these Gentiles, who are advocating a division upon party lines."

Senator JONES. Who said that?

Mr. RAWLINS. It has been said through the Tribune.

Mr. ALLEN. Through their speakers, too?

Mr. RAWLINS. Yes, sir.

Senator JONES. I want to know where it emanated.

Mr. JUDD. From the Salt Lake Tribune.

Mr. SMITH. I can furnish you the editorials.

Mr. RAWLINS. However justified they were in it, the other people in the Territory have been treated as the stepchildren of the Republic. This infant, that needed the fostering care of the Republic, known as the Liberal party, has grown to lusty proportions. It has got to be a great, blustering, blubbing youth, and I think it has come a time when even that party can be safely emancipated—cut loose from its mother's apron strings. I think the moment that is done it will endeavor to make peace with the other people in that Territory, with the other children, and the moment their destinies are in their hands, and it is all intrusted to the intelligence of the people of Utah, our day of discord will have passed away. We will go forward as friends. Many of these gentlemen are honorable, well-meaning men. We will all go forward as friends and collaborators to build up a grand commonwealth.

The very presentation of the home rule measure has had a most beneficial effect. But a short time ago the Utah Commission felt called upon, goaded to it perhaps, to indulge in their report in a species of scurrility not in keeping with the dignity of their position. But the presentation of the home rule measure, the probability of the people being trusted with local self-government, has caused many people to turn and to say: "You are good people after all; we expect to live here; we want to live in peace." Pass the measure of statehood, and grant to the people of the Territory of Utah home rule and our troubles will have ended.

Senator JONES. You have stated just now that if this bill were passed the Liberals would endeavor to make peace, and that some other people have recently said that you are good people and they would like to live in peace with you. Is there any danger that they would not live in peace with you if this bill is not passed?

Mr. RAWLINS. Not the slightest in the world.

Senator JONES. It is rather singular that they should sue for peace if there was no danger of anything else.

Mr. RAWLINS. The great majority of the people of the Territory are the most harmless in the world. In the midst of the reign of terror there was not a hair on the head of an informer ever injured. There was not an officer, with slight exceptions, who was ever attempted to be interfered with in the performance of his duty. Read the reports of the officials. They do not question that. Nobody can question it for a

moment. Life and property in Utah are as safe as anywhere in the wide world, so far as that is concerned.

Before I close my remarks I want to call your attention to one thing which is an outgrowth of the present system of government, and which is a great evil.

The Commission in its report, on page 13, in respect to the manifesto say:

How much weight could be given to the declarations of a man who dares to assert that the spirit of God came upon him and moved him to charge that the Utah Commission was the retailer and peddler of falsehoods, and by reason of that fact he was to declare to the world that the church he commands will now change front completely and abandon the ordinance of God, which has heretofore been so delightful a work for them to perform, can be judged to a degree from the declaration itself. Some further light may be thrown upon his character and the weight to be given his utterances by a perusal of the following, which fell from his lips at the same conference, as officially reported for the church organ:

"President Woodruff said: I do not think anyone can tell the hour of the coming of the Son of Man. I think those things have been sufficiently revealed to us; so that we need not look for the time of that event to be made known."

And then he goes on to say that he believes that he has had spiritual communications with certain dead leaders of the church.

This Commission wind up in this sort of fashion:

And those curious enough who delve further into the vagaries of such a mind will find light and food for reflection in some marvelous tales of miracles performed by and for him, such as casting out devils, healing those sick unto death, and raising them from death to life, his opponents dropping dead at his feet, etc.

It might as well have said if you would turn to the New Testament, to the account of the life of the Saviour of mankind, you could have there read the same thing in respect to his acts.

This great nation has given a constitutional pledge not to interfere with a man's religion until his beliefs break out in overt acts contrary to good order, and then only can the hand of the civil magistrate interfere. What would you think of the President of the United States if he should send to the Congress of the United States in his official message a species of denunciation and scurrility in respect to the idea of the immortality of the soul, or the notion about the resurrection, or any of the other cardinal tenets of any creed involving no violation of law, no offense against morality or decency? Why, every man would say that it was such a high crime and misdemeanor, so violative of the official oath which he had taken, that he ought to be impeached in accordance with the forms of the Constitution, because if there is any principle which lies at the foundation of this great Government it is that men are religiously free.

This official report is published at whose expense? Why, from the moneys exacted from all denominations and all creeds, including members of the Mormon Church, through the operation of the revenue laws; and the Utah Commission, in an official document, sent to the President and the Congress of the United States, for circulation at their expense, engage in a species of ribaldry and scurrility about what is purely the religious belief of these people that might only be expected from a drunken rabidist upon a street corner in our beautiful city.

At 12 o'clock m., the committee adjourned until Thursday, February 18, 10 o'clock a. m.

WASHINGTON, D. C., *February 20, 1892.*

The committee met at 10 o'clock, a. m., pursuant to adjournment.

Present: Senators Platt (chairman), Jones, Carlisle, and Faulkner.

STATEMENT OF H. W. SMITH.

MR. SMITH. There is in the printed statement of my remarks a mistake which I desire to correct, because I think it is due to myself that I should. It was at the close of my statement. There was considerable confusion, and I may say as an explanation to the committee that I have great difficulty in hearing. If the question asked by the chairman is correctly stated in the printed report then my answer is inaccurate. I will state what I understood you to ask.

The CHAIRMAN. I suggested that your grievances ought to be actual as well as sentimental in order to sustain your argument. You complain of this veto power, and you speak of the year 1874 as the year of organization. How many times since 1874 do you suppose that power has been exercised?

Now, that was the question as I understood it, but the following words appear in the printed report:

Arbitrarily, or, as you say, corruptly, when the governor wanted to accomplish some personal benefit by its exercise?

MR. SMITH. I think on one-half at least of the bills that went to him.

Of course the answer is that he vetoed one-half of the bills presented to him. I do not pretend to say that he vetoed one-half of them corruptly, nor would I pretend to state what number he did, because I do not know. As I understood the question the chairman asked me it was as to the number of bills upon which the governor had exercised the veto power, and I think my estimate is rather under than over, from the examination that I have since made. But, of course, if the question should stand in the record as it appears there, I would simply say I do not know, because I have not any means of ascertaining what number. The memorial that has been referred to here, and which is in the possession of at least some of our party—I do not know whether it has been put in this record or not—contains a large number of bills and a reference to a large number of others which were vetoed.

Senator FAULKNER. The memorial of the legislature?

Mr. SMITH. Yes, sir; presented at the first session of the Forty-ninth Congress. It gives a large number of bills, showing the character of the legislation that was vetoed, including the appropriation bill, about which a good deal has been said, and also giving a history of a large amount of other legislation that was vetoed. But the answer as it appears here is wholly inaccurate if the question is correctly reported. I may say that I found that the stenographer had reported me correctly, and he will agree with me that my revision was very hurried, and finding it practically correct I made no changes in it to speak of. I am satisfied that he, perhaps, heard this question better than I.

The CHAIRMAN. I think that is the question I asked.

Mr. SMITH. If it is, then the answer is wrong. If the question was as I understood it, the answer is correct.

STATEMENT OF C. W. WEST.

Mr. WEST. Mr. Chairman and gentlemen of the committee, we are very grateful to you gentlemen for the patient hearing you have given us of this important matter, and congratulate you that so far as we are concerned you are arriving at the conclusion of the talking part.

I think in order to arrive at a correct understanding of the present situation, which is what you have to deal with, it is well enough to recall the attitude and conditions of the parties in Utah for the last few years. Now, here before you, gentlemen, have come in connection and association with myself Judge Judd, Mr. Smith, Mr. Dyer, who formerly acted with and were of the Liberal party of Utah Territory, which was opposed by what was known as the People's party, which was accused and charged by the Liberal party with being the church party, with being actually the church in politics. These gentlemen and myself, as I understand the situation there, have not changed our position at all. There were but two questions which divided these opposing forces, the Liberal party contending that the Mormon people must surrender in good faith the practice of polygamy; that they must take the church out of politics; that the interference of that church or any other church in civil affairs, in political affairs, was contrary to the spirit and genius of our American institutions.

It is but fair and just to say that while the Liberal party have contended that the Mormon party did interfere in politics, that the hand of the church was there and controlling and influencing all the civil affairs, it was the contention upon the part of the Mormon people that while it was true that all of their faith were together in one party and acting as a unit, that that was not by reason of the fact that they were under and subject to the control of their priesthood, but it was by reason of the fact that we who opposed them, the Liberals, had banded ourselves together and were making a war not only upon their church, but upon their people, and that this unity resulted from the first law of nature—self-protection. It is needless for me to say that I took the Liberal side of that position. I believed that the hand of the church was in politics. I believed that it was necessary that that condition should be changed and that it must, of necessity, be changed before the Mormon people were ready for statehood, before the Mormon people could have any relaxation in their system of government. In fact, I contended for more strenuous legislation than had ever been granted us. I was willing to go to the extreme, and believed it wise to do it, to place the Territory under a legislative commission or, if not that, to pass a bill which would disfranchise the

whole of us rather than that the conditions which I believed existed there should remain.

Now, of necessity, divisions of the character I have named are radical. They are of such a nature that they produce a feeling of the most intense hostility and bitterness between the parties who contend for the ascendancy, and that is the case in Utah. When I went there a little more than six years ago as governor of that Territory, I found a division and a feeling existing there, gentlemen, that I can not describe to you so that you would understand it. You have to feel it and be in it and know it, and realize it in order to understand it. The feeling was as intense and bitter as that which existed in the border States at the beginning and during the continuance of the war, and of course to any gentleman who loves peace and good order and kindly feeling, the situation was almost intolerable, almost unbearable. It was like a great weight resting upon you during the day and with you at night, continuing always.

Now, with the legislation which we obtained soon after I went there, the passage of the Edmunds-Tucker law—and, by the way, I was an earnest and sincere advocate of that legislation, and I think that that legislation has been productive of great good; I think it was wise—with the passage of that bill, however, the situation which confronted us was this: You have got possibly all the legislation that Congress is willing to grant you. Now, what shall we do?

Then we began to look around and devise some way to secure means by which we could build up our Territory and by which we might in different lines affect the situation there and cure the evils. We got together and proposed the organization of a chamber of commerce. A movement was inaugurated for that purpose. Some of these very gentlemen now of the Liberal party, who are now opposing this movement, who are opposing now any advance for Utah, were then the very people who opposed these movements which have resulted so happily for the Territory. We were met with the proposition: "You can do nothing with these Mormon people; you can not trust these Mormon people. If they go into a movement with you they will go back upon you. We have tried this thing. We tried it in 1870, and so on; we tried it in so on, and so on, and it failed." Said I to them: "Gentlemen, you discredit your own work when you say that. Do you mean to say that in the twenty years in which you have been here and during which you have been trying to enforce upon these people the benefits which you say the principles you advocate would give them, you have made no progress, you have done no good, you have accomplished nothing?" I said "I know better. You have done more than you are willing to give yourselves credit for. Let us try now to see what can be done."

We inaugurated that chamber of commerce regardless of that opposition. Our Mormon friends—let us get in both sides—when the question was presented to them said "we can not go into this movement. This call says 'regardless of religion and politics.' We have tried this thing before, and while some of you men will be all right and will not interfere with us, still we will not get in session scarcely until some of these fellows will bring in the question of religion; and we will have to be insulted and outraged in our feelings, and it is useless for us to try to do it."

Any way the movement was carried to a successful conclusion, and it was followed in other towns in the Territory, Ogden, and Provo, etc., with the happiest result, because the gentlemen then began to turn

their attention to the material interests of the Territory instead of talking unlawful cohabitation and polygamy morning, noon, and night, at the breakfast table, at the dinner table, and at the supper table; in parties, in the churches, on the street, and everywhere; they began to talk about building good houses; they began to talk about improving the streets; they began to talk about planting trees; they began to talk about inviting outside people to come in and let them know the benefits and blessings of the Territory we had.

From that day prosperity began to dawn upon Utah, and the very results which these liberal gentlemen tell you have occurred there occurred just in that way, and occurred frequently in spite of those whom they represent and in face of their opposition and distress.

Shortly after we had organized this chamber of commerce, after we had brought about an alleviation of this intense animosity and hatred, there came a proposition from the People's party, who were then in absolute control of Salt Lake City, and who could elect every officer in it, that they would give a representation to the non-Mormon people upon their ticket of four members of the council, not that they would select from our ranks four men, but that they would allow us to select four men of our own choosing and put them upon their council ticket and elect them. This proposition was accepted by a number of gentlemen in a meeting that was held at the chamber of commerce. As soon as it was announced and the names were selected our Liberal friends who are here now protesting against this thing in holy horror, looked upon such a movement as a movement of contamination. It would not do at all. Consequently they called a rousing meeting, had speeches and nominated a full ticket, and were almost ready to turn anybody out of the party who differed with them at that time.

Now, I wish to say for the benefit of the Liberal organ, the Tribune, it was wise in this movement. It sustained the movement; it advocated it. Then, again, to show you the change (of course it will come later in the matter of change) in that movement, however, was my friend Judge Bennett, who is now with us upon this division question, and who was strenuously opposed to that movement. He was of the Liberals at that time, although it was anti-Liberal in policy. Mr. Parley Williams, to whom reference has been made, a distinguished Democrat of our town, who is now in this division movement, earnestly and zealously opposed the movement along with Judge Bennett.

The CHAIRMAN. What do you call the "division movement"?

Mr. WEST. It is the division upon national party lines. Col. Merritt, now chairman of the Democratic central committee, was in the ranks of the Liberals opposing this. And so it is. Now these gentlemen favor the present movement. I give this for the purpose of showing you the change that has been going on gradually and how that change has been wrought.

Now, furthermore, after this thing had been done, it was proposed to get up a Fourth of July celebration. They had a committee appointed and the committee went to the city council. It was composed then of Mormon people. They asked for an appropriation. The council refused to give it. Then they said, "That ends it; the Mormons will not do anything in this matter and we will have a celebration of our own." They had appointed, I think, some Mormon members upon the committee. I may say that I think the city council did exactly right, because I do not think it is a proper thing to do to appropriate public moneys, raised by taxation, for jollifications.

Senator CARLISLE. Did they put it upon that ground or some other ground?

Mr. WEST. I think that is the ground upon which they put it. Then, following this, a committee from the Mormon or People's party came to the other committee and said they had raised so much money for this celebration. All right; we will join you in the celebration and we will raise a like sum if you will give us recognition in the ceremonies. That thing was done.

Senator FAULKNER. What year was that?

Mr. WEST. In 1888.

Mr. SMITH. In 1887 or 1888?

Mr. WEST. Our July celebration. I spoke at the meeting, and Gov. Murray presided at the celebration. I think it was in 1887.

The CHAIRMAN. My impression about it is that it was in 1887.

Mr. WEST. I will get the date. So we have gone on in Utah up to last May. Legislation was pending before Congress on the Cullom and Struble bill. The Mormon Church, in September, 1890, had, by its presidency, issued its manifesto renouncing polygamy, and that also, in October, had been ratified by the conference of the church, and, in a word, I think I can safely say that almost the entire community was satisfied that polygamy was a dead issue. The organ, the Tribune, (I believe the quotation has been given here already) acknowledged that to be true; that it was in process of dissolution. Again, if I remember rightly, that same manifesto announces and proclaims that they do not attempt to dominate civil affairs; that they do not attempt to interfere in politics. But, be that as it may, last May the People's party of Utah was formally disbanded, and it was abandoned by its leaders with the consent and support of its people. It was not a church disbandment; it was disbanded by its constituted authorities. The people immediately began to seek political associations and alliances satisfactory to themselves and according to their views. The national parties were in the field for the first time in the history of the Territory. Politics was there, and it was there as it is in every other part of the country. Politics was there, as the Liberal party had contended should come and should be the end of the old conditions.

Now, it would seem, this being the case, that the Liberal party's mission was certainly ended. They had never contended but for two propositions. They had promised repeatedly through all their speakers, through their press, and in every imaginable way, as had the officials of the Territory—I, as governor of the Territory, as one of them, had in all my utterances announced the same thing to the country and to these people—that whenever the conditions which I have named, polygamy, the practice of it, mark you, in good faith, was renounced and the church was out of politics, the war should end and we would have no other or different politics from the balance of the country.

Now, this formal action had been taken. The interview with the president of the church, which has been read to you, shows that they disclaim all intention, all purpose, all right, to dictate to the members of their church in matters political. On the contrary, in the canvass through which we passed last August their apostles were upon the stump announcing that they recognize the authority of no church to dictate to them in politics, nor to dictate to any man; that it was the duty of every man to follow his convictions and vote as he pleased. Now, in that election, the first election held after this division upon party lines, there were three parties in the field, the Democratic and the Republican party espousing and advocating the principles of those

two great parties, and the Liberal party was in the field simply in opposition, announcing its same old platform, which had been swept away from them by the conditions I have named. They were there, and they were there to make their fight. The result of that fight in the Territory was that there was something like about 21,000 votes cast, I believe.

Mr. SMITH. Twenty-seven thousand.

Mr. WEST. Yes; 27,000. Of that number the Democrats got something over 14,000; the Liberals something over 7,000, and the Republicans a little less than 7,000.

Mr. SMITH. The Democrats a little over 13,000?

Mr. WEST. Yes, sir; very nearly 14,000. So this matter of a division upon party lines, is an actual and an accomplished fact. The only anti-division people now are the Liberals. They can not claim that the Mormons had huddled together and banded together simply in opposition to everybody else.

Senator CARLISLE. Will you allow me to ask you a question?

Mr. WEST. Yes, sir.

Senator CARLISLE. Can you state personally how the Mormons themselves voted in that election, whether the persons who are well known to be Mormons, by their religious faith, voted indiscriminately for the Republican ticket or the Democratic ticket?

Mr. WEST. They did.

Senator CARLISLE. Or whether they all went one way or the other.

Mr. WEST. They divided.

Senator FAULKNER. Was not that the election in which an apostle and a layman had a contest?

Mr. WEST. Yes, sir.

Senator FAULKNER. And the layman beat the apostle?

Mr. WEST. That is the very election, in San Pete. Mr. Lund was the man. I know him personally. He was a member of the legislature when I was governor and was one of their very best men in the legislature, and I am informed by all who know him as a dignitary of the church that he is loved more in the church than he is by the people with whom he associates. It was a purely political affair. In fact, another apostle of the church, who was a Democrat, told me: "I think if I had been in Apostle Lund's county, while I am a Democrat, I respect and love that man so much that I would almost have been tempted to vote for him myself."

What is the contention of our Liberal friends now before you, gentlemen? As I understand their arguments they propose that you shall grope with them in the past history of the Mormon Church. They propose to show you in their arguments that the Mormon Church in its church teachings has some very un-American and un-republican ideas, that they so taught in the past, and that leaders of their church have made expressions that are not wholesome and loyal.

Now, as I understand the question that we have for consideration, it is not what the Mormons have done in the past, not what their leaders said, but it is what confronts us now. What is the situation, no matter what their past is? They contend, however, that this is a mighty change; this change that is wrought in a night, that you go to bed at night with the Mormon people united in a political party and you awake in the morning to find that party dissolved, like the mist before the sun. Gentlemen who talk that way seem to me to be like the swan upon the bosom of the lake, simply upon the surface and totally unconscious of the depth underneath. The facts I have already

related to you show the gradual process of change that has been going on there. To deny that changes can be effected is to deny the history of all mundane things. The best illustration is that of the seven ages of man:

At first the infant,
Mewling and puking in the nurse's arms,
* * * * *
Into the lean and slipper'd pantaloon.

We know in the last great war Appomattox became such because Gettysburg and Antietam and Shiloh and all the other great battles preceded it four years, had been fought, and in the surrender of an army the fight is made to the day before; the action itself comes quickly. Now, the history of these people shows that this change has not only been gradual, but, on the contrary, it has been a very slow and difficult progress hard to make. For forty years these forces have been at work which have brought about this change, and in those forty years these people have suffered innumerable hardships. It has resulted in the loss of life, in the sacrifice of property, in the greatest deprivations, and still they yielded not. They still adhered to the proposition that they had taken, but gradually the forces were bringing them to a better condition.

When we were arguing this question before the committee, when the proposition for Statehood for Utah was introduced—I was then in opposition to that measure—I was catechised by Mr. Jere Wilson, who is the attorney for the other side, and he asked me how long I would continue the commission, which I said was preferable, and if I was in favor of continuing it, if it was necessary, five or ten or a hundred years. I said to him, "A thousand years if it be necessary to bring about the change." Then he wanted to know if I meant by that that the change should be that the Gentile people should have a control and be in a majority over the Mormon people. I said, "No, not necessarily," because I believe that the contact of Gentiles is working changes there and will continue to do so, and that results may be brought about before such occurrence.

That is the contention of our Liberal friends now. I would not make it then, and I do not think it is good now. They say that there is only safety in a situation which shall give the Gentile population a voting majority over the Mormons. I have contended that that would be the most dangerous situation of affairs that could possibly happen in Utah Territory.

Senator JONES. Which of them take that position now?

Mr. WEST. Neither of them make it here. It is the contention of the Liberal party through its organ. That would, as I say, be the most dangerous condition possible. Keep these Mormon people compactly together, as they have been heretofore, and then divide the two political parties equally, Republicans and Democrats, and you would see such bargaining and corruption and trading for spoils as was never seen in any place before; and if the the Mormon people are of the character that is insisted upon by the Liberals they would always be in the trade.

I was speaking as to the arguments made as to the sincerity of our Mormon people because of the suddenness of this change. Let us be fair and honest with ourselves, and simply review the Mormon history as to their sincerity and their tenacity. They have gone from Missouri to Ohio, from Ohio to Illinois, from Illinois to Iowa, and from Iowa to Salt Lake City. They have suffered all manner of hardships, the loss of life, the deprivation of property, and they have continually and

earnestly adhered to their religious faith and their religious belief, claiming that, even in the face of the law of the land itself, they had a right to follow what they sincerely believed was a religious duty.

Then, when they have been in the clutches of the law, when the strong hand of the law has been upon them and the judges were ready to consign them to prison, they have been told that by a simple promise that they would obey the law they would receive no punishment, the sentence would be suspended, and they could go scot free. I went to the penitentiary of Utah seven days after I went there as governor, when there were fifty or more polygamists confined there, and with the approval and concurrence of Judge Zane and District Attorney Dixon I had an interview with Lorenzo Snow, one of the apostles of the church, who was then serving a sentence there, and made a proposition to him that we would unite in a petition of amnesty and secure him and the whole of them amnesty if they would simply agree and promise in the future to obey the law. Neither Mr. Snow nor any single one of these persons accepted the proposition. They refused to do so.

Now, with this history behind us, with this experience of these Mormon people as to adhering to what they believe to be right and what they had covenanted with each other to do, may we not trust them now when they come and say, "We will do this."

The very man who made the motion in the conference to ratify the manifesto of the first presidency was that same man, Lorenzo Snow. There was no pressure upon him whatever; he was a free man and surrounded by his friends. No prison was staring him in the face. He had suffered the penalty of the law and he was there free to act, but he gave in and takes this position now.

Let us see if it is logical for our Liberal friends to still maintain that no progress has been made in Utah. Is it not a little like admitting the weakness of the cause that we have contended and the laws we have invoked and had passed unless they have done something, unless they have wrought some good, unless they have produced some changes? I suppose my Liberal friends will say in answer to that that they have wrought changes, they have done good, not upon the Mormon people, but by bringing outside people in. But the outside people came there because of the promise which this legislation held out, the Liberal victories it secured. What they are claiming, the ingress there of new people and new capital, came by reason of the promise that when once the Liberal party had gotten into the ascendancy at that time the Mormon people would feel that it was time to abandon this thing and they would do it, and that is what they have done. They have abandoned everything that is objectionable in their system.

Mr. R. N. Baskin said in his argument before the Senate committee in 1888:

The perpetuity of the objectionable features of the Mormon system is dependent upon the perpetuation of the political power of the church. The elimination of polygamy and theocratic rule would leave nothing vital in the system obnoxious to the American sentiment.

Now, our contention here is that those very two things have been done, and if any gentleman can tell me how they can be done in any other manner than they have been done, I would thank him for it, because I know the Mormon people want to do those two things. If they have not done it, how can they do it?

In the matter of polygamy, the head of the church in the most solemn manner by its manifesto proclaimed the discontinuance of the practice. The people in conference assembled have ratified it. The authorities

of the People's party have met in their committees and have resolved upon the dissolution of their party, and not only have they resolved upon the dissolution of the party, but the party is actually dissolved. There is no longer any People's party there. There is a Republican party, there is a Democratic party, and these gentlemen who composed the People's party and who belonged to it are daily sitting in council now with the Gentile Republicans and Gentile Democrats who formerly opposed the People's party. If you could see the earnestness and zeal with which our new converts or our new associates from the Mormons want to get the advantage of the other side, you would have no doubt in the world about it.

During the last August campaign one of the Republican speakers would be down south. I would get a telegram that "so and so is here. You will have to send somebody to follow him." Senator Faulkner has been there, and he knows something about the meetings we have. I suppose never, in any country, were more attentive or larger audiences at political meetings.

Senator FAULKNER. Or more enthusiastic.

Mr. WEST. Or more enthusiastic.

Senator CARLISLE. I understand that at that election, which occurred in August last, I believe, the Democratic candidate received something more than 13,000 votes?

Mr. WEST. Yes, sir.

Senator CARLISLE. And the Republican candidate something more than 7,000 or about 7,000?

Mr. WEST. In the neighborhood of 7,000.

Senator CARLISLE. And the Liberal candidate received about 7,000?

Mr. WEST. Yes, sir.

Senator CARLISLE. The Democrats, of course, received a plurality. Did they receive a majority of all votes cast?

Mr. WEST. No, sir. In one of the races for councilman probably they did.

Senator CARLISLE. On the general ticket?

Mr. WEST. No, sir.

Delegate CAINE. This election was for members of the legislature.

The CHAIRMAN. There has been no election for Delegate since the parties have divided?

Delegate CAINE. No, sir; the next election will be in November.

Senator FAULKNER. Is it not a fact that the young men of the Mormon Church in the different towns of Utah have in the last year been forming political clubs, tariff clubs, and reform clubs, and have begun to discuss these questions among themselves?

Mr. WEST. That is true.

In this connection let me refer to what our friend, Mr. Allen, as a part of his argument, sought to impress upon the committee, the idea of the strength of the Liberal party which is in opposition to any relief here, and he spoke of five Gentile counties, and among those counties he named that of Weber.

To show you just how much that is a Gentile county, and how much right he has to claim that it would be agreeable to the people of that county not to have any legislation in the way of relief for Utah, I will say that Weber County at the last August election had a total vote in round numbers of 3,400. Of that the Democrats received 1,500, the Republicans 900, and the Liberals 1,000. There you see would be 2,400 votes as against 1,000 votes for the Liberals.

Of course I know, gentlemen of this committee, that it is scarcely

necessary for me to make an argument upon the insufficiency of a Territorial government to meet the demands of a great and free people. We know that the Territorial system was established more in the nature of guardianship, more to help and aid the weakling. It was to bear some of the burdens of the people until they were strong enough to stand alone, and just as soon as they got strength enough and were able to do it then their form of government should be changed, because we are the same people you are, though we live in the Territories. We have the same aspirations, the same hopes, the same desires; and we have the same inclinations that we did when we were in our native States to take part in the great national campaigns. We get a desire that way sometimes.

While that was the original nature and intention of Territorial government, and I am not here but to contend that it was fortunate for Utah and very desirable that it should be a Territory, because of the legislation which I recognize as having been necessary to bring about the conditions and results we have now. But when those conditions and results have followed, then what is clearly and obviously the just and right thing to do? It is certainly not to keep us in a state of vassalage and serfdom any longer than is absolutely necessary. While the Territorial system itself is objectionable, there have been enacted special laws for Utah which never obtained in any other Territory. The absolute veto power of the governor, which I will admit was a good thing and has been used often in the interest of good government and to the advantage of the people of the Territory, in every other Territory it has been abolished but in Utah. It still exists with us, while we have now a population of 225,000 people, having more population and wealth, I believe, than the three States which surround us.

The CHAIRMAN. Do you mean the absolute veto power has been abolished?

Mr. WEST. They have the qualified veto. They never had the absolute veto. Then, we have the Utah Commission. I have nothing to say of the Utah Commission personally, except that of the kindest sort. I have known upon that Commission a distinguished member of your body, and I knew him well and favorably. I have the pleasure of knowing a member of that Commission from the State of the Senator from Arkansas, who was there during my term as governor.

The CHAIRMAN. Who was that?

Mr. WEST. Judge Williams, and a very excellent and worthy gentleman he is. I have had occasion to feel that, because upon one occasion I was in doubt upon a very important matter at the close of the session of the legislature, and I called upon him, and I think his counsel helped me to arrive at a very satisfactory conclusion.

The CHAIRMAN. Will you tell me where the gentlemen composing the Utah Commission are from; Mr. Godfrey; where is he from?

Mr. WEST. He is from Des Moines, Iowa.

The CHAIRMAN. Where is Mr. Robertson from?

Mr. WEST. He is from Fort Wayne, Ind.

The CHAIRMAN. Where is Mr. Saunders from; Nebraska?

Mr. WEST. Yes, sir.

The CHAIRMAN. Mr. Williams is from Arkansas?

Mr. WEST. Yes, sir; from Pine Bluff, I believe.

Senator JONES. From Washington.

The CHAIRMAN. Then Mr. McClernand?

Mr. WEST. He is from Springfield, Ill. He and Judge Williams are the Democratic members of the Commission.

In regard to this Commission, the only object and purpose that it had under the law was simply to be an election board; they were simply to appoint judges and registration officers. You heard Judge Powers the other day in his argument speaking about this outrage, as he called it, which occurred in the fourth precinct, and he took these five voters up to the Commission and the Commission said they had no power. That is the truth. Under the law they have got no power, and they are simply a board to appoint registration and election officers. That is all the power in the world they have, which they are to exercise in the interest of fair elections. The only purpose in connection with that Commission is to prevent polygamists from voting. That was originally the case before the Edmunds-Tucker act was passed; to keep the polygamists from voting.

Now, I can not see, if polygamy is a dead issue, if the changes which I contend for have been accomplished, why the Utah Commission should be kept in power there, when the only thing that the Commission was ever created for was to keep polygamists from voting. It is a fact that in all the time they have been there there has never been a charge, except one, against any man as a polygamist of attempting to unlawfully register and vote. That charge was brought on the ground that the man was a polygamist. The indictment was found, but it was dismissed by the court without a trial. He had been a polygamist at one time, but when the case came into court the indictment was dismissed.

The Utah Commission is kept there at an enormous expense for the purpose of excluding that character of voters. If you will look at the original act you will find that it was contemplated in appointing this Commission that it would be of short duration, because the act itself provided for its dissolution upon the passage of election laws by the Territorial legislature. The Territorial legislature did pass certain election laws, but they did not meet the approval of Governor Murray, and they were vetoed.

I can not see the necessity or the propriety of the United States continuing this Commission to carry on elections in Utah and conducting and bearing the expenses of all the elections held there.

Senator FAULKNER. What is the salary of the members of the Commission?

Mr. WEST. Five thousand dollars a year and expenses.

Senator CARLISLE. Twenty-five thousand dollars for the Commission, besides their expenses?

Mr. WEST. Yes, sir; they get their traveling expenses, board, etc.

Senator CARLISLE. Do these Commissioners remain in the Territory, or do they come there occasionally, as their duties seem to require?

Mr. WEST. They come and go. They stay there very little of the time.

Senator JONES. Mr. Judd said they were there rarely two weeks.

Mr. WEST. They stay sometimes two or three months.

Senator JONES. I do not know where Judge Williams stays. He does not stay much of his time at home.

Mr. WEST. He is now there. I saw him just before I left.

It was intended by Congress that this Commission should only exist temporarily. When the Edmunds-Tucker law was passed, in conference the original law, which contemplated that election laws should be passed by the Territorial legislature and approved by its governor and then the Commission ceased, was changed, and they provided in there that after the passage of certain laws and their approval by Congress the Commission should cease.

The CHAIRMAN. What keeps the Commission alive now?

Senator CARLISLE. Congress has not approved the laws.

Mr. WEST. No, sir.

Delegate CAINE. The governor has not approved any.

Mr. WEST. They can not get to Congress until he approves them.

Senator FAULKNER. And there is an appropriation made annually to pay the salaries and expenses of the Commission?

Delegate CAINE. I would like to ask Mr. West if, when he was governor, he did not veto an election bill?

Mr. WEST. I do not think I did.

Delegate CAINE. I know there have been several passed and have been vetoed.

Mr. WEST. On the contrary I called the attention of the legislature to the fact, in my message, that the act of Congress contemplated the dissolution of this commission when proper election laws should be passed, and I urged upon the legislature the necessity and propriety of meeting the requirements of Congress and putting itself in harmony with this law. I know I can say to you frankly that I would have approved a proper election law. I would have been glad to have had the opportunity. I think you made a mistake when you did not pass it.

Senator JONES. Would not the other governors have done so?

Mr. WEST. I have no doubt in the world they would.

Senator FAULKNER. Did not Governor Murray veto an election bill?

Mr. WEST. He vetoed such a bill. What might have seemed to me to be a proper bill might not have met with his views.

The CHAIRMAN. Has there been an election law passed since Governor Thomas succeeded you which he has vetoed?

Mr. SMITH. At the last session, 1890, there was one.

Mr. WEST. I am not familiar with it.

Mr. SMITH. It is the one which Judge Zane approved.

Mr. WEST. I do not know. I am not familiar with it.

Mr. SMITH. And it was vetoed.

Mr. WEST. Was it a general election law?

The CHAIRMAN. The conditions being as you represent, why did not you and the people who think like you ask for statehood to start with?

Mr. WEST. Simply because of the distrust that we believed would and does exist in the public mind.

The CHAIRMAN. Is not that distrust as much an argument against the bill which you advocate?

Mr. WEST. No, sir, I think not, because this bill was made to meet that very distrust, because, by its provisions, Congress still retains its complete control and power over us.

Senator CARLISLE. If this bill should become a law it can be repealed or modified?

Mr. WEST. Yes, sir, at any time.

Senator CARLISLE. Whereas if the Territory is admitted as a State the action is final?

Mr. WEST. Yes, sir. The President in his message suggested that the power of statehood would not be advisable, because if Utah is once admitted as a State it would be irrevocable and there would be no remedy.

The CHAIRMAN. Do you think that it is a very practical power to leave in the hands of the Congress of the United States with relation to the matter?

Mr. WEST. Unquestionably and entirely so. I do not see why it should not be.

The CHAIRMAN. From your experience and knowledge with reference to the difficulties and delays of Congressional action do you think it likely that a law would be passed very soon if the public generally, to some extent, thought that you were not doing 'right under this bill which is before us if it should become a law?

Mr. WEST. I suppose it would meet with the usual delays that matters of legislation do and take the usual course; but feeling as I do I am sure if the bill is passed there will never be any occasion for any such legislation.

The CHAIRMAN. In other words, you think you can get this legislation when you could not get statehood?

Mr. WEST. Yes, sir.

The CHAIRMAN. If you can get statehood, do you think you are prepared for it?

Mr. WEST. I am; some of our Liberal friends are not.

The CHAIRMAN. What is their objection to it?

Mr. WEST. Just for the reason I have attempted to show in my argument, that they doubt the sincerity of the Mormon people in this movement. They say "We wish this was so; we wish we could trust these people, and we wish we could believe that you are sincere, but we do not."

The CHAIRMAN. Then a considerable portion of your Liberal friends—I do not know whether you call yourself a Liberal still——

Mr. WEST. I am a Democrat, pure and simple.

The CHAIRMAN. A considerable portion feel that they can not trust the Mormon Church to keep their hands off of politics?

Mr. WEST. Yes, sir; that is the fact.

Delegate CAINE. That is what they allege.

Mr. WEST. I think they believe it.

The CHAIRMAN. What about the Republicans?

Mr. WEST. They are in the same way. Judge Bennett here can speak for the Republicans.

Senator FAULKNER. Do you mean the same way that you are?

The CHAIRMAN. Judge Bennett is for statehood.

Mr. BENNETT. That is my position rather than in favor of the present bill.

Mr. WEST. He holds the same position I do.

The CHAIRMAN. In talking of this bill have you taken into consideration the fact that the country east of the Missouri River, I will say, is not as well informed as to the conditions of things out there as you are in Utah and those people nearer to you, and that you would have to encounter in the passage of this bill the same distrust that you would have to encounter if you were asking for statehood? Have you considered that?

Mr. WEST. Yes, sir. The reason why we have drafted this bill is to meet that distrust, so that it will have no real force in their arguments, because it does not take the power away from Congress to put us back again or to pass any restrictive laws.

Mr. SMITH. Or to enforce those they have now.

Mr. WEST. Yes, sir. It does do this, however, Senator: It opens up an avenue for us to prove our sincerity. If we are allowed no legislation we will be two years from now in the same condition as we are now. We will simply come here with our professions and our facts. If you give us this bill and intrust us with an enlarged power you can see how we use that power, and if it is not used properly and rightfully then it can be taken away from us.

Senator FAULKNER. Is it not true that the tendency of this bill will be to bring before the people of Utah the issues which divide the two great political parties and to educate them to the principles of the two political parties?

Mr. WEST. Unquestionably so, and if the policy of our Liberal friends is pursued, if they keep off to themselves and drive the Mormons back to themselves, there is no opportunity to discuss or make progress.

The CHAIRMAN. Up to May, 1891, there was nothing like any declaration on the part of the Mormon Church or its leaders of their disinclination to meddle with political affairs, was there?

Mr. WEST. Oh, yes; in this way, Senator: They had all the time disclaimed that they were interfering. Their position, as I stated in my opening argument, is this—

The CHAIRMAN. I know that.

Mr. WEST. Then I do not get the force of your question.

The CHAIRMAN. In Mr. Richards' argument, I think it was, he places reliance upon an interview with President Woodruff, published in the Deseret News of July 4, 1891, as being conclusive evidence that the Mormon leaders do not intend to interfere with political matters, but prior to that time was it not the general understanding of you Liberals that they would do so if they had an opportunity?

Mr. WEST. It was my understanding and I contended that.

The CHAIRMAN. There was the dissolution of the Peoples' party in May, and then this interview in July with Presidents Woodruff and Cannon.

Mr. WEST. Yes, sir.

The CHAIRMAN. You think, then, that the passage of this bill is the best way for them to demonstrate their sincerity?

Mr. WEST. Unquestionably.

The CHAIRMAN. Why can they not demonstrate their sincerity just as well if things go on as they are?

Mr. WEST. If you put them back into the People's party again and undo what has already been done, of course it will be a worse attitude.

Senator JONES. Why?

The CHAIRMAN. They could pass exactly the same laws after this law was passed.

Mr. WEST. Unquestionably; but if you do not accept the professions of these people and their acts when they are made, do you think that that is good encouragement to these people if they are in good faith?

Senator JONES. Do you think they would go back to the People's party?

Mr. WEST. No; I do not. It would have that tendency. Here is my contention: It would destroy the opportunity to educate these people so as to take the improvements which the opportunity affords. That is my position.

The CHAIRMAN. Why can they not just as well divide? I am asking this simply for the purpose of information, without any definite idea in my own mind.

Mr. WEST. I understand.

The CHAIRMAN. Why can they not divide on the lines of the two great parties in the present condition as well as after the passage of the pending bill?

Mr. WEST. They could do it, except for the existence of the Liberal party.

The CHAIRMAN. Do you think the passage of this bill will wipe the liberal party out of existence?

Mr. WEST. I think so. I think the Liberal party will go out of business in a couple of years.

Senator CARLISLE. You think they will divide between the two great parties?

Mr. WEST. Yes, sir.

The CHAIRMAN. Mr. Allen entertains a different opinion.

Mr. WEST. I think he does. I have had a number of prominent gentlemen who have said to me: "Oh, we will keep up the Liberal party two or three years longer." I have had friends say to me: "I never expect to see another election under the Liberal conditions here in Salt Lake."

The CHAIRMAN. Suppose this bill should be passed and the Liberal party should be kept up, what do you gain? You admit that it is for the benefit of the Territory that the people should divide on the lines of the two great parties.

Mr. WEST. That has been the contention of the Liberal party for years.

The CHAIRMAN. Now, if they keep up the Liberal party after the passage of this bill you will not gain anything.

Mr. WEST. I think we will have done this: We will have proved to the Mormon people that the people of this nation who have been contending against them were sincere and truthful and would treat them fairly.

The CHAIRMAN. You think the Liberal party is more likely to disband and join itself to other parties, as the inclinations of its members may dictate, after the passage of this bill than if it were not passed?

Mr. WEST. Unquestionably, for the reason that when you have given the government to the people in their own hands the Liberal party will see the propriety and necessity of coöperating with the people in this government which they are going to have.

Then I furthermore think that the more opportunities given these people to prove the sincerity of their professions the better it is, the more likely you are to furnish the proofs that will settle the doubting Thomases. The people there contend that these are professions, not acts. We want acts to supplement the professions.

The CHAIRMAN. If the parties divide on political lines, Republican and Democratic, there will be Mormons in both parties?

Mr. WEST. Yes, sir.

The CHAIRMAN. Does it not occur to you that it is quite possible that each party may begin to bid for the Mormon vote, to get it away from the other, by proclaiming themselves in favor of this or that measure which agitates the people?

Mr. WEST. I have no doubt that both parties will do like the parties do everywhere else; they will make political movements for the purpose of getting votes. But, Mr. Senator, they would be more likely to do that, and they would be in better condition to do it, if we had not adopted the plan we have now and already divided. If you keep the Mormon people together and keep the Liberal party together until the Gentiles get in the ascendancy and then divide them equally between Republicans and Democrats you would have trading sure enough in my judgment.

As it is these men have taken positions with these parties; they are in council with them, they are holding positions in committees, and they work together. These men, reputable men, are not going back on these professions and thus stultify themselves.

The CHAIRMAN. Suppose you can get the parties divided on political

lines so that the parties will be somewhere near equal, and suppose that the Republican party, being anxious to get the ascendancy, should propose some measure with reference to schools that was particularly agreeable to the Mormon people of the Territory. Would not that party be likely to get the Mormon vote in that way? If that likelihood prevails, would not the Democratic party at the next election want to go a little further in that direction than the Republican party to get the Mormon vote they lost and to get them out of the Republican party? Are you not going to get into that trouble?

Mr. WEST. I do not think so.

The CHAIRMAN. I do not know. I merely ask for information.

Senator CARLISLE. Permit me to say, if that is the trouble, will not that difficulty exist as long as there is any considerable number of Mormons in the Territory?

The CHAIRMAN. It is one of the problems which suggests itself to a practical mind, and therefore I was inquiring about it.

Mr. SMITH. The Mormons have no school policy.

The CHAIRMAN. There might be some other questions.

Mr. WEST. I was going to suggest that the conditions are favorable as against that proposition because of the experience of these people. They have learned by experience, which is a very dear school. I think that they will be about the best behaved politicians that we will have for a number of years. That is my opinion, candidly.

The CHAIRMAN. You agree, I suppose, that the Mormon Church—I do not use the word in any offensive sense—is probably more despotic in its organization than any other religious body in the world?

Mr. WEST. I have so believed and contended.

The CHAIRMAN. I mean that it can exercise more control if it chooses than any other religious body in the world because the loyalty and allegiance of the members of the church to its head are greater than in any other religious body.

Mr. WEST. I believe that. On the contrary the contention of my Mormon friends is that it is the most democratic on the face of the earth. Of course I adhere to my opinion and I suppose they do to theirs.

The CHAIRMAN. Without having any definite idea about it, suppose some fundamental principle of the church was involved in an election and some of the leaders of the church were to receive a revelation as to the course the church should adopt in that election, would they not naturally have an influence over their members that no other church would?

Delegate CAINE. Senator, if you will permit me, the power of the church would be confined to religious subjects, and would not extend to political, or financial, or civil affairs. The whole theory of the church is antagonistic to that idea.

The CHAIRMAN. Do you claim that in the past the church has not attempted to control its members in political matters?

Delegate CAINE. I think individuals probably have. I do not think the church as a church has. Men have used their influence as men do in all communities, ministers as well as politicians. Ministers of other denominations in Utah have gone to the polls and have there handled tickets and have used their influence as ministers to promote the interests of the party with which they were allied. The Mormon leaders have never done anything like that.

The CHAIRMAN. You do not think the president and the apostles

who stand highest in authority have attempted to exercise the power of the church in political matters?

Delegate CAINE. No, sir; I do not. They may have used their individual influence, and men in their position have influence.

The CHAIRMAN. You think they have never endeavored to enforce it with the idea of church obligation?

Delegate CAINE. No, sir.

Senator FAULKNER. Nor by inspiration?

Delegate CAINE. No, sir.

Senator CARLISLE. Has there been any church discipline imposed upon those who voted contrary to what was considered to be the interest of the church?

Delegate CAINE. I have never known of any such thing. I have been intimately acquainted with the leading men of the church. I believe I have had their confidence, and I have never known of any such thing.

Senator FAULKNER. I would like to ask you one question. Your answers to Senator Platt, the chairman of the committee, in reference to the condition of affairs and your opinion as the result of your experience there are simply the expression of opinion, are they not, and you believe, however, that the adoption of this home-rule bill would enable the people to express by their acts their feelings and sentiments on this subject in such a way as to demonstrate and prove to the country that the judgment you have formed from your knowledge of the people and your experience in the Territory is correct?

Mr. WEST. Yes, sir; it will give an opportunity for doing that very thing, and, furthermore, it will give to these people what they deserve by reason of their action now.

Senator CARLISLE. And by reason of any promises made heretofore?

Mr. WEST. I was going to say, and it would, in my judgment, satisfy and encourage these people by convincing them that the country and the Congress of the country have been animated by good and proper motives in all this legislation. They thought that a good deal of this legislation was in the nature of persecution. It has appeared to them in that way, that it was conceived in an improper spirit and against them because of their being a religious people; it was against their religion, while we have contended as Liberals there—and you will find it, I have no doubt, in any of these arguments—that as soon as the two things that I have named, the renunciation of the practice of polygamy and the withdrawal of the church from politics, should be brought about, we would accept them and unite with them into parties. We have asked them to do it and have said that when they did do it then peace and prosperity would come to Utah.

They were right. Peace and prosperity have come, and if the Liberal party will lay down their arms and Congress will grant this legislation, as I think it will, you will see the benefit of it. While, as I say, I myself am not afraid of statehood, I believe all the conditions exist there now which justify the admission of this Territory as a State. Believing so, I also favor this bill, because I believe it will have the effect that Mr. Allen claimed it would the other day—to hasten statehood. You will hasten it simply by the people accepting themselves of this opportunity and showing that they have, in good faith, made this division and that they are capable of being intrusted with the government of their own affairs, not only under the restrictions and under the domination and control of Congress, but under the final control of Congress absolutely.

Senator JONES. Your first choice is statehood; your second, this bill, as I understand?

Mr. WEST. No, my choice now is for the home-rule bill, because statehood, I am sure, is not attainable. I do not want, in trying to get too much, to lose everything.

Senator JONES. You ask for this as a matter of expediency, but you personally prefer statehood if you can get it?

Mr. WEST. Yes, sir.

Senator JONES. And you would rather have it?

Mr. WEST. Yes, sir.

Senator JONES. You entertain no fears which some may entertain as to statehood?

Mr. WEST. I have not a single apprehension.

STATEMENT OF HON. J. T. CAINE.

Delegate CAINE. Mr. Chairman, reference was made the other day to a petition for amnesty. Judge Judd spoke about it. It has been sent to the President of the United States, indorsed by certain prominent officials in Utah. If you will permit me, the petition is now published, I will read it to the committee. It is very short.

Senator FAULKNER. I would like to have it made a part of the record.

Delegate CAINE. It is dated Salt Lake, December 19, 1891, and is as follows:

PETITION.

To the President:

We, the First Presidency and Apostles of the Church of Jesus Christ of Latter-Day Saints, beg respectfully to represent to your excellency the following facts:

We formerly taught to our people that polygamy, or celestial marriage, as commanded by God through Joseph Smith, was right; that it was a necessity to man's highest exaltation in the life to come.

That doctrine was publicly promulgated by our president, the late Brigham Young, forty years ago, and was steadily taught and impressed upon the Latter-Day Saints up to a short time before September, 1890. Our people are devout and sincere, and they accepted the doctrine, and many personally embraced and practiced polygamy.

When the Government sought to stamp the practice out, our people, almost without exception, remained firm, for they, while having no desire to oppose the Government in anything, still felt that their lives and their honor as men were pledged to a vindication of their faith; and that their duty towards those whose lives were a part of their own was a paramount one, to fulfill which they had no right to count anything, not even their own lives, as standing in the way. Following this conviction hundreds endured arrest, trial, fine and imprisonment, and the immeasurable suffering borne by the faithful people no language can describe. That suffering, in abated form, still continues.

More, the Government added disfranchisement to its other punishments for those who clung to their faith and fulfilled its covenants.

According to our faith the head of our church receives, from time to time, revelations for the religious guidance of his people.

In September, 1890, the present head of the church, in anguish and prayer, cried to God for help for his flock, and received the permission to advise the members of the Church of Jesus Christ of Latter-Day Saints that the law commanding polygamy was henceforth suspended.

At the great semiannual conference which was held a few days later this was submitted to the people, numbering many thousands, and representing every community of the people of Utah, and was by them in the most solemn manner accepted as the future rule of their lives.

They have since been faithful to the covenant made that day.

At the late October conference, after a year had passed by, the matter was once more submitted to the thousands of people gathered together and they again, in the most potential manner, ratified the solemn covenant.

This being the true situation, and believing that the object of the Government was

simply the vindication of its own authority and to compel obedience to its laws, and that it takes no pleasure in persecution, we respectfully pray that full amnesty may be extended to all who are under disabilities because of the operation of the so-called Edmunds and Edmunds-Tucker laws. Our people are scattered; homes are made desolate; many are still imprisoned, others are banished or in hiding. Our hearts bleed for these. In the past they follow our counsels, and while they are thus afflicted our souls are in sackcloth and ashes.

We believe there are nowhere in the Union a more loyal people than the Latter-Day Saints. They know no other country except this. They expect to live and die on this soil.

When the men of the South, who were in rebellion against the Government, in 1865 threw down their arms and asked for recognition along the old lines of citizenship, the Government hastened to grant their prayer.

To be at peace with the Government and in harmony with their fellow-citizens who are not of their faith, and to share in the confidence of the Government and people, our people have voluntarily put aside something which all their lives they have believed to be a sacred principle.

Have they not the right to ask for such clemency as comes when the claims of both law and justice have been fully liquidated?

As shepherds of a patient and suffering people we ask amnesty for them, and pledge our faith and honor for their future.

And your petitioners will ever pray.

WILFORD WOODRUFF.	H. J. GRANT.
GEORGE Q. CANNON.	JOHN HENRY SMITH.
JOSEPH F. SMITH.	JOHN W. TAYLOR.
LORENZO SNOW.	M. W. MERRILL.
FRANKLIN D. RICHARDS.	ANTHON H. LUND.
MOSES THATCHER.	ABRAHAM H. CANNON.
FRANCIS M. LYMAN.	

This was accompanied by the annexed generous indorsement and recommendation:

SALT LAKE CITY, UTAH, *December 21, 1891.*

To the President:

We have the honor to forward herewith a petition, signed by the president and most influential members of the Mormon Church. We have no doubt of its sincerity, and no doubt that it is tendered in absolute good faith. The signers include some who were most determined in adhering to their religious faith, while polygamy, either mandatory or permissive, was one of its tenets, and they are men who would not lightly pledge their faith and honor to the Government or subscribe to such a document without having fully resolved to make their words good in letter and spirit.

We warmly recommend a favorable consideration of this petition, and if your excellency shall find it consistent with your public duties to grant the relief asked we believe it would be graciously received by the Mormon people and tend to evince to them what has always been asserted, that the Government is beneficent in its intentions, only asks obedience to its laws, and desires all law-abiding citizens to enjoy all the benefits and privileges of citizenship. We think it will be better for the future if the Mormon people should now receive this mark of confidence.

As to the form and scope of a reprieve or pardon, granted in the exercise of your constitutional prerogative, we make no suggestions. You and your law advisers will best know how to grant what you think should be granted.

We are, very respectfully,

ARTHUR L. THOMAS,
Governor.

CHARLES S. ZANE,
Chief Justice of Utah Territory.

I understand, Mr. Chairman, in addition to that, that this indorsement is signed by all the justices of the Supreme Court and by four members of the Utah Commission.

Mr. SMITH. And the Secretary of the Territory.

Delegate CAINE. And the Secretary of the Territory.

Senator FAULKNER. What member of the Utah Commission did not sign it?

Delegate CAINE. I do not know; I think all who were available signed it.

At 12 o'clock m. the committee adjourned until February 23, 1892, at 10 o'clock a. m.

WASHINGTON, D. C., *February 23, 1892.*

The committee met at 10 o'clock a. m., pursuant to adjournment.

Present: Senators Platt (chairman), Stewart, Carey, Jones, Carlisle, and Faulkner.

STATEMENT OF C. W. BENNETT.

Mr. BENNETT. Mr. Chairman and gentlemen of the committee: I am a little embarrassed this morning, although there is a quorum present, and a good quorum. I shall confine myself to our contention, which is that Utah should be admitted as a State in ordinary course of legislation and events.

The CHAIRMAN. By an enabling act?

Mr. BENNETT. Yes. Of course that puts me in antagonism to the bill introduced by the Senator from West Virginia (Mr. Faulkner), giving what is called or has been termed home rule for Utah.

I may say, and I hope I may say temperately, what I think in regard to that bill. It is simply a political measure. It means nothing else. Utah is either entitled to statehood or should be relegated to or left in its present position. There is really no reason for giving to Utah a condition different from those conditions which have been given to other Territories. Let me say, simply generalizing, your outlying provinces are held as Territories; held as Territories under Government control and under conditions which have grown up, become crystallized, and have governed all the outlying provinces. Why, then, the Faulkner-Caine bill? It has been said here, I have heard it said, that we have now a Territory with great population, with resources quite equal to many, in fact most, of the Western States, but because Mormonism exists there we should have a new theory of Territorial government. Is that wise? Is it statesmanlike? Is there any good reason for it? I say, no. If we are to remain in a Territorial condition as we have been all these years, let it be under the ordinary rules governing Territories. We are not complaining. Politicians only are complaining.

So I stand here to antagonize and I do antagonize and criticise the Faulkner-Caine bill. Let me ask Senator Faulkner what he will gain by that bill? What can be gained by it? What is the object we are all in search of? It is simply this: That a great Territory like Utah should not be kept out in the cold. Many things, many interests, everything which makes a great Territory, exist there. Then why should we say a new system shall be adopted?

Speaking now only technically and speaking to the point of making a State, let us see what we shall gain by the Faulkner bill. We shall gain seven judges of the district courts, three judges of the supreme court. That will make us ten judges. We shall gain seven prosecuting attorneys. We shall gain an expenditure of at least \$350,000 over and above the present expenditures.

Now, I wish to ask, Mr. Chairman and gentlemen of the committee, what we will get for that? We should if we pay that money out have something for it. Very well. We get those judges, we get those prosecuting attorneys, and we get no franchise. We get nothing which will make us free. We pay that much, therefore, for nothing. Do we? Yes. Nothing, I say. I say as a Territory, yes; we pay that much for nothing.

There are two things to be considered in that regard. First, it will relieve the Government of an expenditure concerning Utah Territory of

about \$150,000. I do not think the Government cares to turn over to Utah the control and make that control dependent upon Utah paying the expenses. But let us come back a little now, and, remembering what I have said, what can be figured out very clearly from the Faulkner-Caine bill? So much money, \$350,000, is to be expended first, for what? It was said the other day in my hearing that it was to demonstrate to the country that Utah was ready and fit for self-government. I did not see the point as my friend, Senator Stewart, can not see the point.

Senator STEWART. Is it the view of those who advocate the Faulkner bill that it will facilitate or retard the final admission of Utah as a State? What is the consensus of opinion in regard to that?

Mr. BENNETT. You mean in regard to statehood?

Senator STEWART. Yes. What is your view of it?

Mr. BENNETT. I do not know. I think it would be simply a tentative measure and would retard statehood.

Senator FAULKNER. That is not the opinion expressed by the gentlemen representing the Liberal party. They said they thought it would advance the admission of the Territory as a State. That was their testimony before the committee.

Mr. BENNETT. Their testimony to me is no testimony. I would like to answer your question, but really, Senator, I have no opinion on that subject; I come here to discuss simply the general facts.

The CHAIRMAN. Right in this connection I will ask you a question. I will state how it seems to me. It seems to me if we should adopt this new system of Territorial government there, considering the difficulties of changing a thing when once established, Utah would be a good deal further off from statehood with this measure enacted into law than it would if we left things as they are. That is the way it strikes me.

Mr. BENNETT. That is my opinion, Senator, and that is why I come here to antagonize this bill, and I do not come here to antagonize or to argue anything else in any interested view.

I have spoken now, in this general way, in regard to the home-rule measure. I want to speak now to you in regard to the bill introduced by Senator Teller, which, I understand, is under consideration by this committee. It was for the purpose of speaking in advocacy of that bill that I came here. The other is quite incidental.

I may be excused, perhaps, when I say to the committee that I have been a resident, now, of Utah for twenty years; that I never was a Mormon, as Senator Stewart very well knows; that I have been a student of the condition of things existing there all that time. I have been not only that, but I have been antagonizing all Mormon ideas. I have been antagonistic of all that plan and system, if you please, that theory, that practice which now has become really historic. It has become historic. I went there first as a young man; that is, comparatively young. I have studied it all the way through; have been on here year after year to promote the passage of the Edmunds law first, the Edmunds-Tucker law later, and all the laws antagonizing that system. I think, therefore, I may safely say, without any egotism at all, that I come here rather in a condition to exercise cool judgment. If anything, I should be supposed to be against Mormonism. I am against it. I am against it through and through. I have been so all these years, but time really does roll on, and while I was against Mormonism at the start, and while I have been against it all through and through, I have always looked at the rising sun, "may not something occur which will give us hope, which will say to the Americans living there struggling against this, now comes

a time when we may redeem our country." Now, this much by way of preface.

I come now to show you, if I may fortunately be able to do so, how matters have gone on. In 1871, the year I landed in Salt Lake, and the year I first met you, Senator, Brigham Young was arrested, carried through the streets under the charge of the marshal, and was accused of having been accessory to the Mountain Meadows massacre. He was put in custody, sent to Fort Douglas, as it was then called, and from there was liberated upon some plea; I have forgotten what. Next year Daniel H. Wells was arrested. I am now directing what I have to say to what has been brought before you, I understand; I did not hear it as ancient history. I know pretty well about all that ancient history. Daniel H. Wells was arrested, was taken to the penitentiary, was accused, was not tried, or if tried was not convicted. I thought then he should have been tried and should have been convicted. This is leading up to what I want to say.

Years going on, events following upon each other, we came to a condition of things when the régime of the church, if you please, weakened, and the time when the mines were opened and business became prosperous. That continued until later it came to this: That Americans came to the front and church matters were relegated to the past. That does not mean much to you of the East, perhaps, but it does mean very much to us. You, Mr. Chairman, and you, Senator, and you, Senator Stewart, will understand somewhat of what has been going on. Some of you will remember the Nauvoo business, the Missouri business, and the matters which followed those occurrences. We who have lived our lives, expended our energies, and made our business in Utah for the last twenty years do remember, do know, do understand, that there has been a revolution going on there, as revolutions have gone on everywhere. You, then, will not stop and say that our country there is nothing, because some time ago, some years ago, decades ago, the condition was entirely bad in Utah. This much leading up to what I have to say touching the conditions in Utah and to which I desire now especially to call attention.

At some time, I have forgotten the date, there was introduced into the House and into the Senate an act to which I have already alluded, namely, what is called the home-rule bill. It was then thought best by some of our patriots in Utah to antagonize that. It was thought by many of us, and I was one, that instead of that we should ask for statehood, not statehood to-day, not statehood to-morrow, not statehood next month, perhaps not next year, but statehood when, in good course of time, it might come. Of course I would not argue political matters before the committee. Still they must be alluded to, and in the political situation with the political view ahead it was thought wise by the Republicans, by my committee and those in consultation with our committee, that perhaps instead of the Faulkner-Caine bill this enabling act should be passed.

Senator FAULKNER. That is the Teller bill?

Mr. BENNETT. Yes, sir; the Teller bill.

Senator JONES. You say you do not want that bill passed this session?

Mr. BENNETT. You misunderstood me.

Senator JONES. I thought you said that you were not asking for it this year or next year.

Mr. BENNETT. We ask for it in regular course.

Senator JONES. What I was asking was whether you want the Tel-

ler bill passed or whether it is a mere political ruse to defeat the other bill?

Mr. BENNETT. I see your point. That is not my point. I say pass it to-day, to-morrow—any day.

Senator JONES. I misunderstood you.

Mr. BENNETT. Yes; we say pass it. We want Utah to be admitted as a State—to-morrow, if you please—any day, and we will show you more increase of population, we will show you more wealth, we will show you more real sinews of statehood than any of the other States you have admitted in a decade.

Now, the objection or objections to that, of course, are that some time or another, maybe now, Mormonism has made a footing there, has been or now is in control, that polygamy is their blossom of private life, is their something to stand in the way of our ordinary civilization. I come to show to you that while that has been a menace to our Government, those who have lived there for many years have lived, and I thank the stars for it, to see that discredited, to see that dethroned. There has been much said upon that subject, a good deal has been said by the advocates of this home-rule bill. I propose now to show to you gentlemen of the committee that the whole thing has been changed. I want to call your attention to that, and to make it pointed, because from that arguments will follow.

It is true that up to the autumn of 1890 our community was discredited. As I have said, I have been fighting this system. The whole system of their government was discredited up to the autumn of 1890. In that autumn and at the conference of the church held October 6, 1890, a manifesto, as it has been called, was issued by the church. That manifesto was said to come through revelation to Wilford Woodruff, the head of the church. The manifesto in effect was that from thenceforward polygamy should not be practiced in Utah or elsewhere among the Latter-Day Saints. What did that mean? It meant that during our contest of well-nigh twenty years something had occurred. What was it? That Americanism had obtained? That the Lord still sanctioned polygamy? That the Government had not succeeded in its efforts to put down polygamy? That the Lord's annointed were still in power? No. It meant that just what we had been trying to do in our contest against that system had been accomplished. Did it not? Did it not mean that, as we had said, "Now, you have violated the law; you have sinned against civilization; you have done what you should not have done; the Government has said you must quit that; they said yes, you are right," and so that manifesto was issued. That, then, gave some of us who had been carrying on this warfare hope, and then it was thought that we might build our parties there, might divide upon national lines.

I should say in this connection that the officers of the Government who stood there for the right and for the law, were, so far as I know, entirely trustworthy. I could and must allude to one, Chief Justice Zane, who is a man above reproach, a lawyer of great acumen, and a judge most wise. He has looked the situation through and through officially, personally, and in every way. He has considered the situation thoroughly. I desire to call the attention of the committee to an article written by him and published in The Forum of November, 1891, on pages from 368 to 375, and I ask the committee to consider what he there said in regard to the situation. That is the history of our affairs there. Many other things have happened since then and revolutions, it is said, never go backward. I desire to still continue in the di-

rection of our revolution. The first point of it was the article I have just now called attention to. That was in November, 1891. The manifesto was in 1890. In the fall of 1891 was published what you have seen no doubt in the message of the governor of Utah, which affirms the manifesto of 1890. I may be a little tedious in this, but I want to show that this revolution has been going on and going on rapidly. It is not a matter of politicians' effort. It is not a matter of what I say or somebody else says; but it is a matter of what has been done and what is being done in the matter and line of development. Very well; I will close this part of the subject by saying that there can be no doubt that Mormonism, as far as polygamy is concerned, is a matter of the past.

Some of the persons who have argued before you have said, "Very well, that is so, but Mormonism as a political power is still there; it is still running matters; it is still the political factor." Let us see about that. Now, is it so? We will say polygamy is dead. What I have said and what I have referred you to will show to this committee, to the Senate, to the country, that polygamy, as a church matter, as a creed, is dead. There can be no doubt about that. Let us see now whether or not this Mormon Church is still running parties, and still the political factor in Utah with which we have had to do. In regard to that I shall call your attention to the action of the conference held at Salt Lake City in October, 1891. Then and there was proposed to that conference a resolution touching the matter of political control of that church. I am sorry I can not refer you to the page, but I have the manuscript of it. It is sufficient to say that in that conference, and under the rule, by the votes, by the suffrages, of that conference, it was determined there that everybody in Utah, Mormon and non-Mormon, was perfectly free to exercise his power in politics according to the dictates of his own mind and conscience.

There might be answer made to that. "Yes, that was a mere matter of show. Certainly, they would say that." But if you will follow the election records through you will see that it was not only a matter of their own conscience, but a matter acted upon by the people. It would hardly be just upon my part to go through the many things which I might cite in aid of my two propositions, first, that polygamy is dead. In that connection I would say it died a natural death. It never had buoyant, fair life; it never was on earth, I believe. Yet if you will study the spirit of the law you will find that it now and again cropped up. It cropped up from several causes. It cropped up in Mormonism, as thought, perhaps, by them, to be a something of strength. I do not believe it was prompted in any way by sensualism. Then we have that. Secondly, we have this to consider. It was, and it has been said, that they perhaps have endeavored to make their system one of monarchy, one of dictation, of political success or of political consequences. We have shown, I think, that polygamy has been given up. We have shown, or the records now before the committee will show, that they have quite abandoned any idea of political control. It now comes to this, and this is the thing which I desire to dilate upon not at length, but to force upon the committee, and I may summarize it in this way. We have in Utah a population of 240,000 or 250,000 souls. We have an assessed valuation of property there amounting to—I can hardly give you the figures—

Mr. RICHARDS. One hundred and twenty-one million is the assessed valuation.

Delegate CAINE. At a low assessment. It is probably \$200,000,000.

Senator CARLISLE. That is not the real value, but the assessed valuation?

Delegate CAINE. The assessed value. It would probably amount to \$200,000,000.

Mr. BENNETT. I think I can give you some information on that from the governor's report. I want to speak of it only generally. We have, as I say, from 240,000 to 250,000 population. Let me speak of that population just in passing. There is less drunkenness, less crime, less sensual crime; it is high-toned, a high-class population, and I speak that advisedly. I am not attorney here for anybody; I speak for myself, but I have known these people; I have seen many of them grow from childhood to manhood and womanhood. If it shall be the last words that I say, I want to say to you that they are a people to be regarded for virtue, for worth, for intellect, if you please, equal to any on God's earth. I speak that advisedly. Now, what is the proposition? It is this. That you and the gentlemen of this committee, the Senate whom you represent, shall say to that people "because Joe Smith was a polygamist; because somebody else was a polygamist, and certain crimes were committed, we will keep you out in the cold until we in some freak of fancy will admit you as a State!" I speak of that now in passing only.

We have then the fact that we have population sufficient; we have wealth enough. What are the conditions leading up to statehood? First, population; second, material resources; third, intelligence of the people; and fourth, morality of the people. I think those are the four conditions; they are the four proper conditions, at least. We have, then, first, sufficient population. That will be conceded by everybody. We have, second, sufficient wealth. Let me tell you something about our wealth. I am sorry it is not mine, but it applies to this subject. I will not go into figures. We produce about twelve millions, I think, of gold, silver, lead, and copper. Wells, Fargo & Co. in their circular say we produced last year \$14,000,000 worth of the metals. I might tell you some other things. Let us see, then, to summarize: Take the live stock, which I have here in the governor's report. The aggregate was 2,794,097.

Senator CARLISLE. Dollars' worth?

Mr. BENNETT. Yes, sir; sheep, \$2,490,866; milch cows, \$1,561,980; swine over six months old, \$163,288; mules, \$192,825.

I have spoken of the mining industry and the cattle product. Now I wish to speak of some little—it may be called little, but they are growing—industries of our country. I will speak of sulphur, which, perhaps, is not a pleasant subject, but it is a subject there, and the sulphur deposits of Utah are practically inexhaustible and the sulphur is of superior quality. I will say this, and I may say it for myself, and I know it because I am attorney for all the sulphur deposits and all the sulphur companies, I think, that the output of last year has been more than has been brought into this country from Sicily during the last year. I speak advisedly, because I know about the Sicily mines.

I have spoken now of population, of material resources. I will add this only in regard to the material resources, and this is based upon my own personal knowledge. Considering the area of Utah, and considering the variety of the productions, there can not be found in America, I believe, a country of the same area which can produce right now, next year—I do not mean prospectively—as much as we can produce.

Now, what are the conditions then which should influence the Congress in regard to whether or not a certain district of territory should

be admitted as a State? First, of course, should be, as I say, population; second, should be material resources; third, should be intelligence; and fourth, morality. The percentage of illiteracy in Utah is 5½ per cent. I think I have said something new in regard to that. Five and a half per cent of illiteracy equals Connecticut, equals Maine, it beats every State in the South, four times over, most of them. But I will be answered "yes, that may be true, but you have got polygamy there and you have got this vice and that vice there." But let us look facts in the face; let us see who we are and who the other fellow is. Of illiteracy we find less than 6 per cent.

My friend, Mr. Allen, who is an educator, said the other day that the school system there is very bad; that the Mormons take all the schools. It is not true. Take the report of the governor and you will find that the dominant church, which I despise as I hate the devil, has no number of schools equal to your Presbyterian and your Episcopal and your Congregational church schools. The fact is we have been working there all these years developing these educational facilities, developing our mines, developing our farms, counting cattle, as I have said here, and doing all that kind of thing.

Now, we ask you for statehood. What will you say? You say "Brigham Young was a bad man." You will say to us, "Joe Smith was a curse to the world." You will say to us that "Mahomet was nobody." You will say to us all this and more, but is it a good answer? Can you say to us we have not the population, we have not the resources, we have not the bone, the muscle, the brawn, to protect your country as you protect it here? You can not say that to us.

Now, I simply, then, want to close with this final remark: If we are entitled to be recognized by our great and good Government we are entitled to statehood. At your own good time you will pass the enabling act which I drafted and sent by messenger to Senator Teller. You will pass that act. Let us see what will be the result. It may pass this year; it may pass before the 4th of March. Very well. It provides for an election in the middle of October. It provides then for a convention to frame a constitution the first Tuesday after the first Monday of November next. Not now. You will not turn us loose upon the world, miserable devils we are, until next November. This is now only February. Then under your scrutiny, and the scrutiny of the civilized world, we are to meet and propose, not make, a constitution which hereafter shall, if you approve, govern Utah. Very well; that is November, 1892. In the act which I have here it is provided that the constitution which shall be adopted in November, 1892, shall come to Congress for its approval. I tell you I was very careful about it. We have been careful not to have any idea that somebody might proclaim Utah a State, because we know we are discredited; but in the act it is provided that the constitution shall go to Congress, and by Congress be approved or disapproved, and upon that approval or disapproval the President, whoever he may be, David Bennett Hill, or Benjamin Harrison, or somebody else, may proclaim us a State, and then we will be upon our good behavior, thank God.

Now, gentlemen, I want to rise and I want my friends of this committee to rise to the situation. Here are these people, here are their resources, here are their givings away touching polygamy, touching church rule, touching all these things, and they come to you simply asking you "are we not now, in view of all these things, entitled to Statehood, or may we not be in a year or a year and a half or two years, whenever it may come?"

Let me say in reference to that we do not want any home rule. Home rule is good enough for Ireland. Yes, they should have had it in Ireland long, long ago. We do not want it in Utah, because home rule under the bill proposed by my good friend, the Senator here, would entail upon us at least \$500,000. While we are in pantaloons give us Territory straight. We do not want Territory with stilts or upon stilts.

Let me show a little how that might work, and I think I know just as much about that Territory as anybody living, save Brigham Young's ghost. You pass a home-rule bill to-day, to-morrow; next day, next month. We have an election. The bill says we may elect a governor, so many judges, and so many district attorneys, and everybody down through the whole system. What does it mean? It means that I, a taxpayer, and thank God I am one and a good heavy one, too, shall pay for what? Not as we do now, simply for penitentiary expenses and court fees and that, but we shall pay for these ten new judges, seven district attorneys, and all the other lot. I have estimated that, by the way. My friend, Senator Faulkner, might be interested in that. It will suffice to say that it would add to our expenses \$350,000 at least, and give us—what would it give us, anything? Why, of course, it would give the dominant party, whatever that might be, it might be the Church party, that much prestige. What else would it do? It would put a lot of fellows in office there that we never could get rid of. I might come here next year, three years from now, five years from now, or ten years asking Statehood as I do to-day, and you would say "nay," because all these fellows have got their work in; yes, they have, and they have made prestige. That is only one thing that is political which I did not intend here to allude to, but it is fair criticism of the bill, I think.

Now, there is another thing, and let us see about that. Why do they want that? Who wants it? Does any property holder want it? Does any man settled there as I am with my children and my grandchildren want it? Who wants it? Brigham Young's ghost does not want it. Who does want it? Let us see. Let us find out who wants it. Mr. Caine says he wants Statehood. Mr. Richards is here. He does not want it.

Senator CAREY. What is the amount of revenue collected in the Territory for Territorial purposes?

Mr. SMITH. About \$600,000.

Senator CAREY. That is county and Territorial; not for Territorial purposes alone?

Mr. SMITH. I guess it is.

Mr. BENNETT. It is pretty hard to tell what we are paying.

Senator STEWART. You say when the politicians get their work in under this form of government, it will be difficult to get it changed. How would it be under a State form of government; would not they get their work in then?

Mr. BENNETT. Well, perhaps they would. Now, I would like to answer some questions.

The CHAIRMAN. The Territorial and school tax amounted to \$543,000?

Senator CAREY. You collect your school tax through the Territorial authorities?

Mr. BENNETT. Yes, sir. It goes in different columns, that is all.

Senator CAREY. I want to ask Judge Bennett a question, because I sincerely hope that legislation will be enacted that will benefit these people in some way or other. Is not double the number of officers provided in this bill that is needed?

Mr. BENNETT. More than that. Four judges would do. Five judges would do us good service.

Senator FAULKNER. How many have you now?

Mr. BENNETT. Four.

Senator FAULKNER. You have just passed a bill through Congress giving you two more judges. That makes six.

Mr. BENNETT. Oh, I beg your pardon; the House did not pass that bill.

Senator FAULKNER. It has gone to the House; the Senate has passed it.

Senator CAREY. You propose an independent United States court by your bill. You have no idea, Senator, how much business can be gotten into the United States courts, for every corporation organized outside of the State claims to be, and under the decisions is acknowledged to be, a nonresident. That would take a very large fraction of the business under your system; and then you have an independent supreme court, and then you have the district judges.

Senator FAULKNER. There are six.

Senator CAREY. And then you can count the supreme court.

Senator FAULKNER. With three judges. That makes it ten instead of six.

Senator CAREY. How many have you to-day?

Mr. BENNETT. Four, and then we are to have a district attorney in each of the districts. This comes in my line, because I know about expenses.

Senator CAREY. I was not calling attention to that matter in an attempt to find fault with the bill, but that is the truth with all the Western States. They organize their courts out there on such a large scale that they ultimately have to cut it down. Senator Stewart knows about that.

Senator STEWART. Yes, they have to cut it down.

Senator CAREY. They organize a system big enough for New York State.

Senator FAULKNER. That does not affect the principle; it is a matter of detail.

Senator CAREY. There is really no objection to the dual system provided the judge who tried the case below did not sit on the supreme bench.

STATEMENT OF JOHN HENRY SMITH.

The CHAIRMAN. Where do you reside?

Mr. SMITH. Salt Lake City.

The CHAIRMAN. How long have you lived there?

Mr. SMITH. I have lived there since 1849.

Senator CAREY. You came quite near being born there?

Mr. SMITH. I was born in Council Bluffs.

Mr. BENNETT. On the way over?

Mr. SMITH. Yes, sir; I have been there from the commencement and know all the conditions of the parties.

The CHAIRMAN. What do you favor?

Mr. SMITH. Mr. Chairman and gentleman of the committee, I am here in connection with Judge Bennett in the interest of statehood for Utah. I myself am a Republican in politics, descended on both sides from the old Whig stock, and am earnestly devoted, and have always been in my feelings, to the Republican party, and have, whenever I

have spoken in private or in public, spoken in the interest and in favor of that party. When the question of division upon party lines was presented before the people and they began to take sides, or before this was the case, I myself, in conversation with Judge Bennett, Judge Zane, and other Federal officials in Utah, talked over the situation, and they already knew where I stood in politics and had stood, and I signified my determination to take some part in these matters, that my party might have its share in the going to pieces of the parties then existing there.

The CHAIRMAN. What parties existed; the Liberals?

Mr. SMITH. Yes, sir; and the People's party.

The CHAIRMAN. The People's party was composed of Mormons?

Mr. SMITH. Yes, sir; largely. There was a small proportion of non-Mormons.

The CHAIRMAN. And the Liberals were non-Mormons, but was the party composed exclusively of non-Mormons?

Mr. SMITH. No, sir; in the Liberal ranks there were quite a number of men who were Mormons to my personal knowledge.

The CHAIRMAN. When was division, by which you mean division into Republican and Democratic parties, proposed and how?

Mr. SMITH. It came about, as far as I remember, in this way: The Mormon people had been engaged with the Government in a contest in regard to the doctrine of plural marriage, they taking the view that under the Constitution they had a right to practice the principle of their faith. This brought together, probably, the Mormon people into a solid body, and they went into the courts to test the laws that had been passed by Congress, as affecting that practice. They made struggles, as far as they could, in the courts in all directions to sustain their view, and they fought that question until they discovered absolutely that the law, by the decisions of the courts, was absolutely constitutional, and their idea of necessity must go to the wall, and they could not maintain it in this country.

As soon as they discovered this condition of things, that it was not possible to satisfy the country that they were right in that, and that the courts were, in all respects, against them, they simply made up their minds that a fight in that direction was a useless effort; it was simply wasting their means and that the conditions that existed were of a character that brought unpleasantness, increased hatred and strife and all that sort of thing and the sooner that sort of thing was stopped and the people came in harmony with the political parties with which they had battled the better it would be. We were looked upon as a church party, and were standing in that position in the eyes of the world, of a church running politics, and while this was so regarded by non-Mormons, as Mormons we regard it differently. We regard ourselves as simply protecting the principles of our faith, and we desire to avoid being put in the position of being enemies to our country. We have grown to manhood in this country; my race is as old, almost, as the settlement of the United States, that is our Massachusetts and Maine stock, and our love of country had gotten into our breasts, and we think it is as great as that of any other body.

We have our peculiar views. The circumstances that surrounded us in the past led up to it. We went into the interior of the country, and were removed from other people. The strong hand of Brigham Young was absolutely essential to the protection of the people of that country. We were surrounded by hostile tribes, were thousands of miles from anywhere, and we were driven to establish industries and work to seek

to protect ourselves. In order to protect ourselves we formed ourselves into small settlements; we did not dare to build up many farms, but we all gathered together in villages, built stockades, and the first house that was usually built was a schoolhouse, which was used for a meeting house, as was probably the case among our ancestors when they started in this country.

The people were pretty much of that faith, although I can say that many of the very earliest recollections I have were of non-Mormons. The nearest neighbors we had were non-Mormons, and by the way they were a very nice family. Later they went to California. I met the gentleman three years ago in San Francisco. I had not seen him for nearly twenty years. They were very nice people. The conditions were of that character. Nobody was there except Mormons, with the exception of a few people, and we did everything that was done by a species of common consent.

The CHAIRMAN. Please come to this point. The question I asked you was when was the division of the people in Utah into the regular parties, Democratic and Republican, proposed?

Mr. SMITH. Judge, when was it?

Mr. BENNETT. In May.

Mr. SMITH. In May. The judge and myself talked the situation over.

The CHAIRMAN. The People's party was dissolved by some action?

Mr. SMITH. By its own officers.

The CHAIRMAN. And that left the members of the People's party to go somewhere else?

Mr. SMITH. Yes, sir; left them to go where they pleased.

The CHAIRMAN. Since then there has been no People's party?

Mr. SMITH. No, sir; not in Utah.

The CHAIRMAN. But there is a Republican party, a Democratic party, and the Liberals?

Mr. SMITH. The Republicans and Democrats having received recognition from the national councils—

The CHAIRMAN. The members of the People's party have gone generally into the Republican and Democratic parties?

Mr. SMITH. Yes, sir.

That is the condition at the present time. As in all sections of the country, there is quite a body of people who have not taken sides. We have been educating them as far as we could. Stumpers have been out there on both sides talking to them in regard to these problems, and seeking in every way to educate them.

The CHAIRMAN. I have not attended all the meetings of the committee, and I do not know whether the point has been raised here or not, but I have heard it said on the outside that at the time the Democratic and Republican parties were established there, only a short time ago, there was a tacit understanding that the question of statehood should not be brought up immediately?

Mr. SMITH. I can say in regard to that matter that a committee from the Democracy waited upon the Republican committee and said in going into this matter they desired to know what the Republican committee proposed to do in regard to statehood; that they did not want to unduly hasten statehood in Utah. That was the fact. It was tacitly understood that no effort should be made to hasten statehood, but that we should go to work to educate the people.

The CHAIRMAN. Now, how do you regard this home-rule bill, as it is

called? Do you regard it as violative of the spirit of that understanding?

Mr. SMITH. I have published a statement in the paper that I regard it in spirit a violation of that understanding. I have published that.

Senator JONES. How about the enabling act?

Senator FAULKNER. I was going to ask about that. How do you regard that; as a breach of faith?

Mr. SMITH. I regard that as a very necessary step in connection with this business.

Senator FAULKNER. How do you regard it in reference to the question asked by the chairman? You say there was an understanding between the two parties that you would not apply for statehood.

Mr. SMITH. Well, I regarded the first one as a violation of the conditions properly and rightfully, and I thought the door was open, and if there was any fellow who wanted to come in now was his time.

The CHAIRMAN. The understanding having been violated by the home-rule bill, you thought you were absolved from anything on your part not to attempt to hasten statehood?

Mr. SMITH. That is the view we took in regard to that proposition.

Senator FAULKNER. Let me ask you a question. This is the first I have heard of any agreement. The agreement was limited to the extent that you would not apply to Congress for statehood. There was no agreement in reference to any amelioration of the conditions there by any other bill?

Mr. SMITH. The condition was simply this: That the matter should not hasten statehood.

Senator JONES. I understood the judge to say that the passage of this bill would not hasten statehood, but would retard it. You think it is not a violation of the agreement to press statehood?

Mr. SMITH. I do not know what the judge's view is. I took this view of the situation, that our understanding was off.

The CHAIRMAN. Do you or do you not regard the Faulkner bill as practically statehood?

Mr. SMITH. Yes, sir; practically in one sense and yet not practically in the other. It heaps upon the people burdens, and yet it does not give to them the opportunities which legitimately belong to a State in this nation.

The CHAIRMAN. Does it not give them all the rights they would be entitled to as a State?

Mr. SMITH. No, sir.

The CHAIRMAN. Why not?

Mr. SMITH. They would have no representation in Congress.

The CHAIRMAN. Or in the Electoral College.

Mr. SMITH. No, sir.

The CHAIRMAN. In the local affairs of the Territory it would have the same effect as statehood?

Mr. SMITH. Yes, sir.

Senator FAULKNER. Are you in favor of still being governed by the same laws that you have now and that the Commission should exist as it does to-day.

Mr. SMITH. I am in favor of statehood for Utah, Senator.

Senator FAULKNER. If you can not get that are you in favor of still keeping the people under the laws as they exist to-day, including the Commission?

Mr. SMITH. That is a very direct, straight question. I am in favor

of the Territorial system as it exists in preference to statehood with a string to it.

Senator FAULKNER. The Territorial system as it exists to-day?

Mr. SMITH. Yes, sir.

Senator FAULKNER. You prefer that to the home-rule bill?

Mr. SMITH. Yes, sir.

The CHAIRMAN. The Utah Commission is a thing simply grafted on your Territorial laws?

Mr. SMITH. Yes, sir; the commission was provided to run the elections of the Territory, and they have done so up to the present time.

The CHAIRMAN. The people of a Territory always say that the Territorial condition is intolerable when the time has arrived when the Territory can be properly admitted as a State. I suppose you feel that way?

Mr. SMITH. I think so, myself. I think that any free people who can get within the range of statehood should go there when the conditions are right and proper. The condition of the people of Utah is such as to justify statehood. In regard to Mormonism, I may say the other Territories are mixed up in it, at least those adjacent to us are.

Senator FAULKNER. I would like to know whether you voice the sentiment of the Republican party of Utah, of which you are a member, when you say that if you can not get statehood you propose and prefer to remain under the existing laws of the Territory, including the authority of the commission appointed under the Edmunds-Tucker law?

Mr. SMITH. So far as I know.

The CHAIRMAN. You are a Mormon?

Mr. SMITH. Yes, sir, I am a Mormon.

The CHAIRMAN. As to the composition of the Republican and Democratic parties, are there Mormons in both parties?

Mr. SMITH. Yes, sir.

The CHAIRMAN. Are there more in one party than in another, or are they fairly divided?

Mr. SMITH. That is pretty hard to say.

The CHAIRMAN. I merely speak approximately.

Mr. SMITH. I presume there are more of them in the Democratic party than in the Republican party. The result of the election would seem to indicate that.

The CHAIRMAN. I understand your position to be that you want statehood, and that until you can get it you think it best to leave the present condition alone and remain as you are?

Mr. SMITH. Virtually that is my statement.

Senator STEWART. What effect is the existing condition of the laws having upon disintegrating or liberating the Mormon people from the habits they have got into of following the church——

Senator JONES. In political matters?

Senator STEWART. In political matters.

Mr. SMITH. The people of Utah are just as much in politics as any other people in the United States.

The CHAIRMAN. Do they divide as they do elsewhere?

Mr. SMITH. Yes, sir. I, myself, went upon the stump, and when the feeling becomes so intense that men, who have been life-long Democrats, thought I deserved pretty near punishment, and my treatment among the people was of that manner and I was received with yelps and yells, it exhibits the intensity of the feeling existing there.

Senator CAREY. Are you connected with the Mormon Church?

Mr. SMITH. I am a member of the Mormon Church.

Senator CAREY. How are you connected with it?

Mr. SMITH. I am one of the apostles.

The CHAIRMAN. How long have you been one?

Mr. SMITH. Since 1880, I believe—1878 or 1880.

The CHAIRMAN. You are in a position to speak with some degree of authority.

Senator CAREY. Is it once an apostle always an apostle, if you behave yourself, or is there rotation?

Mr. SMITH. If you behave yourself you remain such.

The CHAIRMAN. You are from Salt Lake?

Mr. SMITH. Yes, sir.

The CHAIRMAN. You believe that polygamy is entirely a thing of the past?

Mr. SMITH. I believe that polygamy is a thing of the past.

The CHAIRMAN. How is it down in the more remote sections?

Mr. SMITH. Much more so in the remote sections, if it is possible for such a thing to be, by the fact that it is not so easy to gather up people there as in cities.

The CHAIRMAN. The church has accepted the situation, then?

Mr. SMITH. Yes, sir; that is their design as stated in the document that I believe was read in your hearing, signed by the presidency of the church and the apostles.

The CHAIRMAN. Do you keep the church entirely out of politics now?

Mr. SMITH. Yes, sir. As far as that is concerned, if a Mormon goes on the stump and takes part in politics he does so on his own hook and he takes whatever people give him, as much as anybody else.

The CHAIRMAN. Take the twelve apostles, are they all Democrats except you?

Mr. SMITH. No, sir.

The CHAIRMAN. What is the division of them so far as you know?

Mr. SMITH. I could not say.

Senator CAREY. How many of them are openly affiliating with the Democratic party, and how many with the Republican party, and how many with the Liberal?

Mr. SMITH. There are not many of them affiliating with the Liberals; I guess five are affiliating with the Republican party.

Senator CAREY. Out of a total how many, twelve?

Mr. SMITH. Yes, sir; and three or four of them are out of the country and are not announced; I do not know what their views are. There are at least three who have had more or less to say in favor of Democracy.

The CHAIRMAN. Suppose that all the people of Utah, without reference to whether they are Mormons or non-Mormons, should unite with these two parties, would there be anything whatever, in your judgment, which ought to delay Utah being admitted as a State? You think they ought to come in now, but aside from that, if that condition should exist, if they should unite with these two parties, would not every objection to statehood be removed?

Mr. SMITH. It seems to me that there is no reason, Senator, why Utah should be prevented from taking her rights in connection with other sections of the country. I do not see any good reason myself.

Senator CAREY. How are your schools; you have got schools all over the Territory in every precinct?

The CHAIRMAN. Mormon schools?

Mr. CAREY. No, sir.

Mr. SMITH. The free school extends throughout the country.

Senator CAREY. Who selects the teachers; how is that managed?

Mr. SMITH. The trustees of the district.

The CHAIRMAN. You are speaking of your district school system?

Mr. SMITH. Yes, sir.

Senator CAREY. That is supported by taxation?

Mr. SMITH. Yes, sir.

Senator STEWART. I have been acquainted with your country for a good many years. Occasioned by the surroundings and all the circumstances, having the one church, taking the responsibility of looking after the welfare of the inhabitants, they organized in the first instance a local government for all their affairs in connection with the church government, and in that way, of course, the church exercised a great deal of influence.

Mr. SMITH. The fact is that Utah was organized, and all of its laws have been executed just exactly as in any other State or Territory.

Senator STEWART. I mean in governing its local affairs the heads of the church, they being the leading men of the church, of course, held office mostly?

Mr. SMITH. No, sir. That has made no particular difference in regard to that matter.

Senator STEWART. I know that the condition of things grew out of the circumstances. I want to know now from you if such prejudices have grown up, because you people thought that you were harshly treated all the time; that when you get to be a State your people will feel entirely free to follow and receive political views from all sources without regard to having been bound together so long? Are they broken up so that they will separate and consider political questions independent of church considerations?

Mr. SMITH. Yes, sir.

Senator STEWART. Have they got far enough for that?

Mr. SMITH. Yes, sir.

Senator STEWART. Have they got so disintegrated from the church, not as a church, but as a political power, that they would be receptive of arguments from any source upon purely political questions, and be open to discussion, and will they establish institutions entirely analogous to the institutions of other States? You think they are in that condition now?

Mr. SMITH. Yes, sir.

Senator STEWART. When it got to that condition, and without any doubt of it, I have always been in favor of statehood. The only reason why I would be opposed to statehood for Utah would be if it would tend to build up a separate institution, and if it felt so hostile to outside influences and teachings from all sources that it would not listen, but would be a close corporation.

Mr. SMITH. My nearest neighbor is a non-Mormon, and singularly is of the same name. My sons and his sons are constantly together; they are at my house and his house. Now, those boys have known each other from childhood. Is it to be presumed that those boys are going to inherit hatreds and animosities of the character which have seemingly existed between us of olden times?

Senator STEWART. I know they naturally grew up from the circumstances, but are they so dissipated that the people would meet and discuss political questions as they do everywhere else, and would they feel free to act as they chose?

Mr. SMITH. Yes, sir. If you had gone through the country you would appreciate that.

Senator FAULKNER. I agree with you.

The CHAIRMAN. If Utah were a State, do you think Mormonism would entirely drop out of civil and political affairs at once?

Mr. SMITH. As much as it would drop out in any community. As you understand, Senator, there is everywhere in religious communities more or less of such effect, as exemplified in regard to prohibition and that sort of thing. But the Mormon people are as independent in action to-day as any body of people in the United States. So far as I or anybody else is concerned, in trying to do that or this by ordering or persuading them to do it, contrary to their judgment, it could not be done.

Senator JONES. Did the church ever exercise such control?

Mr. SMITH. It never did.

Senator JONES. Do you think it would exercise as much control in the future as it has in the past?

Mr. SMITH. What they have done has been because of force of circumstances; they have been driven together as a matter of protection.

Senator JONES. Do you think the church would exercise as much influence in the future as it has in the past?

Mr. SMITH. It could not.

Senator JONES. It has not exercised any influence in the past and can not exercise much in the future.

Mr. SMITH. The influence in the past was an effort to protect themselves.

The CHAIRMAN. The Mormons practically were organized into the People's party?

Mr. SMITH. A great majority of the Mormons.

The CHAIRMAN. That party represented the Mormon ideas and the Mormon aims and purposes, if there were any?

Mr. SMITH. You might say, yes.

The CHAIRMAN. Now, you, as a Mormon, want that party to break up?

Mr. SMITH. Yes, sir.

Mr. BENNETT. It is broken up.

The CHAIRMAN. You want the Mormons to become Republicans and Democrats?

Mr. SMITH. Yes, sir.

The CHAIRMAN. What is your business?

Mr. SMITH. I am a preacher.

Senator FAULKNER. In looking at the view of Senator Stewart I would like to ask you one question. Is it not known to you that the young men connected with the Mormon Church in the Territory in the last year have formed themselves into Democratic and Republican clubs to discuss among themselves the great questions that divide the political parties?

Mr. SMITH. I have assisted in their organization to some extent myself. I have been on the stump, and probably have been as humiliated, occupying the position I do, as anybody could be.

Senator FAULKNER. And that by Mormons of opposite political views?

Mr. SMITH. Yes, sir; the judge knows that.

I trust in the consideration of these problems that you will take this view: Utah has the requisite population; it has an intelligent population, a well educated population. They are a prosperous people. I presume there is no section of the West, were it cut off from every other section, that could so well provide for itself as Utah. It has its sugar mills; it has 200 flour mills; it has 30 woolen factories. Those figures are approximately correct, and I give them as they come to my mind. They

have 3,000 miles of canal; they have already built through this mountainous section anywhere from 10,000 to 15,000 miles of wagon roads. All of these things have been done and are there as monuments to the industry and perseverance of the people. The Mormon and the non-Mormon population are living together in comparative peace. I am an owner in several business enterprises with non-Mormons. Mr. Baskin, the present mayor of Salt Lake, made the statement a little while ago that it would be time enough for the admission of Utah as a State or for home rule when Mormons employed non-Mormons. The Zion Coöperative Mercantile Institution has in its employ 35 non-Mormons. The Coöperative Wagon and Machine Company, owned by Mormons and non-Mormons, is managed by non-Mormons and almost all of its employes are non-Mormons.

Senator CAREY. How is it about your board of trade?

Mr. SMITH. It is composed of all classes of men.

Senator CAREY. How is it divided?

Mr. SMITH. I do not know the proportion.

Senator CAREY. How far south of Salt Lake does the railroad go?

Mr. SMITH. The Denver and Rio Grande goes through Spanish Fork Cañon about 57 miles, where it passes through the Wasatch range and enters Utah Valley.

Senator CAREY. Has the north and south line gone down to Milford?

Mr. SMITH. It is down to Frisco. The Denver and Rio Grande runs up as far as Salina, and I presume it is graded—I was over it during the fall—to what is called and known as Marysvale.

Senator CAREY. I want to ask you one question. The Faulkner bill proposes to put upon the people of Utah the burdens of statehood without any of the good things of statehood. That is as I look upon the bill. I want to ask you this: Does a majority of the people living in the Territory of Utah want the Faulkner bill?

Mr. SMITH. I can not answer that. The instruction from the people through the country to us was that we were to take a decided and determined stand in favor of statehood. They did not want home rule. As to how widespread is the desire for the home-rule bill I can not say.

Senator FAULKNER. What was the vote in the legislature on the memorial of the legislature to Congress asking the enactment of the home-rule bill?

Mr. SMITH. I do not remember the vote. I do not know that I saw how it stood.

Senator CAREY. Was the legislature elected since the home-rule agitation came up?

Mr. SMITH. It was elected before the home-rule agitation came up.

Senator CAREY. How is the legislature divided politically?

Mr. SMITH. I could not say. It is Democratic largely.

Mr. RICHARDS. There are 24 Democrats and 12 Liberals.

Senator STEWART. Has the legislature been elected since you dissolved the People's party?

Mr. SMITH. It was elected in the midst of the dissolution. There was this scare before the people of Utah at that time. There had been some talk in Congress of disfranchising all the people.

Senator CAREY. Where are the Liberals found?

Mr. SMITH. In Salt Lake County and Weber and Summit principally, but I do not suppose there is a county in the Territory that has not its proportion of Liberals.

Senator STEWART. They are opposed to both statehood and the Faulkner bill?