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IN SUPPORT OF THE RESOLUTION REPORTED FROM  
THE COMMITTEE ON PRIVILEGES AND ELECTIONS  
"THAT REED SMOOT IS NOT ENTITLED TO A SEAT  
AS A SENATOR OF THE UNITED STATES FROM THE  
STATE OF UTAH."

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## S P E E C H

OF

HON. JULIUS C. BURROWS,

OF MICHIGAN,

IN THE

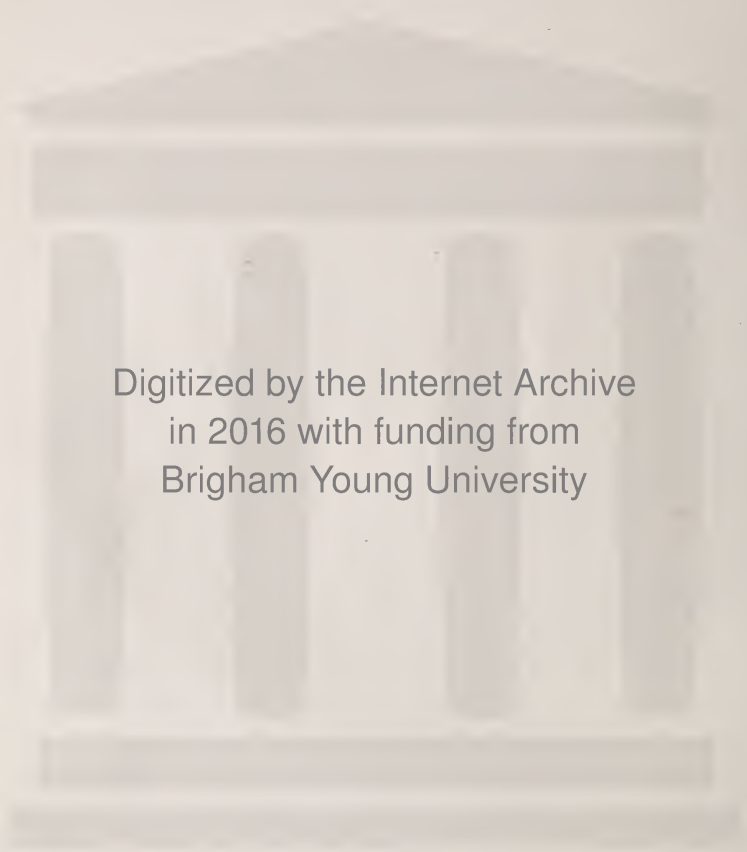
SENATE OF THE UNITED STATES.

Tuesday, December 11, 1906.



WASHINGTON.

1906.



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SPEECH  
OF  
HON. JULIUS C. BURROWS.

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The Senate having under consideration the resolution reported from the Committee on Privileges and Elections, "That REED SMOOT is not entitled to a seat in the Senate as a Senator of the United States from the State of Utah"—

Mr. BURROWS said:

Mr. PRESIDENT: No duty devolving upon the Senate can be more important than that imposed by the fifth section of the first article of the Constitution of the United States, wherein it is provided (touching the Congress) that "Each House shall be the judge of the elections, returns, and qualifications of its own members."

The proper exercise of this power, coupled with that other provision of the Constitution which declares that "Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member," is the only method by which the legitimacy and integrity of this body can be secured and maintained. Whenever, therefore, the right of a Senator to a seat in this Chamber is challenged for any cause, it is incumbent upon the Senate to make investigation and pass judgment upon the issue so raised. No other tribunal is clothed with jurisdiction to try and determine such a controversy.

When the credentials of the Hon. REED SMOOT were laid before the Senate, certifying to his election as a Senator from the State of Utah for the term of six years from the 4th of March, 1903, there was at the same time presented to the Senate a protest against his being, in the language of the remonstrance, "permitted to qualify by taking the oath of office or to sit as a member of the United States Senate."

THE PROTEST.

Subsequently, and on the 5th of March, 1903, conforming to the established practice of the Senate to accord to the holder of a duly authenticated certificate of election the *prima facie* right to admission, the oath of office was administered to Mr. SMOOT and he was admitted to the membership of this body as a Senator from the State of Utah. On the same day the protest against his admission was, by order of the Senate, referred to the Committee on Privileges and Elections. The grounds of such protest are summarized in its preamble as follows:

We protest that Apostle REED SMOOT ought not to be permitted to qualify or take the oath of office or to sit as a member of the United States Senate for reasons affecting the honor and dignity of the United States and their Senators in Congress, and upon the grounds and for the reason that he is one of a self-perpetuating body of fifteen men, who, constituting the ruling authorities of the Church of Jesus Christ of Latter-Day Saints, or Mormon Church, claim, and by their followers are accorded the right to claim, supreme authority, divinely sanctioned, to shape the belief and control the conduct of those under them in all

mat is whatsoever, civil and religious, temporal and spiritual, and who, thus uniting in themselves authority in church and state, do so exercise the same as to inculcate and encourage a belief in polygamy and polygamous cohabitation; who countenance and connive at violations of the laws of the state prohibiting the same, regardless of pledges made for the purpose of obtaining statehood, and of covenants made with the people of the United States, and who, by all means in their power, protect and honor those who in themselves violate the laws of the land and are guilty of practices destructive of the family and the home.

In a further protest, presented to the Senate and referred to the committee, it is charged that—

The oath of office required of and taken by the said REED SMOOT as an apostle of the said church is of such a nature and character as that he is thereby disqualified from taking the oath of office required of a United States Senator.

Later, and on the 27th of January, 1904, the Senate, by resolution, authorized and directed the Committee on Privileges and Elections—

To investigate the right and title of REED SMOOT to a seat in the Senate as a Senator from the State of Utah.

In the execution of this order the Committee on Privileges and Elections proceeded to make inquiry into the various allegations contained in the protests, and generally to comply with the mandate of the Senate—

To investigate the right and title of REED SMOOT to a seat in the Senate as a Senator from the State of Utah.

In the performance of this duty protracted hearings were had, at which more than a hundred witnesses were examined, and the testimony, covering over 3,000 pages of printed matter, has been submitted to the Senate.

Of course it is impossible in the discussion to review in detail before the Senate this great mass of evidence, but the report of the committee sets forth the substance thereof bearing upon the vital issues involved. I shall attempt no more, therefore, than to touch upon the salient points in the case and the evidence relating thereto.

Let me say at the outset, touching the charge that the Senator from Utah is a polygamist, and for that reason disqualified from holding a seat in this body, no evidence was submitted to the committee in support of such allegation, and, so far as the investigation discloses, the Senator stands acquitted of that charge. This relieves the inquiry of its personal character, always distressing, and the Senator stands before the Senate in personal character and bearing above criticism and beyond reproach, and if found disqualified for membership in this body it must be upon other grounds and from other considerations. I propose, therefore, to state as briefly as possible the reasons which impel the majority of the committee to the conclusion reached in their report.

#### HISTORY OF THE MORMON CHURCH.

In passing upon the issue involved it is important, indeed absolutely essential, to an intelligent application of the evidence elicited and the law applicable thereto to recall and hold in mind the accredited facts of history in connection with the organization and development of the Mormon Church, especially that community known as the "Utah Mormons" or "Brighamites," with headquarters at Salt Lake City, presided over by one Joseph F. Smith, recognized and acknowledged by his devotees as "president, prophet, seer, and revelator," and with which organization Senator Smoot is publicly identified as

one of the so-called "apostles," and who, by virtue of his ecclesiastical office therein, occupies a conspicuous place in this Mormon hierarchy.

The regular and legitimate Mormon Church had its origin in and grew out of an alleged discovery of some metallic plates, said to have been found near Palmyra, N. Y., by one Joseph Smith, bearing certain inscriptions which were said to have been translated by him and embodied in what is known and accepted as the "Book of Mormon," belief in which formed, in 1830, the basis of an organization styling itself "The Church of Latter-Day Saints," which for fifteen years increased in membership and extended its influence, until in 1844 it numbered about 50,000 adherents. On the 27th day of June, 1844, Joseph Smith, the founder of this cult, while confined in jail at Carthage, Ill., was set upon by a mob and killed.

With the details of the early history of this people, from 1830 to 1844, and their tenets we have nothing to do. It is sufficient for the purpose of this discussion to state that previous to the death of the prophet there were no dissensions in the organization so far as known, all subscribing to a common creed and holding a common faith. Judge Phillips, in the circuit court of the United States for the western district of Missouri, in delivering the opinion of that court in 1894 in what is known as the "Temple Lot Cases," involving the title to certain real estate, said:

Beyond all cavil, if human testimony is to place any matter at rest, this church was one in doctrine, government, and purpose from 1830 to June, 1844, when Joseph Smith, its founder, was killed. It had the same federal head, governing bodies, and faith. During this period there was no schism, no dissensions, no parting of the ways in any matter fundamental or affecting its oneness.

#### THE REORGANIZED CHURCH.

The death of Joseph Smith in 1844, however, carried dismay and demoralization throughout the entire membership of the Mormon Church, scattering its adherents in divers directions and for the time being seemed to presage the complete overthrow and dissolution of the organization. Recovering, however, from the shock, the scattered bands soon reappeared in various parts of the country and promulgated their doctrines with increased zeal, and set to work to reassemble and reorganize their scattered forces, resulting finally in the formation of what is now known and recognized as the "Reorganized Church of Jesus Christ of Latter-Day Saints," with headquarters at Lamoni, Iowa, and presided over by Joseph Smith, a son of the prophet. The courts have repeatedly declared this organization to be the legitimate successor of the original Mormon Church, and its adherents, numbering some 50,000 peaceable, patriotic, and law-abiding citizens scattered throughout the United States in small church societies, conforming to the laws of their country wherever they may be and adhering to the faith of the founder of their creed, repudiating and denouncing the doctrine of polygamy and its attendant crimes, without temple, endowment house, or secret order, worship in the open like other church organizations, unquestioned and unmolested.

#### BRIGHAM YOUNG'S USURPATION.

During this period of disintegration one Brigham Young, who had identified himself with the Mormon organization as early as 1832, a man of indomitable will and undaunted courage, bold



and unscrupulous, seized upon the occasion of the demoralization incident to the death of the prophet to place himself at the head of some 5,000 Mormons, and marching over desert and mountain, established himself with his adherents in the valley of Salt Lake, July 24, 1847, then Mexican territory, where he undoubtedly indulged the hope that the new doctrine of polygamy about to be publicly proclaimed by him might be promulgated with impunity and practiced and maintained without interference by the United States. These hopes, however, were destined to be blasted, for by the treaty of Guadalupe-Hidalgo of February 2, 1848, this territory passed from the jurisdiction of Mexico to the sovereignty of the United States, and its inhabitants thereupon became amenable to its laws.

Upon this transfer of sovereignty, and in 1849, Brigham Young and his followers, without authority from any source whatever, proceeded to set up a government of their own, embracing a territory of imperial dimensions, christening it the "State of Deseret," electing Brigham Young, the head of the church, governor; Heber C. Kimball, an apostle, lieutenant-governor, and filling all other official positions in the proposed State with their trusted adherents. At the same time a general assembly was chosen, which in 1849 petitioned Congress to admit the "State of Deseret" into the Union, and commissioned a Delegate to the Lower House of Congress, who subsequently presented his credentials and the memorial praying for statehood.

#### EARLY ATTEMPT TO OBTAIN STATEHOOD.

Shortly previous to this time it began to be bruited that the leaders of this organization and founders of the new State were fugitives from justice and apostates from the true Mormon faith and were living in polygamy; and it is an historic fact that when Brigham Young arrived in Salt Lake, in 1847, he had seventeen wives, and all the so-called apostles, twelve in number, except possibly one, from two to twenty wives each. This rumor gained credence and confirmation by a protest against the admission of the State of Deseret sent to the Congress of the United States December 31, 1849, and now on file in its archives, from which I make the following extracts:

Your petitioners respectfully represent that whereas efforts are now being made by the Salt Lake Mormons to obtain, by false representations and fallacious presentations, from the Government of the United States a State organization to be called the State of Deseret; and whereas we believe that it would be highly detrimental to the best interests of our country to comply with their request, we do therefore respectfully petition your honorable body to provide some other way for the government of the Salt Lake settlement. Your petitioners know most assuredly that Salt Lake Mormonism is diametrically in opposition to the pure principles of virtue, liberty, and equality, and that the rulers of the Salt Lake church are bitter and inveterate enemies of our Government. They entertain treasonable designs against the liberties of American freeborn sons and daughters. \* \* \* They have elected Brigham Young, who is the president of their church, to be the governor of the proposed State of Deseret. Their intention is to unite church and state. \* \* \* We have authentic information that more than 1,500 Salt Lake Mormons took the following oath in the Temple of God at Nauvoo:

"You do solemnly swear, in the presence of Almighty God, His holy angels, and these witnesses, that you will avenge the blood of Joseph Smith on this nation, and teach your children, and that you will from this time henceforth and forever begin and carry out hostilities against this nation, and to keep the same intent a profound secret now and forever. So help me God."

The rulers of the Salt Lake church hypocritically pretend to venerate the name and character of the prophet Joseph Smith, that they may retain their popularity among that people who believe that he was

a true prophet. These rulers are apostates from the true Church of Jesus Christ of Latter-Day Saints, which church Joseph Smith was president of. They teach and practice polygamy. \* \* \* Surely your honorable body will not lend your aid to legalize adultery and all manner of wickedness. These men have left their country for their country's good. They have left it that they might escape the punishment which their crimes have invoked. \* \* \* They have been guilty of murders, treason, robbery, counterfeiting, swindling, blasphemy, and usurpation of power, both political and ecclesiastical. This is the character of the man who is the political and ecclesiastical governor of the Salt Lake colony. The Salt Lake settlement is like Sodom and Gomorrah. Save the rising generation of that land from being trained up in such a sink of corruption, blasphemy, and treason.

The practice of polygamy by this band of apostate Mormons received further confirmation in the official report of the Indian agent for the Territory of Utah, dated March 29, 1852, in which it was stated:

Among these men (speaking of the Mormons) was Willard Richards, who kept a harem of some dozen or fifteen women, to all of whom he is wedded. He is acting secretary of state and postmaster of the city.

Upon the presentation of the remonstrance referred to, the National House of Representatives declined to consider the petition for the admission of the "State of Deseret" into the Union, or receive its representative, but in lieu thereof and on the 7th day of September, 1850, Congress passed an act providing for the organization and government of the Territory of Utah. In 1850 President Fillmore appointed Brigham Young governor of the Territory for the term of four years, who entered upon the duties of the office in February, 1851, and thus the chief polygamous saint and head of the church became the chief executive of the Territory. These public and official declarations confirmatory of the rumors of the practice of polygamy by Brigham Young and his apostles made further concealment of their crime impossible, and it became necessary in some way to excuse or justify so flagrant an assault upon public decency and the civilization of the age.

#### THE POLYGAMIC REVELATION.

To that end a special conference of the sect was called to convene at Salt Lake City on the 28th day of August, 1852, over which Brigham Young presided, attended by the so-called apostles and high officials of the church to the number of over 2,000, at which conference, for the first time, the doctrine of polygamy was publicly proclaimed and declared to be an accepted tenet of the Utah Mormon faith. Preliminary to its formal promulgation, and to promote its reception by the followers of Brigham Young, it was deemed expedient that some of the high dignitaries who were associated with him should bear testimony to the saintly character of their master and the divine origin of the nefarious doctrine. To this end Heber C. Kimball, one of the first presidency and a polygamist, in calling the meeting to order, took occasion to say:

Brother Brigham Young is the successor of Joseph Smith and a better man never lived upon the earth, nor ever sought the interest of this people more fervently.

Elder Benson, another polygamist, joined in the laudation by saying:

I know that the principles that have been taught by the Prophet Joseph and Brothers Brigham, Heber, and Willard—

Composing the first presidency—

and by every other good man in this church are correct principles, and that these men have been borne on triumphantly over every trial

and difficulty they have been called to pass through. The elders, therefore, can go to the nations with their consciences as clean as drifting snow, and with the satisfaction that all is right in Zion and we are led by the best men upon the face of the earth. I am glad in my heart, and I say, God bless Brigham, Heber, and Willard. They are the counsel of heaven to this people, and I mean to honor them in the earth wherever I go, and I would preach down in the bowels of hell the same as I do here and not be ashamed of it.

Pandemonium would be a fit place for its promulgation.

My story all the time is, Hurrah for Mormonism. \* \* \* I only throw out these few hints that you may be prepared to act when you receive the proper instructions from your president.

Then came Orson Pratt, one of the oldest and most famous of the apostles and the husband of three wives, who public declared:

It is quite unexpected to me to be called upon to address you on the subject of the plurality of wives. It is rather new ground to the inhabitants of the United States, and not only to them, but a portion of the inhabitants of Europe. A portion of them have not been in the habit of preaching a doctrine of this description; consequently we will have to break up new ground. It is well known, however, to the congregation before me that the Latter-Day Saints have embraced the doctrine of the plurality of wives as a part of their religious faith.

In order to induce his followers more readily to accept this infamous doctrine, Brigham Young himself invoked the name of Joseph Smith, the martyr, whom many sincerely believed to be a true prophet, and ascribed to him the reception of a revelation from the Almighty in 1843, commanding the saints to take unto themselves a multiplicity of wives, limited in number only by the measures of their desires. Why and how this revelation had been kept a secret for nine years Brigham Young explained as follows:

You heard Brother Pratt state this morning that a revelation would be read this afternoon which was given previous to Joseph's death. It contains a doctrine which a small portion of the world is opposed to. Though that doctrine has not been preached by the elders, this people have believed in it for many years.

The original copy of this revelation was burnt up; William Clayton was the man who wrote it from the mouth of the prophet. In the meantime it was in Bishop Whitney's possession. He wished the privilege to copy it, which Brother Joseph granted. Sister Emma burnt the original.

The revelation will be read to you. The principle we believe in. And I tell you—for I know it—it will sail over and ride triumphantly above all the prejudice and priestcraft of the day; it will be fostered and believed in by the more intelligent portions of the world as one of the best doctrines ever proclaimed to any people. I am now ready to proclaim it.

This revelation has been in my possession many years; and who has known it? None but those who should know it. I keep a patent lock on my desk, and there does not anything leak out that should not.

Such the mythical story palmed off on a deluded people. Let me now quote the material part of the pretended revelation of polygamy as given out by authority of Brigham Young in 1852:

Verily, thus saith the Lord unto his servant Joseph: \* \* \* behold and lo, I am the Lord thy God \* \* \* therefore prepare thy heart to receive and obey the instructions which I am about to give unto you, for all those who have this law revealed unto them must obey the same, for behold, I reveal unto you a new and everlasting covenant, and if ye abide not that covenant, then are ye damned; for no one can reject this covenant and be permitted to enter into my glory; \* \* \* and as pertaining to the new and everlasting covenant, it was instituted for the fullness of my glory, and he that receiveth a fullness thereof must and shall abide the law or he shall be damned, saith the Lord God. And again, as pertaining to the law of the priesthood, if any man espouse a virgin and desire to espouse another, and the first give her consent, and if he espouse the second, and they are virgins and have



vowed to no other man, then is he justified. He can not commit adultery, for they are given unto him, for he can not commit adultery with that that belongeth to him and to none else; and if he have ten virgins given unto him by this law he can not commit adultery, for they belong unto him and are given unto him; therefore is he justified.

Thus did Brigham Young and his associates attempt to explain and justify a practice revolting to every sense of public decency, subversive of the home, and destructive of the very foundations of society. Thus were laid with unholy hands what Brigham Young was pleased to call the foundations of "Zion," upon which it was proposed to erect "the kingdom of God on earth." But a doctrine so monstrous needed something more than the unsupported testimony of Brigham Young to insure its reception and give it credence, in view of the fact that it had no warrant in the Book of Mormon and was specially condemned in the book of "Doctrines and Covenants," wherein it is declared "One man should have one wife, and one woman but one husband." To give this creed the semblance of authority and insure its permanency as an article of this Utah Mormon faith the doctrine of monogamy was torn from the book of "Doctrines and Covenants," and the doctrine of polygamy inserted in its stead, where it is still retained as a cardinal principle of the Utah Mormon faith. In this way was the practice of polygamy inaugurated in the Territory of Utah and fostered and encouraged by the leaders of this sect.

#### DOMINATION BY HIERARCHY.

The subsequent history of this community is too familiar to justify extended review. From the hour they took possession of the territory in 1847 the domination of this Mormon hierarchy in civil as well as so-called "religious" affairs has been absolute and supreme, and there was then inaugurated and carried on for over forty years a carnival of crime in this Territory unexampled in the history of a civilized state. The armies of the United States were forbidden to come within its borders; Federal judges and other Government officials were driven from the Territory; the statutes of the United States spurned and trampled on; the ministers of the law insulted and defied; lawlessness ran riot and there was no authority in the Territory respected or enforced but that of the Mormon hierarchy. The conditions at this time can not be more accurately or graphically described than in the report of the chief justice and the associate justice of the supreme court of the Territory, who, unable to discharge their functions, were compelled to fly from the Territory, stating in their report to the President of the United States, December 19, 1851:

It becomes our duty as officers of the United States for the Territory of Utah to inform the President that we have been compelled to withdraw from the Territory and our official duties in consequence of an extraordinary state of affairs existing there which rendered the performance of those duties not only dangerous, but impracticable, and a longer residence in the Territory, in our judgment, incompatible with a proper sense of self-respect and the high regard due to the United States. We have been driven to this course by the lawless acts and the hostile and seditious feelings and sentiments of Brigham Young, the executive of the Territory, and the great body of the residents there, manifested toward the Government and officers of the United States in aspersions and denunciations so violent and offensive as to set at defiance not only a just administration of the laws, but the rights and feelings of citizens and officers of the United States residing there. To enable the Government to understand more fully the unfortunate condition of affairs in that Territory, it will be necessary to explain the extraordinary religious organization existing there, its unlimited pretensions, influence, and power, and to enter into a disagreeable detail

of facts, and the language and sentiments of the governor and others high in authority toward the Government, people, and officers of the United States.

We found upon our arrival that almost the entire population consisted of a people called "Mormons," and the Mormon Church overshadowing and controlling the opinions, the actions, the property, and even the lives of its members; usurping and exercising the functions of legislation and the judicial business of the Territory; organizing and commanding the military; disposing of the public lands upon its own terms; coining money and forcing its circulation; openly sanctioning and defending the practice of polygamy or plurality of wives; exacting the tenth part of everything from its members under the name of tithing, and enormous taxes from citizens not members; penetrating and supervising the social and business circles and inculcating and requiring as an article of religious faith implicit obedience to the counsels of the church as paramount to all the obligations of morality, society, allegiance, and of law. At the head of this formidable organization stood Brigham Young, the governor, claiming and represented to be the prophet of God, and his sayings as direct revelation from heaven, commanding thereby unlimited sway over the ignorant and credulous.

The report then recites a long catalogue of declarations of hostility to the General Government by Brigham Young, from which I take the following:

Zachary Taylor is dead and in hell, and I am glad of it. And I prophesy by the power of the priesthood that is upon me that any President of the United States who lifts his finger against this people shall die an untimely death and go to hell. \* \* \* The United States officers may remain in the Territory so long as they behave themselves and pay their board, but if they do not they would kick them to hell, where they belong. \* \* \* That he had ruled that people for years and could rule them again, and he would kick any man out of the Territory who would dictate to or advise him of his duty.

A professor of the University of Deseret declared:

The Government of the United States is a stink in the nostrils of Jehovah. \* \* \* We can save it by theocracy, but rather than save it by any other way, we will see it damned first.

The report concludes:

The governor has been accustomed to enter the legislative hall under the provisional State government and dictate what laws should and should not be passed, and enter the court and jury rooms and dictate what verdict should be rendered, and he has given us ample evidence that he was equally omnipotent and influential with the Mormon people under the Territorial government.

It is impossible for any officer to perform his duty or execute any law not in sympathy with their views as the Territory is at present organized. \* \* \* No man dare open his mouth in opposition to their lawless exactions without feeling its effects upon his liberty, his business, or his life. And thus, upon the soil of the United States, and under the broad folds of its Stars and Stripes, which protect him in his rights in every part of the civilized world, there is a spot where the citizen is browbeaten and despoiled of his liberties as a free man by a religious despotism.

We deem it our duty to state, in this official communication, that polygamy, or plurality of wives, is openly avowed and practiced in the Territory, under the sanction and in obedience to the direct commands of the church. So universal is this practice that very few, if any, leading men in that community can be found who have not more than one wife each. The prominent men in the church, whose example in all things it is the ambition of the more humble to imitate, have each many wives—some of them, we were credibly informed and believe, as many as twenty or thirty, and Brigham Young, the governor, even a greater number. It is not uncommon to find two or more sisters married to the same man, and in one instance, at least, a mother and her two daughters are among the wives of a leading member of the church. This practice, regarded and punished as a high and revolting crime in all civilized countries, would, of course, never be made a statutory offense by a Mormon legislature; and if a crime at common law, the courts would be powerless to correct the evil with Mormon juries.

Such was the deplorable condition of affairs in the Territory of Utah in 1851.

## HOSTILITY TO THE UNITED STATES.

When, in 1857, the President of the United States determined upon the removal of Brigham Young from the office of governor of the Territory, the newly appointed executive deemed it prudent to proceed to his post of duty with a military escort, whereupon Brigham Young declared that the newly appointed governor should not administer the office, and it became necessary to increase the military force and place it under the command of Col. Albert Sidney Johnston. The then Secretary of War, Mr. Floyd, in his annual report dated December 5, 1857, set forth the condition of affairs in this Territory as follows:

From the first hour they fixed themselves in that remote and almost inaccessible region of our territory, from which they are now sending defiance to the sovereign power, their whole plan has been to prepare for a successful secession from the authority of the United States and a permanent establishment of their own.

President Buchanan, in his message to Congress of December 8, 1857, explanatory of his official acts in connection with the government of Utah, said:

As Chief Magistrate I was bound to restore the supremacy of the Constitution and laws within its limits. In order to effect this purpose I appointed a new governor and other Federal officers for Utah, and sent with them a military force for their protection and to aid as a posse comitatus in case of need in the execution of the laws. \* \* \* Whilst Governor Young has been both governor and superintendent of Indian affairs \* \* \* he has been at the same time head of the church called the "Latter-Day Saints," and professes to govern its members and dispose of their property by direct inspiration and authority from the Almighty. His power has been therefore absolute over the church and state. \* \* \* All the officers of the United States, judicial and executive, with the exception of two Indian agents, have found it necessary for their personal safety to withdraw from the Territory, as there no longer remains any government in Utah but the despotism of Brigham Young.

Thus did it come to pass that after ten years of the domination of the Mormon hierarchy in Utah the President of the United States was constrained to make the startling announcement in his annual message to Congress that there no longer remained any government in the Territory of Utah but the "despotism of Brigham Young." He ruled supreme. Pretending to be the vicegerent of the Almighty, he defied the Government of the United States and played upon the passions, prejudices, and fears of the people until he held complete mastery over the lives and fortunes of his deluded followers.

## LEGISLATION AGAINST POLYGAMY.

This declaration of President Buchanan in 1857 aroused the Congress and the country to the necessity of taking some steps to suppress this crime and relieve the people of Utah from the domination of so despotic a power. To this end numerous measures were promptly introduced in both Houses of Congress looking to the accomplishment of such purpose, but not until 1862 was an act passed defining the crime of bigamy and punishing persons adjudged guilty of such offense in any of the Territories of the United States by a fine not exceeding \$500 or by imprisonment for a term not exceeding five years, and at the same time annulling all acts and laws of the legislative assembly of the Territory of Utah "which establish, support, maintain, shield, or countenance the practice of polygamy, evasively called 'spiritual marriage,' however disguised by legal or ecclesiastical solemnities, sacraments, ceremonies, or other contrivances;" and, further, annulling the ordinance



incorporating the Church of Jesus Christ of Latter-Day Saints, and making it unlawful for any corporation or association for religious or charitable purposes to acquire or hold real estate in any Territory of the United States of a greater value than \$50,000, forfeiting and escheating to the United States all holdings by such corporation in excess of such value. This comprehensive measure remained, however, for many years a dead letter. The great issues of the civil war and the problems growing out of that conflict overshadowed and obscured for the time being all other questions of domestic concern, and for twenty years the act of 1862 was disregarded and defied, while the hierarchy continued its unrestrained debauchment and despotic sway. No sooner, however, had the storm of war passed and the calm of peace returned than the attention of Congress and the country was again directed by several Presidents of the United States to the continued existence of the criminal practices in the Territory of Utah.

President Grant, in his third annual message, submitted to Congress December 4, 1871, said:

In Utah there still remains a remnant of barbarism, repugnant to civilization, to decency, and to the laws of the United States. Neither polygamy nor any other violation of existing statutes will be permitted within the territory of the United States. It is not with the religion of the self-styled saints that we are now dealing, but with their practices. They will be protected in their worship of God according to the dictates of their consciences, but they will not be permitted to violate the laws under the cloak of religion.

In his fourth annual message, of December 2, 1872, in referring to the Territories, he said:

In but one of them (Utah) is the condition of affairs unsatisfactory. \* \* \* It has seemed to be the policy of the legislature of Utah to evade all responsibility to the Government of the United States, and even to hold a position in hostility to it. I recommend a careful revision of the present laws of the Territory by Congress and the enactment of such a law as will secure peace, the equality of all citizens before the law, and the ultimate extinguishment of polygamy.

And again, in his seventh annual message, December 8, 1875, President Grant said:

In nearly every annual message that I have had the honor of transmitting to Congress I have called attention to the anomalous, not to say scandalous, condition of affairs existing in the Territory of Utah, and have asked for definite legislation to correct it. That polygamy should exist in a free, enlightened, and Christian country without the power to punish so flagrant a crime against decency and morality seems preposterous. True, there is no law to sustain this unnatural vice, but what is needed is a law to punish it as a crime. \* \* \* But as an institution polygamy should be banished from the land.

President Hayes, in his fourth annual message, December 6, 1880, said:

It is the recognized duty and purpose of the people of the United States to suppress polygamy where it now exists in our Territories and to prevent its extension. The longer action is delayed the more difficult it will be to accomplish what is desired. Prompt and decided measures are necessary. The Mormon sectarian organization, which upholds polygamy, has the whole power of making and executing the local legislation of the Territory. By its control of the grand and petit juries it possesses large influence over the administration of justice. Exercising, as the heads of this sect do, the local political power of the Territory, they are able to make effective their hostility to the law of Congress on the subject of polygamy and, in fact, to prevent its enforcement. Polygamy will not be abolished if the enforcement of the law depends on those who practice and uphold the crime. It can only be suppressed by taking away the political power of the sect which encourages and sustains it.

The power of Congress to enact suitable laws to protect the Terri-



teries is ample. It is not a case for halfway measures. The political power of the Mormon sect is increasing. It controls now one of our wealthiest and most populous Territories. It is extending steadily into other Territories. Wherever it goes it establishes polygamy and sectarian power. The sanctity of marriage and the family relation are the corner stone of our American society and civilization. Religious liberty and separation of church and state are among the elementary ideas of free institutions. To reestablish the interests and principles which polygamy and Mormonism have imperiled and to fully reopen to intelligent and virtuous immigrants of all creeds that part of our domain which has been in a great degree closed to general immigration by intolerant and immoral institutions, it is recommended that the Territory of Utah be reorganized.

President Garfield, in his inaugural address, March 4, 1881, said:

The Mormon Church not only offends the moral sense of mankind by sanctioning polygamy, but prevents the administration of justice through ordinary instrumentalities of law.

He expressed the opinion that Congress should prohibit polygamy, and not allow—

any ecclesiastical organization to usurp in the smallest degree the functions and power of the National Government.

In 1881, President Arthur, in his annual message to Congress, called attention to the continued practice of polygamy in the Territory of Utah in the following language:

For many years the Executive, in his annual message to Congress, has urged the necessity of stringent legislation for the suppression of polygamy in the Territories, and especially in the Territory of Utah. The existing statute for the punishment of this odious crime, so revolting to Christendom, has been persistently and contemptuously violated ever since its enactment. Indeed, in spite of the commendable efforts on the part of the authorities who represent the United States in that Territory, the law has in very rare instances been enforced and, for a cause to which reference will presently be made, is practically a dead letter. The fact that adherents of the Mormon Church, which rests upon polygamy as its corner stone, have recently been settling in large numbers in Idaho, Arizona, and other of the Western Territories, is well calculated to excite the greatest interest and apprehension. It imposes upon Congress and the Executive the duty of arraying against this barbarous system all the power which under the Constitution and the laws they can wield for its destruction.

Following this suggestion of President Arthur, Senator Edmunds introduced a bill to amend the act of July 1, 1862, which was passed by Congress and approved March 22, 1882. This act, known as the "Edmunds law," was the most drastic yet proposed, and struck a deadly blow at the very root of the evil. It made bigamy, polygamy, and polygamous cohabitation crimes punishable by fine and imprisonment; it excluded from the jury box on the trial of any person charged with the violation of such act every person who had been, or was then, living in violation of this statute, or who believed in the rightfulness of the acts prohibited; it disfranchised all persons who were guilty of violating the provisions of such enactment, and rendered them ineligible for election or appointment to any office and disqualified them from holding any place of public trust, honor, or emolument in such Territory or under the United States; it vacated all the registration offices in the Territory of Utah, and imposed upon a commission of five persons appointed by the President of the United States and confirmed by the Senate all the duties relating to the registration of voters, the conduct of elections, and the canvass and declaration of the result. In other words, it practically took into its own hands, through its own official instrumentalities, the entire ad-

ministration of the affairs of that Territory. Upon the passage of this act, instead of conforming to its provisions and yielding obedience to its mandates, the Utah hierarchy made open war against it, and under date of October 6, 1885, issued the following pronouncement:

An epistle from the first presidency to the officers and members of the Church of Jesus Christ of Latter-Day Saints.

The war is openly and undisguisedly made upon our religion. \* \* \* We did not reveal celestial marriage. We can not withdraw or renounce it. God revealed it, and he has promised to maintain it and to bless those who obey it. Whatever fate then may threaten us there is but one course for men of God to take—that is, to keep inviolate the holy covenants they have made in the presence of God and angels. For the remainder, whether it be life or death, freedom or imprisonment, prosperity or adversity, we must trust in God. We may say, however, if any man or woman expects to enter into the celestial kingdom of our God without making sacrifices and without being tested to the very uttermost, they have not understood the gospel. \* \* \* Upward of forty years ago the Lord revealed to his church the principle of celestial marriage. \* \* \* "For, behold, I reveal unto you a new and everlasting covenant; and if ye abide not that covenant, then are ye damned; for no one can reject this covenant and be permitted to enter into my glory." Who would suppose that any man in this land of religious liberty would presume to say to his fellow-man that he had no right to take such steps as he thought necessary to escape damnation? Or that Congress would enact a law which would present the alternative to religious believers of being consigned to a penitentiary if they should attempt to obey a law of God which would deliver them from damnation?

We find in this epistle, denunciatory of the Edmonds law, a reassertion of the dogma of polygamy that it was of divine origin and believed in and practiced as a part of the Utah Mormon creed. The act of 1882, designed to suppress these crimes, continued to be openly or secretly violated and the practice of polygamy and polygamous cohabitation among this sect continued unabated, and every device which the ingenuity of man could discover was employed to prevent the enforcement of the law and shield its violators from punishment. After another five years of forbearance and national humiliation it became manifest that some more drastic measure must be enacted to insure the suppression of these crimes, to which end, in 1887, Congress passed what was known as the Edmunds-Tucker law, strengthening and enlarging the acts of 1862 and 1882 by providing, among other things, that in any prosecution for bigamy, polygamy, or unlawful cohabitation, under any statutes of the United States, the lawful husband or wife of the person accused shall be a competent witness; that in any such prosecution an attachment for witnesses may be issued in the first instance without a previous subpoena; it punished persons convicted of adultery by imprisonment in the penitentiary; it defined the crime of incest and provided adequate punishment therefor; it annulled all laws of the legislative assembly of the Territory of Utah which provided that prosecutions for adultery could only be commenced on complaint of the husband or wife; it empowered the marshal of the Territory and his deputy to cause all offenders against the law, in his view, to enter into recognition to keep the peace and appear at the next term of the court having jurisdiction of the case; it required every ceremony of marriage of any kind to be authenticated by a certificate stating the fact and nature of the ceremony, the full names of the parties and of every officer, priest, or person taking part in the performance of such ceremony, and signed by the parties to such ceremony and by every person taking part in the same,

such certificate to be filed in the office of the probate court and immediately recorded, and a failure to comply with the requirements of this act to be punished by fine and imprisonment.

It made it the duty of the Attorney-General of the United States to institute and prosecute proceedings to forfeit and escheat to the United States the property of corporations obtained or held in violation of the act of 1862 (which act, it will be remembered, made the holding in excess of \$50,000 of real estate unlawful), such property so forfeited and escheated to be disposed of and the proceeds applied to the use and for the benefit of the common schools in the Territory; it disapproved and annulled all laws of the legislative assembly of the State of Deseret, creating the "Perpetual Emigration Fund Company" and prohibited the legislative assembly of the State of Utah from reviving such corporation, or passing any law to accomplish the bringing of persons into the Territory for any purpose whatever, and directed the Attorney-General of the United States to institute proceedings in the supreme court of the Territory to carry the act into effect and pay the debts and dispose of the assets of such corporation according to law, the surplus, if any, to be escheated to the United States and expended for the benefit of the common schools of the Territory; it authorized and directed the Attorney-General of the United States to take the necessary proceedings to wind up the affairs of the corporation, known as the "Church of Jesus Christ of Latter-Day Saints" according to law; it conferred upon the President the power to appoint all probate judges within the Territory of Utah and annulled all legislative acts providing for their election by the legislature; it took from the women of the Territory the right of suffrage, and annulled all acts of the Territorial assembly authorizing the registration and voting of females; it imposed upon every lawful voter as a condition precedent to his right to register or vote or hold office in the Territory of Utah, the taking of an oath, not only to support the Constitution of the United States and obey the laws, especially the acts of 1862 relating to bigamy, and this act in relation to the crimes defined and forbidden, and provided further that no person who shall have been convicted of any crime under this act, or previous acts of Congress, or who shall be a polygamist or cohabit polygamously with another, shall be entitled to vote at any election in the Territory, or serve on a jury, or hold any office of trust or profit; it annulled all laws looking to the organization or maintenance of the Nauvoo Legion and declared that the militia of the Territory should be subject to the laws of the United States; and in a word, this community of polygamists and lawbreakers were practically denied all participation in the government of the Territory of Utah and the entire administration of affairs taken charge of by the Government of the United States.

This series of enactments by the National Government was so sweeping and drastic as to carry conviction to the minds of the leaders of this Mormon community that the National Government had finally determined to enforce obedience to its authority and uproot and utterly destroy the last vestige of this "twin relic of barbarism." Doomsday had come for this abomination and the hierarchy saw no possible avenue of escape except through the intervention of the courts of the United States, which, it was hoped, would pronounce these enactments an in-



fringement of that provision of the Constitution which declares that "Congress shall make no law respecting the establishment of religion or prohibit the free exercise thereof." It was contended then, as it is by some to-day, that polygamy and polygamous cohabitation are religious rites with which the National Government has no power to interfere. But this contention was summarily disposed of by the Supreme Court of the United States in several cases, particularly the case of the Mormon Church *v.* The United States, 136 U. S. Supreme Court Reports, page 1, which tore the mask from this hypocritical pretense and exposed it to public scorn and contempt. I beg to quote the opinion of the court, delivered by Justice Bradley:

It is unnecessary here to refer to the past history of the sect, to their defiance of the Government authorities, to their attempt to establish an independent community, to their efforts to drive from the Territory all who were not connected with them in communion and sympathy. The tale is one of patience on the part of the American Government and people and of contempt of authority and resistance to law on the part of the Mormons. Whatever persecutions they may have suffered in the early part of their history, in Missouri and Illinois, they have no excuse for their persistent defiance of law under the Government of the United States.

One pretense for this obstinate course is that their belief in the practice of polygamy, or in the right to indulge in it, is a religious belief, and therefore under the protection of the constitutional guaranty of religious freedom. This is altogether a sophistical plea. No doubt the thugs of India imagined that their belief in the right of assassination was a religious belief; but their thinking so did not make it so. The practice of suttee by the Hindoo widows may have sprung from a supposed religious conviction. The offering of human sacrifices by our own ancestors in Britain was, no doubt, sanctioned by an equally conscientious impulse. But no one on that account would hesitate to brand these practices now as crimes against society, and obnoxious to condemnation and punishment by the civil authority.

\* \* \*

Then, looking at the case as the finding of facts presents it, we have before us—Congress had before it—a contumacious organization wielding by its resources an immense power in the Territory of Utah and employing those resources and that power in constantly attempting to oppose, thwart, and subvert the legislation of Congress and the will of the Government of the United States. \* \* \*

Notwithstanding the stringent laws which have been passed by Congress, notwithstanding all the efforts made to suppress this barbarous practice, the sect or community composing the Church of Jesus Christ of Latter-Day Saints perseveres, in defiance of law, in preaching, upholding, promoting, and defending it.

It is a matter of public notoriety that its emissaries are engaged in many countries in propagating this nefarious doctrine and urging its converts to join the community in Utah. The existence of such a propaganda is a blot on our civilization. The organization of a community for the spread and practice of polygamy is, in a measure, a return to barbarism. It is contrary to the spirit of Christianity and to the civilization which Christianity has produced in the western world. The question therefore is whether the promotion of such a nefarious system and practice, so repugnant to our laws and to the principles of our civilization, is to be allowed to continue by the sanction of the Government itself.

#### THE MANIFESTO AGAINST POLYGAMY AND POLYGAMOUS COHABITATION.

These several statutes to which I have referred, following each other in quick succession, each more drastic than the preceding, and all adjudged constitutional by the Supreme Court of the United States, brought the hierarchy to a realizing sense of its impotency to longer contend against the authority of the United States, and it therefore made haste to find some way to save its members from imprisonment and their property from confiscation. To this end the head of the church bowed at last in submission to the National Government and in 1890 promulgated what is known as the "manifesto," advising his followers



to submit to the laws and refrain from further violation, the material portion of which is as follows:

To whom it may concern: Inasmuch as laws have been enacted by Congress forbidding plural marriage, 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. \* \* \* And I now publicly declare that my advice to the Latter-Day Saints is to refrain from contracting any marriages forbidden by the law of the land.

This manifesto was signed by "Wilford Woodruff, president of the Church of Jesus Christ of Latter-Day Saints."

This proclamation, emanating from so commanding a source and communicated to a people taught to believe that their prophet was the inspired "mouthpiece of God," was expected to command prompt and implicit obedience by the entire Mormon community, and the hope was indulged and belief engendered in the public mind that at last the Utah hierarchy and its adherents would abandon the infamous practice of polygamy and polygamous cohabitation and conform to the mandates of the law and the spirit of the manifesto and that this foul blot upon our civilization was about to be forever removed.

#### PRAYER FOR AMNESTY.

This gratifying expectation was greatly strengthened by the prompt action of the first presidency and the twelve apostles in presenting to the President of the United States in 1891, the year following the manifesto, a petition humbly imploring amnesty for themselves and their followers and restoration to all their rights and privileges as citizens. This petition, asking immunity for the past and plighting their honor and faith for the future, was couched in such humble terms as to inspire confidence in their sincerity and a measure of sympathy for their misguided followers. The material part of the petition is as follows:

We, the first presidency and apostles of the Church of Jesus Christ of Latter-Day Saints, beg, respectfully, to present to your Excellency the following facts: We formerly taught our people that polygamy, or celestial marriage, 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. 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 \* \* \* still felt that their lives and their honor as men were pledged to a vindication of their faith. \* \* \* Following this conviction, hundreds endured arrest, trial, fine, and imprisonment. More, the Government added disfranchisement to other punishments of those who clung to their faith and fulfilled its covenants. 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, \* \* \* 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 law. Our people are scattered, homes are made desolate, many are still imprisoned, others are banished or in hiding. \* \* \* 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.

This petition was signed by the first presidency, composed of Wilford Woodruff as president, and his two counselors, George Q. Cannon and Joseph F. Smith, the present head of the church, and ten of the twelve apostles.

This cry for amnesty appealed to the generous impulses of

President Harrison, who, on the 4th of January, 1893, issued the following proclamation:

Whereas Congress by a statute approved March 22, 1882, and by statutes in furtherance and amendment thereof defined the crimes of bigamy, polygamy, and unlawful cohabitation in the Territories and other places within the exclusive jurisdiction of the United States and prescribed a penalty for such crimes; and

Whereas on or about the 6th day of October, 1890, the Church of the Latter-Day Saints, commonly known as the Mormon Church, through its president issued a manifesto proclaiming the purpose of said church no longer to sanction the practice of polygamous marriages, and calling upon all members and adherents of said church to obey the laws of the United States in reference to said subject-matter; and

Whereas it is represented that since the date of said declaration the members and adherents of said church have generally obeyed said laws and have abstained from plural marriages and polygamous cohabitation; and

Whereas by a petition dated December 19, 1891, the officials of said church, pledging the membership thereof to a faithful obedience to the laws against plural marriage and unlawful cohabitation, have applied to me to grant amnesty for past offenses against said laws \* \* \*;

Now, therefore, I, Benjamin Harrison, President of the United States, by virtue of the powers in me vested, do hereby declare and grant a full amnesty and pardon to all persons liable to the penalties of said act by reason of unlawful cohabitation under the color of polygamous or plural marriage who have since November 1, 1890, abstained from such unlawful cohabitation, but upon the express condition that they shall in the future faithfully obey the laws of the United States hereinbefore named, and not otherwise. Those who shall fail to avail themselves of the clemency hereby offered will be vigorously prosecuted.

Subsequently, and on the 25th of September, 1894, President Cleveland issued a similar proclamation, excepting, however, from its benefits—

All persons who have not complied with the conditions contained in the Executive proclamation of January 4, 1893.

These pleas for amnesty were granted, prison doors opened, church property restored, all disabilities resulting from violation of law removed, and it was confidently hoped that the people of Utah, under this later dispensation, by conforming to the mandates of the law and the civilization of the age, would enter upon a new era of peace, order, and prosperity. But the plans of the hierarchy were not yet fully realized, and would not be until the territory had escaped from Federal domination by securing the freedom of statehood, and the time seemed opportune for such a consummation.

#### ADMISSION OF UTAH AS A STATE.

Previous to this and during all the years of Utah's Territorial existence efforts were repeatedly made to escape the direct domination of the National Government by securing admission into the Federal Union. If my recollection serves me correctly, at least half a dozen attempts were made to secure statehood previous to 1890, all of which proved abortive, for the reason that the people of the Territory under the domination of the Mormon hierarchy were not obedient to the laws of the United States—were not law-abiding citizens—and therefore not regarded fit to be intrusted with self-government. After the manifesto of 1890 and the general amnesty following, and the liberal spirit which seemed to have taken possession of the public mind, the effort for statehood was renewed, and as early as 1892, only two years after the manifesto, a movement was inaugurated to that end and followed

with such persistency that two years later an enabling act was passed, and in 1896 Utah was admitted into the Union as a sovereign State.

And thus was the prophecy of Brigham Young fulfilled:

Do not be discouraged by your repeated failures to get into the Union as a State. We shall succeed, we shall pull the wool over the eyes of the American people and make them swallow Mormonism, polygamy and all.

We shall drop the old issue between the Mormons and the Liberals in Utah, ally ourselves with the two great national parties, dividing ourselves about equally, so as to fall in with the one in power. We don't know and we don't care about the issue. We must be at peace with them in order to get into the Union. After that we can snap our fingers in their faces, restore the good old times when we dwelt undisturbed in these valleys of the mountains, and cast out devils as we used to do.

Thus was consummated in the brief period of six years what nearly half a century had failed to secure. No stronger proof of public confidence in the sincerity of these people could possibly have been given. However, to make assurance doubly sure that the hierarchy would keep faith with the nation, it was provided, among other things, in the enabling act of July 16, 1894, that—

The constitution shall be republican in form, and shall provide by ordinance irrevocable without the consent of the United States and the people of said State;

That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship, provided that polygamous or plural marriages are forever prohibited.

Subsequently, and when the constitution was framed, these requirements of the enabling act were embodied in the constitution of the State, coupled with the further provision that—

There shall be no union of church and state, nor shall any church dominate the State nor interfere with its functions—

under which constitution, thus framed and ratified by the people, Utah was admitted to the freedom of statehood. Following her admission, the usual steps were taken to set the machinery of the State government in motion and to adjust it to its new relations as a member of the Federal Union. To this end, State and Federal officials were elected from time to time, when, on the 26th of January, 1903, the governor of the State certified that on the 21st day of January, 1903—

REED SMOOT was duly chosen by the legislature of Utah to represent said State in the Senate of the United States for a term of six years from March 4, 1903.

It is concerning this election that protest was made, and the Committee on Privileges and Elections ordered to "investigate the right and title of REED SMOOT to a seat in the Senate as a Senator from the State of Utah." Such investigation, your committee, after patient and protracted hearings, has concluded, and submits the result of its deliberations to the judgment of the Senate.

The issues involved in the controversy are fully set forth in the protest submitted to the Senate and referred to your committee, constituting the basis of the committee's inquiries. The gravamen of the charge in the protest against the senior Senator from Utah is not that he is an adherent of the Mormon Church (for church affiliation is a matter of free individual choice), but—

that he is one of a self-perpetuating body of fifteen men, who, constituting the ruling authorities of the Church of Jesus Christ of Latter-



Day Saints, or "Mormon Church," claim, and by their followers are accorded the right to claim, supreme authority, divinely sanctioned, to shape the belief and control the conduct of those under them in all matters whatsoever—civil and religious, temporal and spiritual—and who thus, uniting in themselves authority in church and state, do so exercise the same as to inculcate and encourage a belief in polygamy and polygamous cohabitation, who countenance and connive at violations of the laws of the State prohibiting the same, regardless of pledges made for the purpose of obtaining statehood, and of covenants made with the people of the United States, and who by all means in their power protect and honor those who with themselves violate the laws of the land and are guilty of practices destructive of the family and the home.

#### SUBSTANCE OF THE CHARGES.

These charges may be epitomized as follows: That Senator Smoot is disqualified from holding a seat in the Senate of the United States for the reason—

First. That at the time of his election the State of Utah and the legislature thereof were under the complete domination of the Mormon hierarchy, of which he is a member, and that such hierarchy so far "interfered with the functions of the State" as to secure the election of one of its own members and an apostle, and that his certificate of election by the legislature was only the recorded edict of the hierarchy in defiance of the constitutional inhibition that "no church shall dominate the state nor interfere with its functions."

Second. That this Mormon hierarchy, of which the Senator is a conspicuous member, inculcates and encourages belief in and the practice of polygamy and polygamous cohabitation in violation of the laws of the State prohibiting the same and in disregard of pledges made for its suppression; and

Third. That the Senator, in connection with and as a member of such organization, has taken an oath of hostility to the Government of the United States incompatible with his obligation as a Senator.

These are the main grounds upon which his exclusion is sought, each of which I propose to discuss in the order named.

Touching the question of the domination of this organization through its governing body in political affairs and its "interference with the functions of the State," in spite of the constitutional inhibition, the evidence is most convincing. Before proceeding, however, to its consideration, and in order to measure its full force, it is important to bear in mind the dominating power of the president and the twelve apostles and the influence they exert over their followers. The power exercised by this governing body, which, for brevity, is designated "The hierarchy," is far-reaching and commanding, holding in its grasp practically the entire membership of the organization and through it the domination of the State, by arrogating to itself and inculcating the belief in its followers that they are endowed with supernatural powers as "prophets, seers, and revelators," and specially commissioned by the Almighty to dominate the affairs of this world, and that resistance to the will of this theocracy is rebellion against God.

#### AUTHORITY OF THE PRIESTHOOD.

The testimony taken by your committee fully sustains the allegation in the protest, "That the Mormon priesthood, according to the doctrines of that church, is vested with supreme authority in all things temporal and spiritual; and that the first presidency and the twelve apostles are supreme in the



exercise and transmission of the mandates of this authority." The following citations will serve to substantiate the truth of this allegation:

Brigham H. Roberts, author of *The New Witness for God*, declares:

Men who hold the priesthood possess divine authority to act for God, and by possessing part of God's power they are in reality part of God. Men who honor the priesthood in them honor God, and those who reject it reject God.

The very day and hour the church was organized the Lord constituted the president of the church its prophet, seer, and lawgiver, strictly commanding the church to give heed to all his words and commandments which he shall give unto you, for his words, saith the Lord, ye shall receive as if from mine own mouth, in all patience and faith.

By the term "oracle" is meant the leaders of the church, the president and the apostles. The word of the living oracles is revelation, is the same as if God had spoken himself.

The priesthood organization, as viewed by the first presidency, is the divinely authorized and exclusive channel of communication between God and mankind.

The obligations imposed upon those who hold the high order of the priesthood require absolute obedience to the first presidency, not only as to religious and spiritual things, but also those that are civil and political.

Wilford Woodruff, at one time president of the church, declared:

Now, whatever I might have obtained in the shape of learning by searching and study respecting the arts and sciences of men, whatever principles I may have imbibed during my scientific research, yet if the prophet of God should tell me that a certain principle or theory which I might have learned was not true, I do not care what my ideas have been, I should consider it my duty, at the suggestion of my file leader, to abandon my principle or theory. Suppose he were to say the principles by which you are governed are not right, that they were incorrect, what would be my duty? I answer that it would be my duty to lay those principles aside and to take up those that might be laid down by the servant of God.

The church of Christ is governed by the laws of God, which laws He reveals to the church through him who is the president thereof, and if the church should reject that law, they reject the law of God, and would be under condemnation, and under God's displeasure. There can never exist two supreme lawmaking powers in any organization at one and the same time. God has appointed but one supreme lawmaking power in his church, and that is the presidency of the church; the word of the president of the church which the saints are commanded to receive as the very word of God.

Joseph F. Smith, the president of the church, declared in 1900:

The question with me is, when I get the word of the Lord as to who is the right man, will I obey it, no matter whether it does come contrary to my convictions.

Priesthood is power with God conferred upon men, by which he becomes an agent for God, authorized to act in His name. Men who possess the priesthood possess divine authority thus to act for God, and by possessing part of God's power they are in reality part of God.

In a magazine called "*The Juvenile Instructor*," expressly designed for the young and edited by Joseph F. Smith, appears the following:

The priesthood is a sacred thing. The Lord has not given to members of the church the right to find fault with or condemn those who hold the priesthood, neither is it the right of an elder or other official to judge or censure or speak disrespectfully or condemnatory of his file leader or of men who preside over him.

Parley P. Pratt, an apostle and author of acknowledged authority, says:

This priesthood holds the keys of revelation of the oracles of God to ~~man~~ upon the earth; the power and right to give laws and command-

ments to individuals, churches, rulers, nations, and the world; to appoint, to ordain, and establish constitutions and kingdoms; to appoint kings, presidents, governors, or judges.

The priesthood upon the earth is the legitimate government of God, whether in the heavens or on the earth, and it is the only legitimate power that has a right to rule upon the earth.

James E. Talmage, professor of geology in the State University of Utah, and a high authority in the church, in his work called "Articles of Faith," says:

Twelve men holding the apostleship properly organized constitute the quorum of the apostles. These the Lord has designed as the twelve traveling councils. They form the traveling presiding high council to act under the direction of the first presidency in all parts of the world. They constitute a quorum, whose unanimous decisions are equally binding in power and authority with those of the first presidency of the church.

Matthias F. Cowley, one of the twelve apostles, says:

It is an undeniable fact in the history of the saints that obedience to whatever has come either by written document or verbally from the presidency of the church has been attended with good results. On the other hand, whosoever has opposed such counsel without repentance has been followed with evidence of condemnation.

If Brother Brigham tells me to do anything, it is the same as though the Lord told me to do it. This is the course for you and every other saint to take.

Governor Thomas, in a report of affairs in Utah, declares:

While the Mormon masses are too sincere to voluntarily make false pretenses, they can be induced to accept and adopt a form of words however contradictory, if advised to do so by their authorities, for obedience to the priesthood and to obey counsel is diligently inculcated as a first duty. The orthodox Mormon, in every political and business act, puts the church first, the country afterwards. It can not be otherwise, for the priesthood claim all government but its own to be illegal, and to exercise all political power and temporal dominion by divine right.

Brigham Young declared:

No man need judge me. You know nothing about it, whether I am sent or not. Furthermore, it is none of your business, only you listen with open ears to what is taught you.

Wilford Woodruff is a prophet, and I know that he has a great many prophets around him, and he can make scriptures as good as those in the Bible.

The living oracles are worth more to the Latter-Day Saints than all the Bibles. Compared with the living oracles, these books are nothing to me.

The Utah Commission, in its report of 1887, declared:

Standing face to face with the law, the leaders and their obedient followers have made no concession to its supremacy, and the issue is squarely maintained between assumed revelations and the laws of the land.

The right of the hierarchy to dominate in secular as well as spiritual matters is openly proclaimed by those who assume to speak for the church. As late as 1904 one of the twelve apostles, in a public address, declared:

That from the view point of the Gospel there could be no separation of temporal and spiritual things, and those who object to the church people advising and taking part in the temporal affairs have no conception of the gospel of Christ.

The hierarchy secures obedience to its domination by claiming that its members are inspired and that they are the "mouth-piece of God," and their adherents are enjoined always to take counsel of their superiors, which means to "receive counsel" and obey it, and they are taught to believe that if they fail to do so they are not only excommunicated from the church, but they forfeit all hope of future happiness. The absolute submission

of the great mass of the Mormon people to the mandate of their leaders is illustrated in the declaration of a prominent official when he declared that "if your file leader says white is black, it is your duty to say white is black."

Justice Zane, of Utah, in 1887, speaking of the power of this hierarchy, said:

At the head of this corporate body, according to the faith professed, is a seer and revelator, who receives in revelation the will of the infinite God concerning the duty that man owes to himself, to his fellow-beings, to society and human government, and to God. In subordination to this head is a vast number of officials of various kinds and descriptions, comprising a most minute and complete organization. The people composing this organization claim to direct and lead by inspiration, which is above all human wisdom, subject to a power above all municipal government, above all man-made laws.

These excerpts, taken from the testimony, official documents, and public writings of the leading authorities of the church, justify the allegation in the protest that the hierarchy, of which the Senator is a member, "is vested with supreme power in all things temporal and spiritual" and will serve to illuminate the testimony bearing upon the question of church domination.

One of the most serious charges urged against the right of the Senator to a seat in this body is that he is a member of the governing body of the Mormon Church, which assumes the right to exercise, and does exercise, a controlling influence over the membership of that organization in secular as well as spiritual matters, and so dominates in civil and political affairs as to effectuate, in fact, a complete union of church and state, with the church in the ascendant, in violation of the constitution of the State of Utah, and that the Senator's election was the result of such union and such domination.

#### DOMINATION OF THE HIERARCHY IN SECULAR AFFAIRS.

As to the domination of the hierarchy in secular affairs, a few extracts from the testimony will suffice. The Deseret News, owned by and the official organ of the Mormon Church, whose utterances are regarded as expressing the views of the first presidency and the twelve apostles, in a report of the proceedings of a Mormon conference held in 1897, only a year after the admission of the State, declared:

Apostle M. W. Merrill elaborated upon the danger of criticising the action of the members of the priesthood. He said that the apostles and presidents of stakes were placed in their positions over the church by the Lord and that they did not secure these positions themselves, and that the people should take counsel of the bishop of their ward or the president of the stake before entering upon any new enterprise.

Public officers, sworn to enforce the law, persistently refuse to prosecute offenders against the law prohibiting polygamous cohabitation.

Certain members of the church, failing to obey the orders of the church officials in a purely business matter, are reprimanded because "they did not abide by the counsel that was given them."

The members of the Mormon Church are directed by the Mormon priesthood as to what business institutions they shall patronize.

The high council of the Mormon Church and the city council of Brigham City met in joint session at the behest of the Mormon authorities to determine whether an electric-light plant shall be owned by the municipality or by private individuals.

A bishop is deposed from his office in the church because he promised to obey the laws against polygamy.

Another official is excommunicated for being a member of an organization for the enforcement of the law and because he was opposed to the influence of the church in political affairs.

Another is degraded in the church for refusing to obey his "file leader."

In another case a member of a firm doing business in Salt Lake City is expelled from the Mormon Church because he persisted in engaging in mining operations contrary to the prohibitions of the church.

As recently as the year 1903 two members of the Mormon Church, having built a dancing pavilion in opposition to "counsel," were summoned for trial before the church authorities and only saved themselves from excommunication by turning over to the church officials the management of the pavilion and 25 per cent of the net earnings.

A railroad station is located by direction of the church authorities. Four members of the church are excommunicated for apostasy "in desiring to open up mines against the teachings of the holy priesthood."

As late as 1897 a Mormon official was deposed from his official position in the church for distributing at a school election a ticket different from that prescribed by the church authorities.

In 1905 a teacher in the Mormon Church was cut off from the church ostensibly for criticising the head of the hierarchy for his polygamous practices, but in reality for engaging in the manufacture of salt against the interests of the president of the church and his associates.

A high official in the Mormon Church, assuming jurisdiction in a controversy concerning the title to real estate, entered judgment against the party, and not only directed a conveyance of the title, but enforced the decree by spiritual penalties, and the victim of this outrage, a feeble woman, was excommunicated from the church and driven to insanity for refusing to obey the dictates of the church leaders and relinquish the title to one who had no shadow of legal right whatever.

The controlling influence of this hierarchy in secular affairs is most forcefully exemplified in its invasion of the public schools of the State and by its edicts suspending their functions, and opening religion classes, where the youth are instructed in the doctrines of the Mormon Church by teachers in the common schools supported by State taxation, in violation of the express provision of the Constitution that "No public money or property shall be appropriated for or applied to any religious worship, exercises, or instruction," and wherein the course of study prescribed by the ruling authorities of the church for these religion classes consists of the lives of the most noted polygamists in the history of the Mormon Church. That the hierarchy dominates in these matters is conclusively established by the fact that when this practice was disclosed before the committee these religion classes were, by order of the hierarchy, discontinued.

It will therefore be seen that while in spiritual matters its domination is practically supreme, yet in temporal affairs it seems to be equally potential. This is not surprising when it is remembered that the head of the organization is connected in an official capacity with a large number of the leading industries in the city of Salt Lake and throughout the State of Utah.



Mr. Smith, in reply to the question "What is your business?" said:

My principal business is that of president of the church. I am engaged in numerous other businesses. I am president of Zion's Cooperative Mercantile Institution; president of the State Bank of Utah; president of Zion's Savings Bank and Trust Company; president of the Utah Sugar Company; president of the Consolidated Wagon and Machine Company; president and director of the Utah Light and Power Company; president and director of the Salt Lake and Los Angeles Railroad Company; president of the Salt Air Beach Company; president and director of the Idaho Sugar Company; president of the Island Crystal Salt Company; president and director of the Salt Lake Dramatic Association; president and director of the Salt Lake Knitting Company; director in the Union Pacific Railroad; vice-president of the Bullion, Beck & Champion Mining Company, and I am editor of the Young Men's Improvement Association, a periodical, the Improvement Era, and also the Juvenile Instructor.

Apostles Grant, Winder, John Henry Smith, Lyman, Lund, and REED SMOOT are associated with me in the directorate of the Zion's Cooperative Mercantile Institution.

This Mormon organization seems, therefore, to be a stupendous business concern, with ramifications in every part of the State, thus enhancing its ecclesiastical control by the potency of its industrial alliances.

#### DOMINATION IN POLITICAL AFFAIRS.

But it is further charged in the protest that this governing body, of which the Senator is a conspicuous and influential member, claims the right to dictate and control, and does dictate and control, the civil and political affairs of the State of Utah, resulting in the practical establishment of a union of church and state, contrary to the express inhibition of the Constitution. The evidence upon this point is voluminous and convincing.

Since the admission of Utah into the Union, January 6, 1896, the people of the State of Utah have been, if possible, more completely under the domination of the Mormon hierarchy than during the long years of their Territorial existence. Immediately, and at the very first election thereafter, the hierarchy resumed its domination in State affairs, taking possession practically of every official position in the State government, and has held them ever since with unyielding tenacity. As a Territory its officials were appointed by the Federal Government, selected from outside the Territory, and, as a rule, were independent of and in no way connected with the Mormon organization, while as a State substantially every State official has been chosen from the membership of this organization. Every governor, every secretary of State, every State treasurer, every State auditor, and every State superintendent of education has been an adherent of this organization. The only office held by a non-Mormon under the State government during the ten years of its existence, as an elective officer, has been the attorney-general. In the first legislature, elected in 1896, the senate, composed of eighteen senators, was equally divided between Mormons and Gentiles, and in the house of representatives, of forty-five members, thirty-four were Mormons and eleven Gentiles, giving to the joint convention of the two houses forty-three Mormons and twenty Gentiles. It might be noted in this connection that in the first legislature there were nine polygamists and seventeen officials of the church holding the grade of bishop or higher.

The senate of 1897 had fifteen Mormons and three Gentiles,

and among the Mormons one polygamist and one plural wife and three church officials, while in the house there were thirty-eight Mormons, of whom five were polygamists and thirteen held high church positions, and seven Gentiles, giving in the joint assembly of sixty-three, fifty-three Mormons and only ten Gentiles.

The fourth legislature, of 1901, with 18 senators, 14 were Mormons, of whom 2 were polygamists and 3 held high church offices, and 4 Gentiles, while of the 45 members of the house 32 were Mormons, 13 Gentiles, and of the Mormons, 1 was a polygamist and 9 held high ecclesiastical positions, giving in joint assembly 46 Mormons and 17 Gentiles.

In the fifth legislature, 1903, of the 18 senators 12 were Mormons, 6 of whom were high church officials, and 6 Gentiles, and in the house of 45 members 34 were Mormons, 3 of whom were polygamists and 6 high church officials, and 11 Gentiles, giving on joint ballot 46 Mormons and 17 Gentiles. This was the legislature from which the Senator secured his election.

In the sixth legislature, 1905, 11 of the 18 senators were Mormons, 4 holding high ecclesiastical positions, and 7 Gentiles, and in the house 33 of the 45 members were Mormons, with 1 polygamist and 9 bishops, and 12 Gentiles, and making in joint assembly 43 Mormons and 20 Gentiles.

It will be observed, therefore, that there has never been a legislature elected in the State of Utah since her admission into the Union that did not have a membership of more than two-thirds adherents of the Mormon Church, and therefore under its complete domination.

Thus possessed of the instrumentalities of official control, it has dominated the State with an iron hand, and in its political dictation it has not only controlled the affairs of the State of Utah, but has reached beyond the confines of the State and exerts a potential influence in shaping and directing the policies of States adjacent thereto.

At the meeting of the first legislature of Utah committees were appointed by the officials of the Mormon Church to wait upon the legislature with a view of dictating and supervising legislation. Early in the history of the State the officials of the church directed that the rank and file should divide on political lines, about equally, one-half going to one of the great political parties of the nation the other half to the other, so that the entire strength of the organization could be cast to one party or the other as the interests of the organization might demand. One of the witnesses declared:

Whenever the church indorses a man he will be elected; whenever they put upon him the seal of their disapprobation, he will not be elected.

It appeared in evidence before your committee that candidates for office in the State of Idaho desiring success usually visit Salt Lake City and arrange for their campaign with the leaders of the Mormon Church, and in this way the will of the church is carried out.

In 1904 a leading Mormon in a State convention in the State of Idaho made the statement that in case a certain resolution should be withdrawn he would go to Utah and ask the president of the Mormon Church to cease interfering in Idaho politics.

One of the most flagrant instances of political domination was the case of Moses Thatcher. The constitution of the State of Utah, it will be remembered, provides:

There shall be no union of church and state, nor shall any church dominate the State or interfere with its functions.

Preliminary to the admission of Utah as a State, and in anticipation of it, in 1895, an election was held for members of the legislature and State officers and for Representative in Congress. Moses Thatcher, an apostle, was a candidate for United States Senator and Brigham H. Roberts for Representative in Congress. Thatcher was at that time "out of harmony" with the hierarchy because of his previous conduct in reference to the political affairs of the Territory. In 1891 it had been agreed among the ruling authorities of the Mormon Church that men who were high in authority in that church, and who believed in Republican principles, should go out among the Mormon people and endeavor to persuade the voters to vote the Republican ticket, while those who could not indorse the principles of the Republican party should remain silent. Moses Thatcher, a Democrat, did not conform to this resolution, but made several speeches for the Democratic ticket. It was afterwards asserted by Joseph F. Smith that the "counsel" of the leaders of the Mormon Church "was obeyed by all the apostles and high authorities except Moses Thatcher, who talked to the people contrary to the wishes of his brethren."

When Moses Thatcher therefore consented to the use of his name as a candidate for the Senate, in 1895, he was taken to task by the high priesthood for disobeying counsel, and at the October conference of the Mormon Church in 1895, at a secret meeting of the high priesthood, it was agreed to put in operation all the machinery of the church to defeat Moses Thatcher and Brigham H. Roberts. The result of the election was that Brigham H. Roberts was defeated for the office of Representative and a Republican legislature elected, thus insuring the defeat of Moses Thatcher to the Senate.

During the political campaign of 1895 and on the 13th of October of that year at Logan a bishop of the Mormon Church said to an assembly of teachers of the church that two men, one of the twelve and one a president of the seventies (meaning Thatcher and Roberts), had, contrary to the wishes of the first presidency and contrary to counsel, accepted nominations for high offices. He said:

It is unnecessary for me to name the men. You know who they are. I speak this for your own good. You know how to vote.

On the same day at Brigham City the president of a stake at a religious meeting of Mormons declared to those who were assembled that it was the desire of the first presidency that Thatcher and Roberts should be defeated. At the meeting of the first presidency and twelve apostles of the Mormon Church held in the month of October, 1896, to take action in the case of Moses Thatcher for his refusal to obey the political mandates of the first presidency, George Q. Cannon, in justifying the action of the quorum of twelve apostles in deposing Moses Thatcher as an apostle, used this language:

When I respect and honor Wilford Woodruff. I bow to God, who has chosen him. \* \* \* If I listen to Wilford Woodruff, if I look to him to see how the spirit of God moves upon him, if I ask his

counsel and take it, it is because God has commanded me. God has given him the keys of authority. \* \* \* When Joseph F. Smith obeys Wilford Woodruff he does it upon the same principle. We reverence him as the prophet of God and as our leader. We listen to him and are guided by his slightest wish. It is because we know that he is the servant of God, chosen by the Almighty to fill that place, and that he holds the keys of the priesthood of this generation on the earth at the present time.

There was another cause of offense to the hierarchy. In 1896 the first presidency and ten of the apostles formulated what has since been known as the "political manifesto," which required all prominent officials of the church to obtain the consent of the first presidency and twelve apostles before becoming candidates for public office. This manifesto both Moses Thatcher and Brigham H. Roberts at first refused to sign. Brigham H. Roberts was afterwards compelled by the first presidency and twelve apostles to sign the manifesto, but Moses Thatcher persistently refused.

At the April conference of 1896 Moses Thatcher was dropped from the quorum of twelve apostles because of his refusal to sign the political manifesto. Subsequently he declared himself a candidate for the United States Senate. The legislature elected was Democratic, and the indications were that he would be elected. Thereupon the whole power of the church was brought to bear upon members of the legislature to compass his defeat, and in this the church was successful, Mr. Rawlins being elected over Thatcher. This result was accomplished by the leaders of the Mormon Church directing Mormons who had been voting for Judge Henderson to vote for Rawlins. One Mormon member refused, saying:

I will not do it, and I know just exactly what it means, and I know that I will be sent on a mission.

Moses Thatcher was afterwards put upon trial and escaped being excommunicated from the Mormon Church only by a humiliating recantation and acceptance of the political manifesto.

In 1898 Brigham H. Roberts, restored to church favor, was elected to Congress by over 5,000 majority.

The legislature of 1899 was largely Democratic, but party dissension prevented the election of a Senator. In this legislature, however, the Mormon Church made a determined effort to elect one McCune, a Gentile, and would have succeeded had not charges been made against McCune for attempted bribery. In connection with McCune's candidacy, Judge Powers testifies as follows:

The legislature was largely Democratic, thirteen Republicans and fifty Democrats. In that legislature I was a candidate for Senator, Judge William H. King, and Alfred W. McCune. Undoubtedly McCune was the church candidate. Heber J. Grant, the apostle, took a very active part in the campaign before the legislature for Mr. McCune. Mr. Grant is a very pleasing letter writer, and in one of his letters, which is dated December 9, 1898, to J. Golden Kimball, one of the first presidents of the seventies, speaking of the Senatorial campaign, he recites the amounts of money that Mr. McCune had contributed to the Mormon Church for temples and meetinghouses and missionary funds, and things of that kind, and the moneys that his wife had given to the church, and then his letter has this significant paragraph: "I wish to say to you that before entering the race to assist Mr. McCune to become a United States Senator I obtained the full, free, and frank consent of President Snow to work for Mr. McCune. Two years ago, at the time of the Moses Thatcher fight, President Woodruff told me that of all the men mentioned as prospective Senators he would prefer Mr. McCune."



Among other reasons that he states why Mr. McCune should be elected is the fact that he is not a Mormon, but in sympathy with them, and could therefore do more in the Senate for them than a Mormon could.

In 1892 Bishop Warburton, a Democrat, called upon a number of his Democratic brethren in the first municipal ward of Salt Lake City and told them that most of them had been through the temple and understood their obligations, and that he had received a message from the first presidency to the effect that it was the desire that Frank J. Cannon should be elected to Congress.

In 1889 a Mormon named Robbins offered himself as an independent candidate for a political office as against the candidate favored by the Mormon Church. Shortly prior to the election Apostle John Henry Smith visited Mr. Robbins's district, had the people called together, and in a public speech stated that he was an apostle of the Mormon Church; that they had chosen and sustained him in that position and had covenanted to sustain him as their counsel and advisor, and he now wished them to thoroughly know and understand that he was there to see and to counsel and advise and persuade them to vote the People's (Mormon) ticket.

In another county in Utah at the same election there was a contest between two Mormons for a public office. One was an independent candidate, the other the regular Mormon candidate. At a Mormon conference George Q. Cannon, a prominent Mormon official, addressed the people, dwelling wholly upon politics, and among other things said:

Now, brethren, you will shortly have an election here, and how will you act—after the order of the world, to stir up strife and contention, or will you do it after the order of God and elect the men whom God wants?

A Mr. Stephens, called as a witness for the Senator, said:

There is a general feeling in the State of Utah that the election of an apostle to the Senate means the church in politics, and a like feeling that REED SMOOT was elected to the Senate because of the fact that he was a Mormon apostle.

#### LEGISLATION FAVORING POLYGAMY.

In the year 1901 the Mormon legislature of Utah passed what was known as the Evans bill, which was aimed to prevent prosecutions for polygamous cohabitation. This action, if not inspired by the president of the Mormon Church, was openly favored by him. It was vetoed, however, by a Mormon governor upon the ground that the bill, if passed, would bring about an amendment of the Constitution of the United States under which those guilty of the crime of polygamous cohabitation would be prosecuted and punished in the Federal court.

But the interference by the leaders of the Mormon Church in political affairs has not been confined to Utah. In Idaho the Mormons have for a number of years held the balance of political power, and have exercised the authority of the church whenever the interests of that church seemed to require it. In the year 1902 the legislature of that State passed a resolution providing for a constitutional convention to amend the Constitution so as to eliminate the clause by which members of the Mormon Church might be disfranchised. This action was taken shortly after a visit to the State capitol by Apostle John Henry Smith, who seemed to be the political sponsor of the church, and

It was the general impression that the passage of the resolution was brought about through his influence.

In 1904 it was so generally understood that Mr. Gooding was nominated through the influence of the Mormon Church over Governor Morrison that the leading Republican paper of Boise published at the head of its editorial column these words: "Zion has spoken."

In 1902 Matthias Cowley, an apostle of the Mormon Church, went through the counties of Idaho telling the Mormons of that State that it was the will of the church that they should vote a certain ticket.

In 1900 Joseph F. Smith, in an address delivered at the general conference of the church in the tabernacle, declared that it was the duty of the members of the church to take counsel in political affairs.

In 1904 a county committee issued a circular urging the defeat of a candidate for Congress because of his testimony in this case before the Committee on Privileges and Elections. Another witness declared that if Senator KEARNS had not received the support of President Snow he could not have been elected.

The presidents of the several stakes in Utah are selected by the president of the church.

The Hon. Caleb W. West, governor of the Territory of Utah, in one of his reports to the Secretary of the Interior, forcefully said:

In the Mormon polity, established and governing the people of this Territory since its settlement, the unity of the church and state is perfect and indissoluble. It is based upon the complete and absolute control of a priesthood—wielding a supreme power, exercised and yielded to, as emanating from God—in all things secular as well as spiritual. The word of this priesthood is to the Mormon people the command of God, not only in matters of faith and morals, but in all civil, political, and commercial affairs. This priesthood not only rules the church but governs the state.

Senator Edmunds well said in a recent publication referring to this case:

The investigation has developed evidence showing that the hierarchy continues to control the government of the State, and that the choice of officers and their official actions in some degree at least are subject to its control. It can quite correctly say with the French king, I am the State.

#### THE POLITICAL MANIFESTO.

But nothing so completely shows the domination of this church in civil affairs as the adoption of what is commonly known as the political manifesto. A rule of the church promulgated by the hierarchy in 1896 requires every leading official of the church, before accepting any political position or nomination therefor, to take counsel of the church officials and obtain the consent of the presiding officers in the priesthood. Such a rule precludes any member of that church from serving the State or the nation either by appointment or popular election unless he has been first designated by the hierarchy. Under this rule it is for the first presidency to say whether a high official can be a candidate or not, according to his will and that of the twelve apostles, and it is in evidence that the Senator himself was compelled to obtain permission of the church before he presumed to announce himself as a candidate for the Senate. He was nominated by the hierarchy and the selection ratified by the legis-

lature. No more cunningly devised scheme could possibly be concocted to put the church in politics and make it potential therein than this. For, the moment it is known that a candidate has the indorsement of the church and permission of the hierarchy to be a candidate, that moment he has back of him the whole power of the Mormon Church and his election is assured.

There has been no case in which a candidate for a high office in Utah has obtained the consent of the church to run and has been defeated, and there is no case in which one did not receive such consent and has been elected. The consent of the hierarchy is a command of the church.

#### THE MORMON HIERARCHY ENCOURAGES POLYGAMY.

The right of Senator SMOOT to retain his seat in the Senate as a Senator from the State of Utah is still further challenged upon the ground and for the reason that—

He is a member of the governing body of the Mormon Church, commonly called "the hierarchy," and that such governing body, with which he affiliates, so exercises its authority as to inculcate and encourage a belief in polygamy and polygamous cohabitation; that it countenances and connives at the violation of laws prohibiting these offenses in spite of pledges made for the purpose of obtaining statehood, and who, by all means in their power, protect and honor those who violate the laws of the land and are guilty of practices destructive of the family and the home.

That the Senator is a member of such organization, holding therein the high office of an apostle, a position second only in dignity and power to the presidency itself, is conceded.

It only remains, therefore, to inquire, under this head, whether this governing body does, as a matter of fact, so exercise its authority as to inculcate and encourage belief in the practice of polygamy and polygamous cohabitation, and whether it countenances and connives at the violation of laws prohibiting such crimes, and if so, whether by being a member affiliating with and constituting a part of such governing body and participating in its counsels the Senator has disqualified himself by reason thereof for membership in this body. These are the vital questions under this branch of the inquiry.

So far as the continued belief in the rightfulness of polygamy is concerned by members of this cult there is no conflict of opinion. Such belief has never been discarded. Of all the witnesses testifying before your committee not one of high or low degree in regular standing in the organization declares an abandonment of his belief in the doctrine, and in so far as they make known their convictions they all affirm their continued adherence to it. In no single instance is it in evidence that any member of the organization, from the head of the church to its humblest disciple, has renounced belief in the doctrine of polygamy. Joseph F. Smith, the dominating spirit of this church, testified as follows:

Mr. TAYLER. The revelation which Wilford Woodruff received in consequence of which the command to take plural wives was suspended did not, as you understand it, change the divine view of plural marriage, did it?

Mr. SMITH. It did not change our belief at all.

Mr. TAYLER. It did not change your belief at all?

Mr. SMITH. Not at all, sir.

Mr. TAYLER. You continued to believe that plural marriages were right?

Mr. SMITH. We did. I do, at least. I do not answer for anybody else. I continued to believe as I did before.

One of the last witnesses sworn in behalf of the Senator, Professor Linford, president of Brigham Young College, the head of the chief educational institution of the State, a Mormon, but not a polygamist, testified:

Mr. CARLISLE. Do you or do you not believe in the principle of plural marriage—that is to say, I do not now ask you to state whether you believe in it as lawful under present circumstances; but do you or do you do not believe it is right in and of itself?

Answer. My belief in the principle does not extend to the carrying of the principle into practice under present conditions.

Mr. CARLISLE. That is not an answer to my question. My question is, Do you believe that principle is right in and of itself, without regard to any law or any question it would involve?

Answer. Yes, sir; I believe it is a correct principle. I believe the principle of plural marriage is as correct a principle to-day as it was then.

So from the head of the church and the head of the university comes the common affirmation that belief in polygamy as a principle of human conduct is still adhered to and maintained as a true tenet of the Utah Mormon faith. The fact of such existing and continued belief in polygamy is material only as giving color to the probability of its continued practice.

Let us inquire, then, whether this hierarchy not only believes in polygamy as an abstract principle, but continues the practice of polygamy and polygamous cohabitation and countenances the violation of laws prohibiting such crimes.

The evidence upon this point is so complete and overwhelming as to leave no doubt as to the truth of the allegation. It has passed beyond the region of controversy. The proof is indubitable that in spite of the manifesto of 1890, issued by the head of the church, counseling the suspension of polygamy; in spite of the most solemn pledges made by the convicted and imprisoned leaders in order to secure amnesty for past offenses; in spite of the expressed inhibition of the constitution of the State under which they live and upon the faith of which Utah was admitted into the Union; in spite of the statutory prohibition of the Commonwealth, it appears that a majority of the members of this hierarchy have continually and persistently lived in polygamy, and are to-day openly and confessedly defying the laws of the land prohibiting such crimes. The record is so shocking as to challenge credulity.

The first witness called in behalf of the protestants was Joseph F. Smith himself, the head of the church, who, from his position, would be more apt to be cognizant of the fact if it existed than anyone else, and could therefore speak with greater accuracy in relation to the continuance of these crimes. He testified as follows:

Mr. TAYLER. Is the cohabitation with one who is claimed to be a plural wife a violation of the law of the church as well as the law of the land?

Mr. SMITH. That was the case, and is the case even to-day. It is contrary to the rule of the church, and contrary, as well, to the law of the land for a man to cohabit with his wives. \* \* \* I have cohabited with my wives; not openly—that is, not in a manner that I thought would be offensive to my neighbors; but I acknowledge them; I have visited them. They have borne me children since 1890, and I have done it, knowing the responsibility and knowing that I was amenable to the law. \* \* \*

Mr. TAYLER. In 1892, Mr. Smith, how many wives did you have?

Mr. SMITH. I had five. \* \* \*

Mr. TAYLER. How many children have been born to you by these wives since 1890?

Mr. SMITH. I had eleven children born since 1890.



Mr. TAYLER. Those are all the children that have been born to you since 1890?

Mr. SMITH. Yes, sir; those are all.

Mr. TAYLER. Were those children by all of your wives—that is, did all of your wives bear children?

Mr. SMITH. All of my wives bore children.

Mr. TAYLER. Since 1890?

Mr. SMITH. That is correct. I said that I have had born to me eleven children since 1890, each of my wives being the mother of from one to two of those children. \* \* \*

The CHAIRMAN. Mr. Smith, I will not press it, if you have any objection to stating how many children you have in all.

Mr. SMITH. Altogether?

The CHAIRMAN. Yes.

Mr. SMITH. I have had born to me, sir, forty-two children—twenty-one boys and twenty-one girls—and I am proud of every one of them. \* \* \*

The CHAIRMAN. Do you obey the law in having five wives at this time and having them bear to you eleven children since the manifesto of 1890?

Mr. SMITH. Mr. Chairman, I have not claimed that in that case I have obeyed the law of the land.

I do not claim so, and, as I said before, that I prefer to stand my chances against the law. I should like to repeat in connection with this question that it is a well-known fact throughout all Utah, and I have never sought to disguise that fact in the least or to disclaim it, that I have 5 wives in Utah. My friends all know that—Gentiles and Jews and Mormons. They all know that I have 5 wives.

The committee was astounded to hear from this head of the church itself, not only that he believed in the rightfulness of polygamy as an abstract principle, but that he himself was daily exemplifying his belief by living in open and notorious polygamy in the capital city of the great State of Utah, and had been ever since the manifesto, and, more than that, that he proposed to continue the practice so long as he pleased, defiantly asserting that "The Congress of the United States has no business with my private conduct." We were amazed to learn from this head saint and seer, this prophet and revelator, this mouth-piece of God, this shepherd of a patient and suffering flock, this convicted and amnestied offender against law and decency, whose faith and honor had been hypothecated for himself and his followers for the observance of the law, confess that he was now living with 5 women as his wives, and had been ever since 1890 in open defiance of divine and human statutes, and had had 42 children, 11 of whom had been born to him since the manifesto.

But that is not the whole truth as it is to-day. The account of prophet and saint is entitled to further credit. If the public press is to be credited, this number has been augmented during the past year to 43, and while we are discussing the right of the representative of the hierarchy to a seat in this body we can imagine its saintly head sitting in the home of his fifth plural wife, rocking the cradle of the latest illegitimate offspring of his debauchery and crime, and with sanctimonious air singing the familiar hymn of his church:

Now the Gentile reign is o'er,  
Darkness covers earth no more.

\* \* \*

Gentile tyrants sink to hell;  
Now's the day of Israel.

Startling as was this disclosure, your committee was astounded when it appeared in the investigation that not only was the head of this church living in polygamy, but that a large number of his apostolic associates—at least eight of the twelve,

including some of the very men who had petitioned for and received Executive clemency for their crimes from two Presidents—had been ever since the manifesto, and were at this very time, living in polygamous cohabitation with a multiplicity of wives in defiance of law and in violation of their plighted faith and honor.

This continued and open practice by the members of the governing body of this church is sufficient of itself, I submit, to establish the truth of the allegation in the protest that "it so exercises its authority as to inculcate and encourage a belief in polygamy and polygamous cohabitation." For what, I submit, could be more persuasive in inculcating and encouraging belief in polygamy and the practice of polygamous cohabitation than the force of example by those who are looked upon by their devotees not only as saints and prophets of God, but vicegerents of the Almighty.

Precept is instruction written in the sand; the tide flows over it and the record is gone. Example is graven on the rock, and the lesson is not soon forgot.

Ex-Senator George F. Edmunds, in speaking of the force of example, pertinently said:

The evidence so far obtained by the Senate committee investigating the case of Senator SMOOT discloses that some, at least, of the chief rulers of the Mormon Church have deliberately and continually carried on the practice of polygamy without prosecution or annoyance in the face of their pledges made to two Presidents of the United States, and have set an example naturally and almost necessarily to be followed by their church members and adherents without any danger of interference by the legislative or any other department of the government of the State of Utah. They know that Congress has no power, and that the State has no disposition to interfere.

But this is not all. The members of this hierarchy not only teach by example, but justify their conduct openly and declare their purpose to continue the practice, the law of God and man to the contrary notwithstanding. Joseph F. Smith, the head of the church, testified in response to an inquiry by the junior Senator from Texas, Mr. BAILEY, that—

Plural marriage has stopped, but I choose rather than abandon my children and their mothers to run my risk before the law. I want to say to you that it is the law of my State. It is not the law of Congress under which I am living, and by which I am punishable. The law of my State and the courts of my State have competent jurisdiction to deal with me in my offense to the law, and the Congress of the United States has no business with my private conduct any more than it has with the private conduct of any citizen of Utah or any other State. It is the law of the State to which I am amenable.

It will be observed that Mr. Smith denies the right of the United States to interfere with his private conduct as a citizen of the State of Utah touching the violation of her laws, affirming that he is amenable only to the laws of the State and subject only to the jurisdiction of her courts. He evidently understands the strength of his position, that he can have five wives or fifty within the limits of the State of Utah, and that the United States has no power to interfere to suppress the crime or punish the criminal. He knows that Congress has no power, and that the State has no disposition to interfere. With the National Government impotent and the State government under the masterful domination of the hierarchy, no wonder he is emboldened to declare that it is his purpose to persist in his career of crime and take his chances of punishment in the courts of a State which are made and unmade at his supreme will.

## THE MANIFESTO PROHIBITS POLYGAMOUS COHABITATION.

For years he has lived in the capital city of Utah, going in and out before her people in open defiance of the law, unquestioned and unmolested. So long, therefore, as this hierarchy can continue its domination, just so long may it be expected that these crimes against society and the State will continue and the offenders go unwhipped of justice. While it is undoubtedly true, as Mr. Smith declares, "that the Congress has no business with his private conduct," yet when he seeks to thrust a representative of a criminal organization into either House of Congress it then becomes the "business," as well as the duty of the body to which he is accredited, to invoke for its protection that provision of the Constitution which imposes upon it the right to judge of the "elections, returns, and qualifications of its own members."

But what excuse is proffered for this continued criminal life? It is declared that the manifesto of 1890 only interdicted future plural marriages, and that those who had entered into polygamous relations prior to the manifesto were at liberty to continue cohabitation with their several wives. But this contention is futile in face of the declaration of Wilford Woodruff himself, through whom it was promulgated, who declared that "It was intended to stop polygamous cohabitation, as well as future plural marriages," in which interpretation the succeeding polygamous heads of the church, including Joseph F. Smith himself, have reluctantly concurred. In reply to a question by the junior Senator from Texas [Mr. BAILEY] Mr. Smith said:

The manifesto declared positively the prohibition of plural marriages, and in examination before the master in chancery the president of the church and other leading members of the church agreed that the spirit and meaning of that revelation applied to unlawful cohabitation as well as to plural marriages.

Senator BAILEY. I understand you, both plural marriage and unlawful cohabitation are forbidden by the statutes of Utah and the revelation of God. Is that true?

Mr. SMITH. That is the spirit of it, sir.

Any other construction of the manifesto is not in harmony with the understanding of the two Presidents from whom amnesty was obtained. The amnesty granted both by President Harrison and President Cleveland proceeded upon the supposition that not only the practice of plural marriages, but polygamous cohabitation had been prohibited and was abandoned. Joseph F. Smith, in reply to a question put by the lamented Senator from Massachusetts, Mr. Hoar, then a member of the committee, admitted that by continuing to cohabit with his plural wives, though taken before the manifesto, he was not only violating the law of the land, but the mandate of the Almighty.

## CONDITIONS ON WHICH AMNESTY WAS GRANTED.

President Harrison, in his proclamation, declared:

"Whereas Congress defined the crime of "bigamy," "polygamy," and "unlawful cohabitation" \* \* \* and it is represented that the adherents of such church have abstained from plural marriages and "polygamous cohabitation" \* \* \* and the officers of said church have applied for amnesty, pledging their faithful observance of the laws against plural marriage and "unlawful cohabitation" \* \* \* and whereas amnesty has been granted to individual applicants, conditioned upon their observance of the law against "unlawful cohabitation" \* \* \* therefore I, Benjamin Harrison, grant full amnesty to all persons liable to penalties by reason of "unlawful cohabitation," and who have since November 1, 1890, abstained from "unlawful cohabitation."

President Cleveland's proclamation of amnesty was equally explicit upon the question of polygamous cohabitation. More than this, when the manifesto was issued it was given out in the public press and in interviews with the heads of the Mormon Church that "polygamous cohabitation," as well as the taking of new wives, was included in the manifesto.

And yet this head of the hierarchy declares his purpose to continue to defy the law of the land and public decency, submitting only to the laws of the State government under his complete thralldom, backed by public sentiment, which he declares is content to permit him to revel in the debaucheries of his harem unquestioned and unmolested.

But this is not the head and front of the offending. Not only is it established that a majority of the hierarchy is living in polygamous cohabitation, but the evidence points with unerring certainty to the fact that at least five of these apostles, George Teasdale, Abram H. Cannon, John W. Taylor, M. F. Cowley, and M. W. Merrill, have taken additional wives since the manifesto in open defiance of its express prohibition. Aside from this it is shown by the testimony beyond all controversy not only that the majority of the apostles are living in polygamous cohabitation, including the president of the twelve, but that this practice prevails to an alarming extent throughout Utah and in adjacent States and Territories. As to the extent of this practice nothing definite can be known. Plural marriages are performed in secret in darkened rooms, on the highways remote from habitation, and frequently in Mexico and other places without the jurisdiction of the United States. The guilty parties then returning to Utah and there, following the example of their president and a majority of the apostles, live in polygamous cohabitation, unquestioned and unmolested, in full membership and communion with the Utah Mormon Church. With the head of the church and a majority of the apostles living in open polygamy, is it any wonder that the practice continues, and, for myself, I expect to see it continue and increase until by an amendment to the Federal Constitution the practice is inhibited everywhere throughout the United States.

As ex-Senator Edmunds, speaking of this condition well said:

All this is consistent with more than half a century of its history, and should surprise nobody except those whose generous and confiding faith in promises led them to believe that the settled polity of a great and powerful church organization would be or remain reversed when that organization should become independent of the only power it had any reason to fear.

#### POLYGAMY COMMENDED AND APPROVED BY THE HIERARCHY.

But not only are polygamy and polygamous cohabitation inculcated by the daily lives of the governing body of the church, but in innumerable ways is their practice commended and approved. The doctrine of monogamy that "one man should have one wife, and one woman but one husband," contained in the Book of Mormon and transcribed into the Book of Doctrines and Covenants, has been torn therefrom by this Utah sect, and the doctrine of polygamy substituted therefor, where it is retained to-day and published in the Book of Doctrines and Covenants and placed in the hands of Mormon teachers and scattered broadcast, while the manifesto, the antidote for this poison, is carefully excluded and withheld from the publication.



Thus is the doctrine of polygamy promulgated and kept alive as an existing tenet of this Utah Mormon faith. Not only by the written word is this infamous doctrine sanctioned, but the living oracles of the church do not hesitate to justify the crime.

When President Snow, in 1900, stated that the Mormon Church had abandoned the practice of polygamy and the solemnization of plural marriages, and that the church did not advise or encourage unlawful cohabitation on the part of any of its members, Apostle Cannon, after denouncing the law against unlawful cohabitation as unconstitutional, expressed the fear that—

Some sneaking whelps might use this declaration of President Snow as a pretext for deserting some of their wives. If they did, they are the fellows that ought to be disciplined.

Apostle Penrose, referring to the effect of convictions for polygamy, declared in the Deseret News, the official organ of the church:

No church member would suffer, so far as his standing in the church is concerned, because he has been convicted. No one has ever lost religious prestige because he had been convicted in a criminal court.

George M. Cannon, a leading member of the church, declared:

I do not believe that any man who entered into polygamous relations prior to the manifesto should be disturbed in these relations by the church or any member of the same. I do not believe any man who continues such relations to be guilty of moral turpitude.

Joseph F. Smith, the sainted head of the church, pardoned for his crimes upon the pledge of his honor to obey the law, after his testimony before the committee, wherein his polygamous relations were disclosed, and as recently as 1904, declared in a public address in the tabernacle at Salt Lake City that if he were to discontinue the polygamous relations with his plural wives he should be forever damned and forever deprived of the companionship of God and those most dear to him throughout all eternity.

When complaint was made against Heber J. Grant, one of the twelve apostles, for living in polygamous cohabitation, he was at once promoted by the first presidency and the twelve apostles to a foreign mission, declared by Smith to be both important and honorable. A book entitled "Ready References," published under the auspices of the Mormon Church for the use and guidance of missionaries and students, is devoted chiefly to an advocacy of polygamy.

In 1898, at a conference of young people's societies, a Mrs. Freeze, a Mormon, defended the practice of polygamy, not only as being right, but a divine command.

Apostle Woodruff stated that belief in polygamy was as much a part of the faith of the Mormon Church to-day as it ever was, and that while in deference to the laws of the United States plural marriages were not practiced at the present time, it was nevertheless believed to be right, and the Government was condemned for suppressing it, and the young people present were admonished that they could not deny this part of the Mormon belief without at the same time denying the prophet.

In a report of the Utah Commission, made after the manifesto, it is stated that polygamous marriages are being conducted in Utah by the church, and asserted that some forty polygamous marriages could be accounted for, and the total percentage in

the Mormon Church was 12,000 out of 51,000, but that records of plural marriages are kept secret in the Mormon temples.

Angus M. Cannon, the possessor of three wives, as late as 1904 is exalted to be a patriarch of the Mormon Church.

It is a significant fact that no one who has taken a plural wife since 1890 has been punished by the church authorities.

Plural marriage performed in Mexico by a lawful priest of the Mormon Church is considered by the church as ecclesiastical, legal, and valid.

In Idaho resolutions against polygamy and polygamous cohabitation were opposed by members of the Mormon Church as being hostile to the church.

When the records of marriages in the Mormon Church were called for by the committee, the head of the church refused to permit the book containing the records of plural marriages to be brought before the committee.

J. M. Tanner, a polygamist and reputed to have taken a plural wife since the manifesto, is appointed superintendent of the Sunday schools of the Mormon Church throughout the world, the Senator concurring in the selection.

In 1903 Heber J. Grant stated before the students in the State University of Salt Lake City that he gave \$50 for himself—

\$50 for each of my wives. I have got two wives, and I would have a third if it were not for the law.

I submit, therefore, in the light of all the testimony in the case, it can not be successfully contended that the hierarchy, of which the Senator is a member, does not use its authority to inculcate and encourage a belief in polygamy and polygamous cohabitation and protect and honor those who violate the laws prohibiting such crime.

REED SMOOT RESPONSIBLE FOR ACTS OF THE ORGANIZATION OF WHICH HE IS A MEMBER.

It remains to inquire whether the Senator, by being a member of this polygamous hierarchy, affiliating with and constituting a part of such organization and participating in its councils, has disqualified himself by reason thereof for membership in this body. The contention is made that, conceding all the allegations against this governing body to be true, yet it in no way affects the right and title of the Senator to a seat in his Chamber. This is the crucial question.

It was conceded by counsel for the Senator at the outset of the investigation that if he was a polygamist in fact, that, upon principle and precedent, would be sufficient ground for his exclusion, but the contention is made that to be connected with and a member of a band of polygamists in no way exposes him to such condemnation. The consideration of this question necessarily involves not only the character of the hierarchy as a whole, its teaching and practice, but the conduct of the Senator as a member of that body in connection therewith. As to the character of the hierarchy itself, I think I am justified in saying, in the light of history and the testimony, that from the time Brigham Young and his followers entered the Territory of Utah in 1847 until this hour the organization has been a criminal one. And what was the character of this hierarchy as a whole when the Senator became identified with it?

At the time of the manifesto in 1890, every member of the

first presidency, the president and his two counselors, together with the twelve apostles, with but a single exception, was a notorious polygamist and living in polygamous cohabitation with a multiplicity of wives from two to nine each. In 1896, the year of Utah's admission into the Union, the first presidency and the twelve apostles were unchanged, either in personnel or practices, all but one continuing in polygamy. In 1900, four years after Utah's admission into the Union, there was no change in the practice of the individual members of this governing body, except one of the apostles had ceased his polygamous relations as the result of a divorce obtained from him by his legal wife. The only change in its personnel was the elevation of the senior Senator from Utah, in April, 1900, to fill a vacancy in the apostolate caused by the death of one of its members. It is important to note in passing that when the senior Senator from Utah became a member of this hierarchy, in 1900, the three persons of the first presidency were all polygamists, ten of the twelve of his apostolic associates were living in polygamous cohabitation, and that the Senator owes his elevation to the apostleship to the formal action of this body of polygamists. The very year and hour the senior Senator voluntarily identified himself with this governing body of fifteen men, fourteen of its number were living in polygamy, and the members of this hierarchy were then able jointly to muster a harem of sixty women, whom they claimed, recognized, and cohabited with as their wives.

To contend that the Senator, born and reared in Utah, and identified with the Mormon organization from childhood, instructed and nurtured in its doctrines, was ignorant of the character of this hierarchy and the criminal practices of its individual members, challenges belief and would impeach his intelligence. He must have understood perfectly well the character of the organization and the criminality of the members with whom he was to cooperate and commune.

The vital question, therefore, is, Can one become a member of and identify himself with a band of lawbreakers, knowing them to be such, participate in their counsels and sustain them in their conferences, and yet escape all responsibility for their unlawful acts? Such a contention will not stand the test of either law or reason. An eminent legal authority says:

Every person entering into a conspiracy or common design already formed is deemed in law a party to all acts done by any of the other parties, before or afterwards, in furtherance of the common design. The principle on which the acts and declarations of other conspirators, and acts done at different times, are admitted in evidence against the persons prosecuted is that by the act of conspiring together the conspirators have jointly assumed to themselves, as a body, the attribute of individuality so far as regards the prosecution of the common design, thus rendering whatever is done or said by anyone in furtherance of that design a part of the *res gestæ* and, therefore, the act of all.

This doctrine is sustained by an unbroken line of authority, elementary and judicial, and I am sure can not be successfully controverted. The case of Spies and others *v.* The People is directly in point in support of this contention. It will be remembered in this case that Spies was arrested and tried upon a charge of the murder of one Degan by throwing a bomb which caused Degan's death. There was no evidence in the case that Spies threw the bomb, but it was proven that he belonged to



an organization known as the International Association of Chicago, having for its object the overthrow of law and the destruction of government, and that members of this organization had advised the use of any force necessary to resist the law and its officers.

In denying the motion for a new trial in the anarchist case the judge who presided at the trial used the following language:

Now, on the question of the instructions, whether these defendants, or any of them, anticipated or expected the throwing of the bomb on the night of the 4th of May is not a question which I need to consider, because the conviction can not be sustained, if that is necessary to a conviction, however much evidence of it there may be, because the instructions do not go upon that ground. The jury were not instructed to find the defendants guilty if they believed they participated in the throwing of that bomb, or advised or encouraged the throwing of that bomb, or anything of that sort. Conviction has not gone upon the ground that they did have any personal participation in the particular act which caused the death of Degan, but the conviction proceeds upon the ground, under the instructions, that they had generally by speech and print advised large classes of the people, not particular individuals, but large classes, to commit murder, and have left the commission, time, and place to the individual will and whim, or caprice, or whatever it may be, of each individual man who listened to their advices, and influenced by that advice somebody not known did throw the bomb which caused Degan's death.

It will be observed in this case that the conviction was not had upon the ground that Spies had committed the murder or participated in it, but he was convicted because he belonged to an organization which advised the commission of such acts.

The same doctrine is held in the case of *Davis v. Beeson*, decided by the Supreme Court in 1889. The revised statutes of the State of Idaho provided that—

No person who is a member of any order, organization, or association which teaches, advises, counsels, or encourages its members, devotees, or any other person to commit the crime of bigamy, polygamy, or any other crime defined by law, either as a rite or ceremony of such order, organization, association, or otherwise, is permitted to vote at any election, or to hold any position or office of honor, trust, or profit within this Territory.

The Supreme Court upheld this provision as constitutional. It will be observed that this act disfranchises persons, not for the commission of the crime of polygamy, but upon the ground that they belong to an organization which "teaches, counsels, and encourages others to commit the crime of polygamy."

In the case of *Wooley v. Watkins*, Second Idaho Reports, the court say:

Orders, organizations, and associations, by whatever name they may be called, which teach, advise, counsel, or encourage the practice or commission of acts forbidden by law, are criminal organizations. To become and continue to be members of such organizations or associations are such overt acts of recognition and participation as make them particeps criminis and as guilty in contemplation of criminal law as though they actually engaged in furthering their unlawful objects and purposes.

It is established beyond all controversy that a majority of the ruling authorities of the Mormon Church are living in open polygamy, and thereby encouraging the practice of polygamy and polygamous cohabitation, many of them having taken plural wives since the manifesto, and that the Senator, as a member of such organization, is cognizant of their crimes and indifferent to their perpetration.

#### ACTS OF REED SMOOT ENCOURAGING POLYGAMY.

The Senator's complicity in encouraging polygamy and polygamous cohabitation does not consist wholly in the fact that he



is one of the governing body of that church. By repeated acts he has, as a member of the quorum of the twelve apostles, given active aid and support to the hierarchy in its defiance of the statutes of this State and the laws of common decency and in its encouragement of polygamous practices by both precept and example. One of the first acts of the Senator after his elevation to the apostolate was to assist by vote and influence in the elevation of Joseph F. Smith to the presidency of the Mormon Church, with full knowledge that he was living in polygamy. He has since repeatedly voted to sustain him, and even after full knowledge that Joseph F. Smith was living in polygamous cohabitation and had asserted his intention to continue in this course in defiance of the laws of God and man. He aided in the selection of Heber J. Grant as president of a mission when it was a matter of common notoriety that Apostle Grant was a polygamist. He voted to fill a vacancy in the apostolate by the election of Charles W. Penrose, even after testimony had been given in the investigation showing him to be a polygamist. It is difficult to perceive how the Senator could have given greater encouragement to polygamy and polygamous cohabitation than by thus assisting in conferring one of the highest honors of the church on one who has been and was then guilty of these crimes. As trustee of an educational institution he made no protest against the continuance in office of Benjamin Cluff, jr., a noted polygamist, as president of that institution, nor did he make any effort to discover the truth that said Cluff had taken another plural wife long after the manifesto, nor did he protest as such trustee against the election of George H. Brimhall, another polygamist, in the place of Benjamin Cluff, jr.

Since his election as an apostle of the Mormon Church the Senator has been intimately associated with the first president and with those who, with himself, constitute the council of the twelve apostles, and the fact that many of his apostolic associates were living in polygamous relations with a multiplicity of wives is a matter of such common knowledge in the community that it is incredible that the Senator should be wholly ignorant of the fact. Yet at no time has he uttered a syllable of protest against the conduct of his associates in the leadership of the Mormon Church, but on the contrary has sustained them in their encouragement of polygamy and polygamous cohabitation, both by his acts and by his silence.

Some of his more conspicuous acts in that regard have been adverted to, and his silence has been scarcely less culpable than his acts, for, in view of what has been said, it will hardly be contended, I think, that in order to render the Senator unworthy of a place in this body, he must have been an active participant in the crimes of his fellow-members in the hierarchy. Under the circumstances, his silence must be construed as giving his consent to the designs, acts, and course of conduct of those with whom he has been and is associated in the government of the Utah Mormon Church. That silence alone may make one amenable to punishment for the commission of an unlawful act in which he took no part is confirmed by no less an authority than the present Secretary of War, who was for some time one of the most eminent members of the judiciary of the United States, and who in his official utterances must be

presumed to have in mind the rules of law, as well as the dictates of common sense. In his latest annual report the Secretary refers to the dismissal from the service of an entire battalion of United States soldiers because of the commission of a crime by a very few of their number. With the criminal act itself by far the greater number of the members of the battalion had absolutely nothing to do, their offense consisting in their keeping silence in regard to their knowledge of the perpetrators of the unlawful act. Concerning their guilt in thus being silent, Secretary Taft says:

Instead of giving to their officers or to the military inspectors who were directed to make the examination the benefit of anything which they knew tending to lead to a conviction of the guilty persons, there was a conspiracy of silence on the part of the many who must have known something of importance in this regard. \* \* \*

Under these circumstances the question arises, Is the Government helpless? Must it continue in its service a battalion many of the members of which showed their willingness to condone a crime of a capital character, committed by from ten to twenty of its members, and put on a front of silence and ignorance which enables the criminals to escape just punishment?

The Secretary answers this question with a vigorous negative. And the question may well be asked here, Is the Senate of the United States bound to admit to its membership one who shows his willingness to condone the crimes of the members of the hierarchy to which he belongs and puts on a front of silence and ignorance, which is designed by him to encourage his associates in their nefarious conduct?

I will read what he is reported to have declared at the October conference of 1905. On the 6th of October, 1905, he addressed the seventy-sixth semiannual conference of the Mormon Church, and the Deseret News, the organ of the church, reprinted his remarks as follows:

I believe that the Latter-day Saints, who have the spirit of God in them, never had more confidence in a man or a set of men than they have in the presidency of the church to-day.

I am indeed thankful for my standing in the Church of Jesus Christ of Latter-day Saints [Mormon]. When I study the history of the church I find that it is at all times the same. I am not ashamed of the power and position of the Mormon Church. I say to Joseph F. Smith to-day, this people will never turn against thee on the testimony of a traitor.

In view of the evidence and the law in this case applicable thereto, I do not see how the contention can be successfully maintained that the Senator is entitled to a seat in this Chamber. Suppose the Senator, instead of having his credentials presented by a fellow-member, had offered the same in person and said to the Senate "I desire to be entirely frank with this body, and therefore I wish to state that, while I hold the certificate of election from the legislature of the State of Utah in due form, yet the Senate should know that I am a member of the Utah branch of the Mormon Church and one of its twelve apostles, so called, who, with the first presidency, constitute a self-perpetuating body of fifteen men and the ruling authorities of such church; that while I am not a practicing polygamist, yet a majority of my associates are, and are now and have been living in polygamous cohabitation ever since the manifesto; that the head of the church, Joseph F. Smith, is to-day living in polygamous cohabitation with five women, by whom he has had forty-three children; twelve born since the manifesto; that he openly avows his purpose to continue such practice in defiance of all law, human or divine; that no one high in authority in

the church is permitted to be a candidate for or accept a public office without first obtaining permission from the church, and I received such permission from Joseph F. Smith, the head of the organization, before becoming a candidate for the Senate, without which permission I could not have been elected; that the legislature electing me was composed of a majority of the adherents of the Mormon Church; that I sustain President Smith at every conference of the church and have never questioned or protested against his course of conduct, and, while not advocating polygamy, I have never preached against it; that we interfere with the functions of the State, and that I am obligated to avenge the death of the prophet, Joseph, and to enjoin its observance upon my children." Had the Senator made such a statement to the Senate upon his first appearance, what Senator would have voted for his admission?

With this state of facts disclosed by the testimony now before the Senate, and upon which the report of the committee is based, what Senator can conscientiously vote for his retention?

#### THE ENDOWMENT OATH.

Another and final reason assigned why the Senator should not retain his seat in the Senate is that, as a member of the Mormon organization, he has taken an obligation incompatible with his oath as a Senator of the United States, and is thereby incapacitated from faithfully performing the duties of a Senator. There is no question but that this organization at some time in the course of its history, and under the administration of some one of its presidents, probably Brigham Young, was converted into a secret organization with signs, symbols, and oaths. A ceremony is performed in secret, called "taking the endowments," and there is no question but that the Senator took these endowments and oaths, and that they are continued until today and are a part of the regular ceremony of the church. Many witnesses testified in a general way with more or less particularity as to the nature of these obligations, but Professor Wolf, of Brigham Young College, having been present when the obligation was administered many times, the last occasion being as late as 1904, gives in exact words the obligation as follows:

You and each of you do covenant and promise that you will pray, and never cease to pray, Almighty God to avenge the blood of the prophet upon this nation, and that you will teach the same to your children and to your children's children to the third and fourth generations.

The fact that such an obligation is taken by those who go through the endowment house is unquestioned, and is of such a character as to force the courts to hold that it was a bar to citizenship. In the third judicial court of Utah, in 1889, on the application of John Moore and others to become citizens of the United States, the court in denying the application said:

In these applications the usual evidence on behalf of the applicants as to residence, moral character, etc., was introduced at a former hearing, and was deemed sufficient. Objection was made, however, to the admission of John Moore and William J. Edgar, upon the ground that they were members of the Mormon Church, and also because they had gone through the endowment house of that church, and there had taken an oath or obligation incompatible with the oath of citizenship they would be required to take if admitted.

Investigation was had, witnesses called, and the parties were excluded from citizenship upon the ground, as the court say:

The evidence established beyond any reasonable doubt that the endowment ceremonies are inconsistent with the oath an applicant for



citizenship is required to take, and that the oaths, obligations, or covenants there made or entered into, are incompatible with the obligations and duties of citizens of the United States.

THE ALLEGATIONS IN THE PROTEST SUSTAINED.

Every witness before the committee belonging to the Mormon faith now in harmony with the church, from the president down, including the Senator himself, refused to disclose the obligation.

If the oath administered in the endowment house and assumed by the Senator is of such a character as to bar an alien from citizenship in the United States, by what process of reasoning does the same oath become a passport to a seat in the Senate of the United States?

In the light of all the testimony in the case, it is submitted that the material portions of the allegation in the protest against the right of the Senator from Utah to a seat in this Chamber have been established, that the Senator is one of a self-perpetuating body of fifteen men, constituting the ruling authorities of the Church of Jesus Christ of Latter-Day Saints, holding the office of apostle therein; that such ruling authorities of said church claim and are believed by their followers to possess supreme authority, divinely sanctioned, to shape the belief and control the conduct of those under them in all matters whatsoever, civil and religious, temporal and spiritual; that they assume to themselves authority in church and state, and so exercise that authority as to encourage a belief in and the practice of polygamy and polygamous cohabitation, in violation of the laws of the State prohibiting such crimes and regardless of pledges made for the purpose of obtaining statehood, and of covenants made with the people of the United States. That they protect and honor those who, with themselves, violate the laws of the State of Utah; and that, as rulers of said church, they dominate the State and interfere with its functions.

It is submitted, therefore, that the Senator, by becoming a member of and identifying himself with such organization and participating in its functions, has disqualified himself for membership in this body. The law fixes his status and measures the magnitude of his offending. An organization that fosters and encourages crime, tramples upon all law, human and divine, practices polygamy and polygamous cohabitation, desecrates the home, debases man, degrades womanhood, debauches public morals, strikes at the Christian civilization of the age, undermines and shakes the foundations of society and government, destroys the sanctity of the marriage relation, defies the authority of the State and National Government, registers an oath of hostility to the American nation, and brings the name and fame of the good people of Utah into disrepute, and shame and humiliation to the American people—I submit that such an organization is not entitled to have its representative in the Senate of the United States.









