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1st Session. }

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SENATE.

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No. 486.

PROCEEDINGS

BEFORE THE

COMMITTEE ON PRIVILEGES AND ELECTIONS

OF THE

UNITED STATES SENATE

IN THE MATTER OF

THE PROTESTS AGAINST THE RIGHT OF HON. REED
SMOOT, A SENATOR FROM THE STATE OF
UTAH, TO HOLD HIS SEAT.

VOLUME II.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1906.

WASHINGTON, D. C., December 12, 1904.

The committee met at 10.30 o'clock a. m.

Present: Senators Burrows (chairman), Foraker, Pettus, Dubois, and Overman; also Senator Smoot; also Robert W. Tayler, counsel for the protestants; A. S. Worthington and Waldemar Van Cott, counsel for the respondent; and Franklin S. Richards, counsel for certain witnesses.

TESTIMONY OF REV. J. M. BUCKLEY.

The CHAIRMAN. Mr. Tayler, call the next witness.

Mr. TAYLER. Mr. Chairman, I call Dr. J. M. Buckley.

Rev. J. M. BUCKLEY, being duly sworn, was examined and testified as follows:

Mr. TAYLER. Where do you live, Doctor?

Doctor BUCKLEY. I live in Merristown, N. H.

Mr. TAYLER. What is your business or profession?

Doctor BUCKLEY. I am editor of the Christian Advocate, of New York.

Mr. TAYLER. That is a denominational religious paper, I believe?

Doctor BUCKLEY. Yes, sir.

Mr. TAYLER. Of what church?

Doctor BUCKLEY. The Methodist Episcopal Church.

Mr. TAYLER. Are you a minister of the Gospel?

Doctor BUCKLEY. Yes, sir.

Mr. TAYLER. How long have you been editor of the Christian Advocate?

Doctor BUCKLEY. Twenty-five years.

Mr. TAYLER. How long have you been a minister?

Doctor BUCKLEY. Forty-six years.

Mr. TAYLER. Have you during your life given any attention to the Mormon Church, its history, and its doctrines?

Doctor BUCKLEY. I have.

Mr. TAYLER. How was your attention first attracted thereto?

Doctor BUCKLEY. By a settlement of Mormons within 10 miles of my place, of being brought up, and by members of families that I knew—this was about fifty-five years ago—going to Utah.

Mr. TAYLER. And have you, during your life, been a student of questions and cults of that kind and other kinds?

Doctor BUCKLEY. Well, where they have been forced upon me I have studied them to the best of my ability.

Mr. TAYLER. What attention have you given to the Mormon Church in the last few years?

Doctor BUCKLEY. As soon as I could command finances enough to make the trip I made a tour to Utah—that was about thirty-five years ago—and saw Brigham Young in his glory and heard Orson Pratt

preach on Mormonism as distinguished from Christianity so called, and at the request of the governor and judges I delivered an address the same night or the same day on Christianity as distinguished from Mormonism. And Orson Pratt's first wife and daughter, who had forsaken him when he took up with polygamy, were present, as were two or three hundred more Mormons who were on the margin of the situation relatively toward Mrs. Pratt rather than toward Mormonism.

In order to understand the matter, I had a long interview with George Smith, one of the three presidents, the father of Apostle Smith, who presented me with the Book of Mormon and with fourteen or fifteen pamphlets. I also was entertained by a Mormon who had three wives, who expounded to me the creed from beginning to end from his point of view.

Mr. Smith was the one who went to Jerusalem to find proof of the truth of Mormonism and who wrote the standard history, and was known as the historian. He thought me a possible convert, perhaps, and was very kind and explained everything, and afterwards wrote to me about the matter.

Mr. TAYLER. I do not care to go into details, Doctor, except to indicate your intelligent and abiding interest in this question.

Doctor BUCKLEY. I went there again in 1901 to note the changes and to study the different missions that had been established there, and to find out why they were doing so little, comparatively, in converting Mormons; and then I went again last June.

The CHAIRMAN. How long did you remain there in 1901?

Doctor BUCKLEY. Somewhere in the neighborhood of four days or five days, which I devoted entirely to this business.

The CHAIRMAN. Then when were you there again?

Doctor BUCKLEY. Last June.

Mr. TAYLER. Please state how long you were there last June?

Doctor BUCKLEY. I went there for a special purpose, to make an address on Sunday, in a congregation there, the same one I had addressed thirty-five years ago, when it was beginning. I stayed there only two days.

Senator DUBOIS. This was in Salt Lake City?

Doctor BUCKLEY. Yes, sir.

Mr. TAYLER. Did you attend any meeting in the Temple?

Doctor BUCKLEY. I did at that time.

Mr. TAYLER. In the Tabernacle?

Doctor BUCKLEY. Yes, sir.

Mr. WORTHINGTON. That was in June?

Doctor BUCKLEY. The first Sunday in last June. When I went there I was told I could not hear anything in the Tabernacle, as the Mormons account the first Sunday in the month a fast day and do not have their services on that day—the first Sunday. But on arriving—I should have said when I engaged to go there—on arriving I was met by a gentleman who told me that probably the most remarkable opportunity that I had ever had would take place that day, as it was the annual convention of the Young Women's Union of Mormonism, and the joint convention with that of the Young Men's, and that several thousand representatives from every Mormon country, together

would be present, and that the officers would be elected for the next year, and that as President Smith was, by virtue of his headship of the church, a president of all such organizations as these, he would preside. I also ascertained that this meeting had been in progress in its more secular aspects from the preceding Friday, and this Sunday was the grand culminating public assembly. I attended that assembly, which lasted—the session lasted—between three and four hours at least, counting everything that occurred; it was from about half past 2 to nearly half past 5; a little more than half past 5.

Do you wish me to describe what occurred there?

Mr. TAYLER. Yes, if you will, Doctor Buckley.

Doctor BUCKLEY. With respect to the speeches that were made, I have an absolute memory of every sentence that I published. I wrote three letters on the subject when I got back, and those three letters are in my paper; and I am absolutely certain that the language that I put into the mouths of the respective speakers was correct, so much so that I would swear to it verbatim.

The CHAIRMAN. May I ask you right here to state who spoke, so that we will know?

Doctor BUCKLEY. Will you allow me to refresh my mind on these details by my article?

The CHAIRMAN. Certainly. You have the right to do that.

Doctor BUCKLEY. I do not wish to stumble over figures and facts.

The CHAIRMAN. If you can state who spoke we will be obliged to you.

Doctor BUCKLEY. I will give the order. I have another copy of the paper over there, and if you will permit me to get it it will enable me to answer more definitely. This is the second letter.

Mr. WORTHINGTON. Let us look at the copy of the letters.

Doctor BUCKLEY. I will as soon as I have refreshed my memory.

Mr. WORTHINGTON. I was speaking to counsel.

Doctor BUCKLEY. I beg pardon.

Mr. TAYLER. Yes; we will.

Doctor BUCKLEY. The first speaker was Mr. B. H. Roberts. I think it is important to what I have to say about President Smith that this brief account should be read, if you will allow me to read it.

The CHAIRMAN. I will ask you first to give the names of the persons who spoke.

Doctor BUCKLEY. Mr. Roberts spoke.

The CHAIRMAN. Yes.

Doctor BUCKLEY. And then, after him, President Elmina S. Taylor, of the Young Ladies' Association, or, rather, she not being able to fill the building with her voice, her second counselor did so. The next person to speak was the secretary, who gave the statistics of the association.

Mr. WORTHINGTON. The secretary; what is her name?

Doctor BUCKLEY. It was a man in this case. His name I do not know, but the figures showed a total of one hundred and—

The CHAIRMAN. Give the names of the speakers. You have named three. I want to know who spoke.

Doctor BUCKLEY. They then proceeded to vote and to elect the officers, and elected President Smith, and as has assistants Heber J. Grant and B. H. Roberts.

The CHAIRMAN. Did anybody else speak?

Doctor BUCKLEY. I have given the names of all the persons who spoke up to that time.

The CHAIRMAN. During the day?

Doctor BUCKLEY. During the meeting. The only speaker after this was President Smith, who spoke two hours, or nearly that.

The CHAIRMAN. After that?

Doctor BUCKLEY. Nothing was done after that except to close in the usual way.

The CHAIRMAN. I am sorry to have interrupted you. Now go on in the usual way.

Doctor BUCKLEY. It is no interruption. This is a matter about which I do not know anything as to procedure, and I should be very glad to be interrupted.

The CHAIRMAN. I merely wanted to know who spoke.

Doctor BUCKLEY. Yes.

Mr. TAYLER. How large an audience was present?

Doctor BUCKLEY. The building is supposed to hold about 12,000 persons; some say 14,000. In the intervals, while they were voting, I counted the audience as far as I could see, and where I did not see—another person told me at the close that it was about as full in the gallery I could not see into as it was elsewhere. I made out there were about 11,000 persons in the building. It is barely possible there were not so many, but the very choir itself had more people than most churches have.

Mr. TAYLER. Doctor, respecting the subject of plural marriage—the subject of cohabitation with plural wives—what, if anything, did Brigham H. Roberts, as he was the first speaker, say?

Mr. WORTHINGTON. Is it all in print in the paper?

Doctor BUCKLEY. No, sir; it is not all in print in the paper. Otherwise I would not have troubled myself to try to bring it up. He said nothing whatever. B. H. Roberts said nothing whatever with regard to that subject. He was set for a welcome, however, devoting one-half of it to a splendid picture of President Smith, and he spoke without reserve of the proceedings of Smith and others before this committee, and he uttered this sentence, which—and I recognize myself as being under oath—is exactly verbatim:

“Placed before the leading men of the nation, engaged in an unequal conflict with the Government, he met them as an honest man, a product of Mormonism, and gave to the nation the truth concerning a despised people.”

That sentence is absolutely as stated. That is all I saw fit to put in that B. H. Roberts said.

Mr. TAYLER. Now, what did Joseph F. Smith say in relation to that subject?

Doctor BUCKLEY. Joseph F. Smith——

Senator FORAKER. Why not take the speakers in their order?

Mr. WORTHINGTON. Taylor was the next one who spoke.

Doctor BUCKLEY. As I have it recorded here:

“President Elmina Taylor, of the Young Ladies’ Association, was to speak, but was physically unable to do so. Her second counselor, Mrs. Martha H. Tingey, spoke, and did so with as much of a heart-felt and earnest manner as would be heard in our Woman’s Missionary Societies.”

The next speaker, whose name I could not catch, as it was an-

nounced in a feeble way, "discussed the cooperation of parents in home preparation." That is the order of speakers up to the time that the president spoke. As to what he said—

Mr. TAYLER. I did not attach any importance to what anybody might have said except those who were high in the church.

Senator FORAKER. I supposed the witness had something to quote from each speaker.

Mr. TAYLER. No.

Senator FORAKER. I am sorry to have interrupted you.

Senator OVERMAN. I understood you to say that before the president spoke they had an election and elected Mr. Grant—

Doctor BUCKLEY. Yes, sir; and the election was most extraordinary in character.

The CHAIRMAN. Was that after the president spoke?

Senator OVERMAN. No; before.

Doctor BUCKLEY. No; before. It was after Mr. Roberts spoke.

The CHAIRMAN. Proceed.

Mr. TAYLER. Describe this election.

Doctor BUCKLEY. I put it in one paragraph and described it absolutely at the time, and I think I can save time by just reading the single paragraph:

"The method of voting was specially interesting. It was done by the uplifted hand. Officers are not said to be elected, but 'sustained.' The authorities prepare the list, read the names, and the vote sustains them or otherwise. This word is used all the way through. After sustaining the president of primaries and counselors, secretary and treasurer of the primaries, the president and counselors of the Young Ladies' Association, and the first general superintendent of the Young Men's Association, President Smith was sustained, as were his assistants, Heber J. Grant and B. H. Roberts. The secretary and treasurer, musical director and assistant, and all the aids were sustained." * * *

None of the so-called "bosses" of the country have ever attained such control as was here manifest.

"All the votes were unanimous, and as the name of each proposed officer was read a great forest of hands was raised with mechanical precision.

"In one case the reader of the report made a mistake and read a name which should not have been, but the nomination was unanimously sustained. Immediately afterwards, the mistake being discovered, the right name was put and that was unanimously sustained. The time kept by the great organ and the choir was perfect, but not more so than the time kept by these voters."

That is all upon that point.

Mr. TAYLER. You may proceed to state what President Joseph F. Smith said in relation to the subject to which I have referred—plural marriage, celestial marriage, cohabitation with plural wives, or his appearance before this committee.

Doctor BUCKLEY. President Smith began with these exact words:

"I have been requested to make some remarks relative to the great and important subject of marriage, but as I have very little time in which to speak I can not hope to say all that might be said on this subject."

That was the opening.

"He began by saying that a great many people in the world regard marriage as a mere business or social contract, terminated at death, and governed largely by laws of convenience and the laws of the land, in force and effect only for this life. The result of this custom is that the yoke of matrimony sits very easily upon the shoulders of most men, and also upon many women. The latter, however, assume the greater responsibilities in this relation, as they have to bear the burden of motherhood."

This language was true of Mr. Smith. He said these things, but he elaborated. Where it was vital I committed it to memory. I ought to say, perhaps, that owing to illness, which prevented me from writing for seven years, except in signing checks, etc., or some little business of that kind, when I was a young man, I had to acquire the power of being able to recite for weeks at a time everything that interested me, and I make no notes of any kind. I will say that a Mormon wrote for the rest of my manuscript, which I had not used. He wanted to get it. I am certain as to the language, more so than the average stenographer would be, for he might misunderstand. It is a peculiar thing, but it is a fact, and everything that I have here in quotation marks I have no hesitation in declaring was verbatim.

"I hold and feel that the responsibility of the man in entering upon married life should be just as great as that of the woman. The world holds the ties of wedlock in light esteem. The secular press is filled with slurring allusions, coarse jokes, and caustic jibes at the marriage relation. Men, and many of the women, consider the oath of fidelity in the marriage ceremony with ill-concealed contempt. All this results in licentiousness and widespread immorality."

He then read from the first chapter of Genesis the passages about creating men in male and female, and then said this:

"When Adam and Eve were created the command was that they should multiply and replenish the earth. They were formed in the image and likeness of God, and bound together not for this life alone, but for time and eternity, a custom which God designed should be perpetuated in the earth. This was not a civil contract, but a contract wrought out by God for the guidance and rule of life of His children."

He then threw out an intimation that God is male and female, and then proceeded:

"From this portion of the Scriptures we learn that marriage was intended to continue through all ages. It was formed for immortal beings; it is not a civil contract until death shall thus part; it is a contract between two immortal beings, to continue both in this world and in the next. I repeat it, the word of the Lord is that man was made in the image and likeness of God, male and female."

That he powerfully emphasized.

"This fact people will not understand and its application to the question of marriage they will not comprehend. Neither will they comprehend the teachings of the Gospel."

That is what he said at that time on that point.

"He then returned to the subject previously mentioned. 'Marriage is a standing joke with many. In entertainments marriage is made light of. In many of the newspapers jokes are cracked and remarks are printed ridiculing the holy institution of matrimony.'

It is abominable. This state of things is one of the curses of the world to-day.' ”

He then expatiated for about ten minutes on the extremes to which divorce has gone. Up to this time his general style had been that of a kind old gentleman who was preparing himself for further application; he opened his matter. Up to that time he looked like a man 75 years of age from where I stood, but subsequently I saw him and I also ascertained his age; but at this point he lifted himself up to his full height and he exclaimed:

“This sort of thing can not exist in Zion with impunity.”

That is, the divorce business or trifling about marriage.

He then spoke of the mothers of his children.

“The mothers of my children were given to me by God as saints of God. I thank them for what they have been and are to me.”

I turned this into the third person as a narrative.

“I thank them for what they have been and are to me.”

“He alluded to the jokes that men make upon mothers-in-law, and declared that it shows a degraded condition of society. One of these close listeners whispered to another: ‘I wonder if he will dare to say “mothers-in-law,”’ and a negative opinion was given. Hardly had the words been uttered before he exclaimed: ‘Many people in this world joke about their mothers-in-law, as if to have a mother-in-law is one of the curses of humanity. I want to say now, to you all, that the best friends I ever had have been my mothers-in-law. I loved and honored them and shall ever hold their memory sacred. They were true women and worthy of their daughters.’ ”

The audience, notwithstanding they knew that he had 5 living wives and 45 children, heard this statement quietly and respectfully. He uttered it with solemnity, with reverence, and with pathos. He then took up, one by one, several New Testament passages, and attempted to harmonize them with Mormonism. He took up the case of the Sadducees when they said to Christ, “Whose wife is she in the resurrection?” He read what Christ said in reply, and then said that Christ “intimates that she belonged only to the one to whom God had given her.” * * * “Soon after uttering these words a great change took place in his manner. His voice rang out as strong and clear as that of William J. Bryan ”——

I am reading from the paper.

“He was not defiant, but most earnestly definite and determined as he exclaimed: ‘I dare not and can not cast aside those to whom God in His infinite wisdom has joined me for time and for eternity. I dare not and will not cast aside the mothers of my children. If I did I should forfeit all the blessings that God will bestow upon those who are faithful to their trust. If I did I should be forever damned and be forever deprived of the companionship of God, my wives, my sons, my daughters, and all those most dear to me throughout eternity.’ ”

“‘I am not a coward or a craven thing. I may be driven to the last extremity, but I would not shrink from exile, imprisonment, or any earthly hardship that might come to me in fulfilling my duty to God and man. When it comes, however, to throwing aside all hope of future happiness, all expectation of continued union with those I love, I will not make such a sacrifice. I dare not and can not. I am

not prepared to forfeit an eternal inheritance by yielding to the customs of the world. I can not, I dare not risk eternal damnation by putting away the responsibilities which God has placed upon me. But rather I will be true to my duty, true to my trust, true to my God, my wives and my children."

He concluded by showing that Mormonism was not a system of adultery, but a system of marriage, and concluded with this passage, finally:

"Whosoever looketh on a woman to lust after her hath committed adultery with her already in his heart," and called upon the people to avoid adultery as they would a pestilence.

Now, so far as the quotations are concerned, where they are strictly marked in as quotations, they are absolutely correct, and in order to make them correct beyond all doubt before publishing them, I exhibited them to three respectable persons who heard them at the time.

Mr. TAYLER. I think that is all I wish to ask Doctor Buckley.

The CHAIRMAN. Do you know whether the twelve apostles were present at this meeting?

Doctor BUCKLEY. All the apostles that were in town, that were there at all, were there. All the dignitaries were there that they could muster.

The CHAIRMAN. Do you know Senator Smoot?

Doctor BUCKLEY. I do not.

The CHAIRMAN. You would not be able to state whether he was there or not.

Doctor BUCKLEY. No, sir; and I only knew who were there by my guide, a friend of mine who lived there. He pointed out such and such men to me. But when I found that President Smith was going to speak naturally enough I concentrated my attention more particularly on every motion he made and every word he said. He rose at different times to do different things as chairman, but he did not say anything on these subjects except in this long address.

The CHAIRMAN. I do not remember exactly what you said about Apostle Grant.

Doctor BUCKLEY. I said nothing about him, except that in the voting he and B. H. Roberts were sustained as assistants to President Smith in his duties as president of the Women's Association and the Young Men's.

Senator OVERMAN. Was Smith nominated for the position, or how was it reported by the secretary?

Doctor BUCKLEY. The secretary just came forward and read the list prepared by the committee or the authorities.

Senator OVERMAN. What committee or what authorities?

Doctor BUCKLEY. It was the committee to nominate—a nominating committee; a nominating committee for all the general officers of the association.

"The authorities prepare the list, read the names, and the vote sustains them or otherwise."

They do not use the word "elected" at any time or place.

Senator OVERMAN. You do not know what authorities prepared the list—whether the twelve apostles, or who?

Doctor BUCKLEY. Undoubtedly the president himself and his twelve counselors; but that is an inference.

Senator OVERMAN. There was nothing said about that in the meeting!

Doctor BUCKLEY. Nothing. He said "those who had been prepared." He made some remark about the general confidence that they exhibited in the authorities.

Senator FORAKER. Have you any personal knowledge of Senator Smoot that you can give?

Doctor BUCKLEY. None whatever. You would hardly consider what they said to me about Senator Smoot as knowledge.

Senator FORAKER. I was not inquiring for what the people had said by hearsay.

Doctor BUCKLEY. No. While I was there I asked all sorts of people, Mormons and others, whom I met how Senator Smoot stood in the whole community, the whole general community, and I got plenty of answers. Would it be proper for me to say that not a syllable was breathed against him; that many commended him highly?

Senator FORAKER. I was not inquiring for hearsay information about him. My purpose was simply to ascertain whether you had any personal knowledge of him in which we would be interested.

The CHAIRMAN. One question for my own information, to see that I am not mistaken. Did I understand you to say that Mr. Smith, in his sermon, carried the idea that to abandon a multiplicity of wives would be visited with eternal damnation?

Doctor BUCKLEY. Yes, sir; most definitely; and he carried the idea, however, that polygamy was suspended; that only those who had wives, situated as he was, were in that condition. He appeared all the time on that subject like a man who was under the terrific pressure of uncontrollable circumstances; his manner was such. When he said "I will not," he did not say it in the sense that Brigham Young in the speech I heard him make thirty-five years ago defied the Government. But it was the condition of a man who was forced by the circumstances. It was rather pathetic, and there was not anything bitter in it from one end to the other.

Senator FORAKER. What did he say about the suspension of polygamy or the recognition by the church of its suspension?

Doctor BUCKLEY. He did not say anything beyond that except a single general implication. He was strictly personal relative to his wives; absolutely so; and he uttered a paragraph, a very short paragraph, that he would not have uttered if he had not assumed that the audience knew the Woodruff revelation and other matters. But he was strictly personal relative to his own wives.

Senator FORAKER. How did he come to speak personally of his own affairs in the public address? Was there anything that led up to it? Was there anything special?

Doctor BUCKLEY. Certainly. Mr. Roberts had spoken twenty-five or thirty minutes about the matter, and at the close of that passage I read, referring to President Smith coming down here and having an unequal conflict—

Senator FORAKER. Yes, I remember that.

Doctor BUCKLEY. That was his keynote.

The CHAIRMAN. Speaking of this manifesto, did he speak of it as temporary?

Doctor BUCKLEY. No, sir; he said nothing definite on that subject, but before he came to his own wives and himself he spoke of the common knowledge of the people. They all knew that he had the wives—the five wives. Their residences are there. The same day I went to every one of them. They all knew that. I saw him walking back with one of his wives after the affair was over. He assumed that knowledge, and he assumed that they knew that he had his wives there and that he had been down here and had testified to that fact, and he simply passed out of his exposition of the Scriptures by an implication and took up his own case; and the last twenty-five minutes of it—speaking now without regard to accuracy; it might have been a half hour, it might have been only twenty minutes—he talked entirely on that subject until he came to his conclusion, with regard to the purity of Mormon lives.

The **CHAIRMAN.** He spoke with earnestness, I understood you to say?

Doctor BUCKLEY. Yes, sir; very great earnestness.

The **CHAIRMAN.** And he said that the continued living with a multiplicity of wives taken before the manifesto was necessary for eternal salvation?

Doctor BUCKLEY. He did not affirm that. He said that for him to leave them, to forsake them, would cause him eternal damnation, and he would have to give up all the joys of heaven and everything else if he cut himself off from them.

The **CHAIRMAN.** And it would be the same with anyone else situated as he was situated?

Doctor BUCKLEY. Unquestionably I carried that, and I think he intended that to be carried.

Senator FORAKER. Was there anything in the address that seemed to advise plural marriages?

Doctor BUCKLEY. No, sir.

Senator FORAKER. From this time on?

Doctor BUCKLEY. No, sir; there was an implication that they were over. That was a part of that paragraph.

Senator FORAKER. So I understood.

Doctor BUCKLEY. Yes, sir.

Senator FORAKER. I will ask you a question in regard to what you heard with respect to Senator Smoot. We are interested in learning everything we can about him. Did anyone tell you about his having plural wives or his relation on that subject?

Doctor BUCKLEY. Every person I saw—and the number was as many as I could see at the principal hotel, at a church to which I went, where there were more than a thousand people, with scores of whom I spoke afterwards—wherever I asked the question, "What kind of a man is Mr. Smoot," whether he was a polygamist or anybody believed he was a polygamist, I am compelled to say that I did not find, either in California, where I had been for months at a convention, or while I was in Utah, a single person who said one word against Mr. Smoot. Nor did I find one person who believed that he had ever been married to anyone but his wife or had otherwise lived with any woman who was not his wife. That is the fact in the case. Republicans and Democrats, Mormons and Gentiles, all talked in that way. How many I saw I can not tell, for I did not expect ever to keep that fact in mind as of any importance.

The CHAIRMAN. You are not only compelled to say that, but I suppose you are glad to say it.

Doctor BUCKLEY. Certainly.

The CHAIRMAN. As we are all to hear it.

Doctor BUCKLEY. Certainly. I have no more interest in this case before your committee than I would have in the case of a Catholic, or a Doweite, or a Unitarian, or a Spiritualist, or anybody else.

Senator FORAKER. We assume that. We are only trying to get the facts in the case.

Doctor BUCKLEY. That is all. But I wrote my article with extreme care.

Senator FORAKER. Let those articles be embodied in the record. They are not very lengthy. They have been commented on. I think, if there is no objection on the part of the members of the committee, the articles which Doctor Buckley has commented upon and which were written by him should be inserted in the record.

The CHAIRMAN. I understood the Doctor to read from the articles that he had written.

Senator FORAKER. Yes; but he did so only in part. I should like to see the whole articles in the record.

Doctor BUCKLEY. I read everything I quoted with quotation marks from President Smith. The things that he said, verbatim, are just as he said them, and to make sure I put them in quotation marks.

Senator FORAKER. My suggestion is made because I think it would be rather an interesting contribution to the literature on the subject.

Mr. TAYLER. I think it would be well, and I will adopt the suggestion right here, lest we forget it, to offer in evidence these two articles written by Doctor Buckley. But I do not want them to displace his own narrative of the occurrence.

Senator FORAKER. Of course not.

Mr. TAYLER. It will be a repetition to a certain extent.

Senator FORAKER. Let the articles be printed.

Doctor BUCKLEY. If I may be permitted to make one statement here—

The CHAIRMAN. If there be no objection, these articles will be embodied in the record.

Doctor BUCKLEY. Let me say that the Deseret News, which usually gives long and full reports of what the presidents say, did not report this speech. It is a very extraordinary speech. I was told by a citizen that it certainly would. I asked him to send me a copy as soon as it appeared, and he wrote me that it was not printed, and would not be, but he sent me two other papers, Gentile papers, which contained very nearly verbatim reports of these particular paragraphs, and by comparing them with this when they came I found that there were only six or seven departures in some words that had been misunderstood either by me or by the stenographer. That is the history of the document.

The CHAIRMAN (to Mr. Worthington). Have you any questions?

Mr. WORTHINGTON. Allow me to look over the articles first to see whether we have any questions.

Mr. TAYLER. Doctor, I understand you to affirm positively that what you have quoted here as having been said by Joseph F. Smith on that occasion was said by him practically in those words?

Doctor BUCKLEY. I say that where I have given the quotation

marks those were the very words. Of course there might be a difference as to a definite article or an indefinite article, but I refer to the nouns and the verbs, the root, idea words.

Mr. TAYLER. It is not merely your interpretation of the substance?

Doctor BUCKLEY. Oh, not at all; not where the quotation marks are. I considered it a historic occasion.

Mr. WORTHINGTON. In this article, which purports to give the substance of what President Smith said, I have not been able to find any reference to what you told us he said upon the subject of the manifesto and of plural marriages being forbidden in the future. Was there anything of that kind in your report?

Doctor BUCKLEY. No, sir. Perhaps you did not catch my words. It was not a definite statement. It was an implication that they understood the situation; that it had been disposed of, and so on.

Mr. WORTHINGTON. Whatever it was, it does not appear in this article?

Doctor BUCKLEY. No, sir; it was of no value, because there is no dispute on that point.

Mr. WORTHINGTON. You assume that everybody understood that plural marriages were forbidden?

Doctor BUCKLEY. Yes, sir; and that they assumed he had several wives. That was just assumed.

Mr. WORTHINGTON. The last article which has been offered in evidence, containing the witnesses' report of what took place, goes on and contains his comments upon various things and matters; what he heard and learned from other people, having no reference to what took place in the tabernacle. It would hardly be competent here for any purpose.

Doctor BUCKLEY. Certainly not. That was entirely apart from this matter.

Mr. WORTHINGTON. I suggest that the witness confine it to the report of the proceedings in the tabernacle.

Mr. TAYLER. I think not. We had no objection to Doctor Buckley stating, in reply to Senator Foraker's question, everything good that he had heard about Senator Smoot. We did not have any desire to conceal it. The observations that Doctor Buckley made on that point have gone in evidence. Let us have all of his comments. I think that would be fair.

Senator FORAKER. I did not ask any questions with the idea of bringing out anything that was mere hearsay. My inquiry was whether or not he had any personal knowledge, and he made the answer he did, with which we are all familiar. Then, without knowing what his answer would be, I asked him the further question later whether he had heard from any of these people with whom he had talked about Senator Smoot that he was charged with having plural wives, thinking that if he had heard such statements it would be proper matter for us to investigate by calling the parties who gave him the information, if there were any such parties.

Senator DUPON. You say, Doctor, you do not know whether Apostle Smoot was present at this time?

Doctor BUCKLEY. I sat halfway down in the center. The gentleman who took me in, a citizen of the place with whom I was at the time, pointed out to me such and such men, telling me that they were Apostle So-and-so. I am confident that if—I can not say. But

I do not recollect that he pointed out Apostle Smoot. I do not know whether he was there or not.

Senator FORAKER. What day of the month was that?

Doctor BUCKLEY. It was the first Sunday in June.

Senator FORAKER. The first Sunday?

Doctor BUCKLEY. The first Sunday in June.

Senator FORAKER. I do not remember the day of the month.

Doctor BUCKLEY. I will look it up.

Senator DUBOIS. If Apostle Smoot was present, did he sustain Joseph Smith and Heber Grant and Brigham H. Roberts?

Doctor BUCKLEY. I could not say. There was a most extraordinary forest of hands——

Senator DUBOIS. I will put it in another way. Did anyone refuse to sustain these three officers?

Doctor BUCKLEY. There was not a sound. There was nothing but a forest of hands all over. Of course the Gentiles did not vote. I sat right in the body of Mormons and was astonished at the unanimity, at their knowing the hymns without having any hymn books, and singing lustily, and very many other things that had no bearing on this.

Mr. WORTHINGTON. Who was the citizen who pointed out the apostles to you?

Doctor BUCKLEY. Rev. Benjamin Young, pastor of the First Methodist Episcopal Church.

Mr. WORTHINGTON. With respect to the paragraphs of your report which purport to be verbatim, how soon after you heard these discourses was it that they were reduced to writing?

Doctor BUCKLEY. They were reduced to writing on the cars, more or less, as I left the place.

Mr. WORTHINGTON. How long was that after you heard the discourses?

Doctor BUCKLEY. A day or two.

Mr. WORTHINGTON. Could you state more definitely than that?

Doctor BUCKLEY. No, sir. [A pause.] I can by thinking. I went from there to Denver by daylight and I made notes in my book of these performances, but whether I wrote down these particular passages that you speak of between Salt Lake and Denver, where I stayed three days at a college commencement, or whether I wrote them down afterwards, as I went on to Minneapolis, I can not say. But I can say this, that a thing of that kind I could recite verbatim for weeks and weeks together, provided I had my mind made up to write upon it.

Mr. WORTHINGTON. As a matter of fact, then, it might have been a week after you heard the discourse before these passages which appear in quotation marks in your article were reduced to writing?

Doctor BUCKLEY. I should hardly think——

Mr. WORTHINGTON. You say you were three days in Denver?

Doctor BUCKLEY. I can not say. I brought back a whole lot of scribbling relative to dates and places, and just exactly when I wrote this I can not say. But I know I had my letter all thought out from beginning to end before I went to bed that night.

Mr. TAYLER. The language of it then was consciously fixed in your mind immediately?

Doctor BUCKLEY. Yes, instantly; and half the language of the letter.

The question was raised as to the date of the first Sunday in June—

Senator FORAKER. We have ascertained it by reference to a calendar.

The CHAIRMAN. It was the 5th.

Senator FORAKER. It was the 5th.

Doctor BUCKLEY. Yes; it was the 5th. The regular meeting had been going on since the preceding Friday.

The CHAIRMAN. And this Sunday you speak of was the 5th of June!

Doctor BUCKLEY. Yes, sir; the 5th of June. It was declared to be the first utterance of importance that President Smith made after his visit here.

The CHAIRMAN. Is there anything further, gentlemen?

Mr. WORTHINGTON. I think not.

The CHAIRMAN. Mr. Tayler, call the next witness.

Mr. TAYLER. Call Mr. George Reynolds.

Mr. WORTHINGTON. The committee did not pass on the objection I made to the entire article and the suggestion that what shall appear in the record be confined to where Doctor Buckley undertakes to describe what took place at this meeting.

Let me say that I understand, Mr. Chairman, there is great anxiety to close this matter; but I do not see how it can ever be closed if we are to have not only reports of meetings of this kind, but general talk about the situation that writers happen to gather on the streets, or wherever they may be.

Doctor BUCKLEY. May I say that I do not think this part should go in, because this was the end of three letters, and after I finished with the president I went on to write suggestions about the Mormon situation, with special reference to whether Christians could make any headway in converting them, and it has nothing to do with this case.

Senator FORAKER. I withdraw the request I made.

Doctor BUCKLEY. For the most part that is the character of the last part of the article.

The CHAIRMAN. The request is withdrawn.

Senator FORAKER. I thought it was only a descriptive account of the meeting.

Mr. TAYLER. I think the counsel would have no objection—and I think that is what Senator Foraker had in mind—to the insertion in the record of that part of the articles which describes the meeting.

Mr. WORTHINGTON. We have no objection to putting in the record what refers to the meeting.

The CHAIRMAN. Counsel can agree upon the part of the articles which are to appear, and they will be put in the record.

Mr. WORTHINGTON (to Mr. Tayler). You draw your pencil through what you think ought not to go in, and we will look at it later.

Mr. TAYLER. Very well.

The articles, as it was agreed that they should appear in the record, are as follows:

[Editorial letter.]

II.

IN SALT LAKE CITY.

The Rev. Benjamin Young, the pastor of the First Methodist Episcopal Church of Salt Lake City, has only been in that position a few months. Prior to that time he was pastor of Asbury Church, in Denver, Colo., and previous to that in other churches in Colorado conference. At the general conference he asked me to preach in Salt Lake City on the morning of the first Sabbath in June. I consented to do so if certain arrangements could be made, and if Mr. Young conducts everything assumed by or committed to him with as much accuracy, promptitude, and genuine courtesy as he displayed in this case, he not only ought to succeed there, but everywhere that he may go. What a lubricating effect courtesy has upon dusty and wayworn travelers! Though there is truth in the proverb that overdoing a courtesy is better than underdoing it, ostentation and indifference are alike exposed to the danger of being distasteful or misunderstood. The train was much delayed, arriving several hours late. I found myself more weary than at any period in the six weeks of travel and work; but under Mr. Young's treatment the lassitude was dissipated in five minutes and never returned.

Sunday morning was bright and beautiful; the church—a large one—was crowded. There were many general conference delegates and visitors present, and, in addition to the excursionists going East, there were several Methodists and members of other Christian congregations in the East who were going West. The society, as I found by conversing with various members, is in a very hopeful condition, pleased with its new pastor and his family, and expecting to share the prosperity to which other Protestant pastors and the rapidly growing population look forward. The church has a problem on its hands that must be speedily decided: Whether to enlarge and beautify the present building, tear down and rebuild on the site now occupied, or to sell the same and build elsewhere. Young as Salt Lake City is, it has a down-town and an up-town problem. The present building is of brick. We have seen many churches recently in process of erection while the congregation continued to attend services in the old building on the same spot, and it seems quite often a reasonable method of proceeding to build the walls of the new and worship in the old till the time to complete the interior arrives.

The present church is admirably suited from many points of view, but the judgment of an occasional visitor amounts to but little in such cases. The choir and organist not only led the people efficiently in congregational singing, but executed the parts entirely taken by themselves in a creditable manner, and in one instance the performance was so fine as to leave a very pleasant recollection.

THE SERVICES IN THE MORMON TABERNACLE.

Mr. Young had informed me in Los Angeles that I would not have the opportunity, which I had had on former occasions, of attending services at the tabernacle, as the first Sunday in the month is a fast

day and the tabernacle is not open on that day except on special occasions, and he knew of nothing to break the ordinary rule. Much to my gratification a special occasion occurred, and one of greater interest, probably, than any that has taken place there for many years. It was the general conference of the Young Ladies' and Young Men's Mutual Improvement Associations of Mormonism. In the morning it convened at assembly hall, and held meetings in the tabernacle at 9 and 7.30 p. m. The early meeting was devoted to essays and comments upon them. The subjects selected and discussed were pertinent, and the first might well be discussed among Methodists. It was "Reverence for our places of worship." After much discussion this resolution was passed:

"Be it resolved by the officers of the Young Ladies' and Young Men's Mutual Improvement Associations, in conference assembled, That we will exert every effort to persuade the members of our associations to join us in developing in the hearts of the young people a sentiment of reverence for sacred places and sacred things, and to unite with us in refraining from talk, laughter, and all unseemly conduct in our worshiping assemblages, and in keeping all our places of worship clean, well ventilated, and attractive."

"The responsibility of officers" was another theme, and one of the points emphasized was punctuality in keeping promises. "The social life" also was discussed, and apparently, from the reports, most intelligently. The tabernacle was crowded below and well filled above in the afternoon. The great organ and choir fulfilled the reputation which they have, though I was told that quite a large number of the bass singers of the choir were absent. The decorum of the Mormons, young and old, was reverential and from every point of view equal to what I have seen at any very large congregation of Protestants or Catholics, and much above the average.

The young people scattered through the building conducted themselves well; they listened to all the proceedings. When the voting took place, of which there was considerable, I had an opportunity of seeing who were Mormons and who were not, and this gave me also the further opportunity of observing the behavior of hundreds of them. Long hymns were given out, and everywhere the Mormons took part in the singing, and many of the young people were able to sing eight or nine verses without the books. Very few had books. The prayers that were offered during the afternoon were just such as might have been offered in ordinary Christian churches. The tones of sanctimoniousness were not more marked than elsewhere, and one or two of the prayers certainly carried to the ear either the accents of sincerity and sanctity or an imitation of them which would rank the persons offering the prayers with the great actors of the world.

ROBERTS AS AN ORATOR.

The first speaker was Mr. B. H. Roberts, who was deprived of his seat in the House of Representatives for violation of the Edmunds law. Mr. Roberts is considered one of the best speakers they have—one gentleman told me the very best. His manner was dignified, though his enunciation was not rapid, neither was it slow enough to

be tedious. His style generally would be fit for a legislative body or a set oration on some historical anniversary. Ostensibly he was delivering an address of welcome. He set forth that the conference was more or less in the nature of a legislative gathering, the purpose being to devise means for the moral uplifting and advancement of what could be well regarded as a great people. He then likened the work of the association to that of an artist, which was gradually brought out through constant effort intelligently and systematically directed. He considered himself standing in the midst of the work of the pioneers, and made a fine point in the way of comparison when he said that the Latter-Day Saints would yet destroy the misconceptions of the world concerning them if they had to do it in monuments of stone, referring at the time to the superb temple so near.

He referred to a cartoon published in Collier's Weekly, labeled "A Latter-Day Saint," which represented a Mormon with the countenance and manner of a cunning libertine. In striking contrast to it he said there was in the same paper a splendid picture of President Joseph F. Smith, which in itself gave the lie to the insinuation sought to be drawn out, and stamped the authors and instigators of the libelous caricature as men prompted by a desire to oppose the truth. At this point he paid a highly wrought tribute to President Smith, spoke without reserve of the investigation at Washington and of the able manner in which President Smith acquitted himself as a witness. He uttered this sentence: "Placed before the leading men of the nation, engaged in an unequal conflict with the Government, he met them as an honest man, a product of Mormonism, and gave to the nation the truth concerning a despised people."

The address was exceedingly well calculated to make a great impression on the young Mormons present and upon any intelligent strangers from other countries who knew nothing about the Mormons. Having read the testimony of B. H. Roberts, in which it was conclusively proved that he had married polygamously and concealed the fact of marrying his third wife from his two wives already existing, I saw in him only a shrewd special pleader. His references to President Smith lost a little by prolongation. Whoever praises to excess not only invites, but usually elicits, criticism of the object of his eulogy.

President Elmina S. Taylor, of the Young Ladies' Association, was to speak, but was physically unable to do so. Her second counselor, Mrs. Martha H. Tingey, spoke, and did so with as much of a heartfelt and earnest manner as would be heard in our woman's missionary societies. One of the speakers discussed the cooperation of parents in home preparation. He set forth that the natural elements of their situation were such as to produce great singers in the whole region, to say nothing of what religion the young people believe in; but he added that this religion embraces everything upbuilding and ennobling and calculated to develop the very highest type of manhood and womanhood. He maintained that if the parents did not prepare the boy he would find the meetings flat and unprofitable. The "boy must be brought face to face with the fact that he is the architect of his own fate, and must be taught to gather the thought in the lesson and then generate it." Pleasant home study was the only antidote for street walking.

ESTABLISHING PERMANENCE.

Let anyone who thinks Mormonism likely speedily to die read the statistics which the secretary of the Young Men's Improvement Associations read concerning that and the Young Ladies' Mutual Improvement Associations.

It was reported that there are 684 associations in all of the Young Ladies' Mutual Improvement Associations, with a total enrollment of 25,238 and an average attendance per week of 12,135. The library record showed a total list of 11,734 different drawers of books. The total number of primary associations, feeders of the Young Ladies' Mutual Improvement Associations, resembling the Junior League in the Methodist Church, is 659; the total enrollment for the past year amounted to 46,008, with an average weekly attendance of 20,582. This is the report only of the Young Ladies' Mutual Improvement Associations.

The Young Men's Associations number 662, their total membership being 30,863 and the weekly attendance 14,331. These figures show that the total of all the associations was 2,005, the total membership 102,104, and the average attendance each week 47,048.

The method of voting was specially interesting. It was done by the uplifted hand. Officers are not said to be elected, but "sustained." The authorities prepare the list, read the names, and the vote sustains them or otherwise. This word is used all the way through. After sustaining the president of primaries and counselors, secretary and treasurer of the primaries, the president and counselors of the Young Ladies' Association, and the first general superintendent of the Young Men's Association, President Smith was sustained, as were his assistants, Heber J. Grant and B. H. Roberts. The secretary and treasurer, musical director and assistant, and all the aids were sustained. Even the political bosses of the country—the Quays, the Platts, the Crokers, the Hills—have never attained such control as was manifest here.

All the votes were unanimous, and as the name of each proposed officer was read a great forest of hands was raised with mechanical precision.

In one case the reader of the report made a mistake and read a name which should not have been. But the nomination was unanimously sustained. Immediately afterwards, the mistake being discovered, the right name was put and that was unanimously sustained. The time kept by the great organ and the choir was perfect, but not more so than the time kept by these voters.

J. M. B.

[Editorial letter.]

III.

THE UNCOMPROMISING ATTITUDE OF THE HEAD OF THE MORMON CHURCH.

At the beginning of the afternoon service President Joseph Smith had expressed the hope that all present would secure seats and remain seated until the close of the meeting, so as not to disturb the exercises. As the exercises were very long, notwithstanding the courteous remarks of the president quite a number of delegates to the general conference and others took their departure when they were little

more than half through and received therefor punishment as was most meet, for they lost the opportunity of hearing one of the most extraordinary addresses ever delivered by a president of the Mormon church; indeed, it became a historic occasion. After Professor McClelland had exquisitely rendered upon the organ, "Home, Sweet Home," President Smith addressed the conference, beginning thus:

A MILD SENSATION.

"I have been requested to make some remarks relative to the great and important subject of marriage; but as I have very little time in which to speak, I can not hope to say all that might be said on this subject."

This was received with a smile of satisfaction by the Gentiles and with a look of interest by the Mormons. President Smith is tall and stalwart, with a long, gray beard, and at a distance in the Tabernacle appeared much older than he is. His voice is of the tenor quality and seemed somewhat weak in the early part of his discourse. I suppose that at the present time no subject in the world would have interested Mormons and non-Mormons so much as the one announced. It has been but a few months since, in response to an authoritative summons by the Senate, he appeared before a committee and was cross-examined by the ablest men in the United States Senate; and because he frankly acknowledged the situation and apparently directly answered all the questions put to him (except such as related to the hidden recesses of the Temple, where the secret archives of Mormonism are kept, the arcana, in fact, which no Gentile eye can see) definitely, however inconsistent he appeared, some spoke very slightly of his appearance on that occasion. In speaking his intonations were very pleasant, as was also the expression of his countenance; his appearance was patriarchal.

THE ADDRESS.

He began by saying that a great many people in the world regard marriage as a mere business or social contract, terminated at death, and governed largely by laws of convenience and the laws of the land, in force and effect only for this life. The result of this custom is that the yoke of matrimony sits very easily upon the shoulders of most men, and also upon many women. The latter, however, assume the greater responsibility in this relation, as they have to bear the burden of motherhood. "I hold and feel that the responsibility of the man in entering upon married life should be just as great as that of the woman. The world holds the ties of wedlock in light esteem. The secular press is filled with slurring allusions, coarse jokes, and caustic jibes at the marriage relation. Men, and many of the women, consider the oath of fidelity in the marriage ceremony with ill-concealed contempt. All this results in licentiousness and widespread immorality."

He read passages from the first chapter of Genesis, particularly these verses:

"And God said, Let us make man in our image, after our likeness: And let them have dominion over the fish of the sea, and over the

fowl of the air, and over the cattle, and over all the earth, and over every creeping thing that creepeth upon the earth.

"So God created man in His own image, in the image of God created He him; male and female created He them."

After this, he said, when Adam and Eve were created, the command was that they should multiply and replenish the earth. They were formed in the image and likeness of God, and bound together not for this life alone, but for time and eternity, a custom which God designed should be perpetuated in the earth. This was not a civil contract, but a contract wrought out by God for the guidance and rule of life of His children.

He threw out an intimation that God is male and female: "From this portion of the Scriptures we learn that marriage was intended to continue through all ages. It was formed for immortal beings; it is not a civil contract until death shall thus part; it is a contract between two immortal beings, to continue both in this world and in the next. I repeat it, the word of the Lord is that man was made in the image and likeness of God, male and female. This fact people will not understand, and its application to the question of marriage they will not comprehend. Neither will they comprehend the teachings of the Gospel."

He then returned to the subject previously mentioned: "Marriage is a standing joke with many. In entertainments marriage is made light of. In many of the newspapers jokes are cracked and remarks are printed ridiculing the holy institution of matrimony. It is abominable. This state of things is one of the curses of the world to-day." Here he denounced in a manner to be approved by every pure-minded person and lover of home the extremes to which divorce has gone, and expressed his belief that the ludicrous aspect in which marriage is placed by the jokes made by men upon women and women upon men has much to do with it. Lifting himself to his full height, he stretched out his hand over the vast assembly, and said, "This sort of thing can not exist in Zion with impunity."

Near where I sat persons were conversing in whispers such as, "I wonder if he will speak of his own family." The words were hardly uttered before he spoke of the mothers of his children as given to him by God, as saints of God, and thanked them for what they had been and are to him. He alluded to the jokes that men make upon mothers-in-law, and declared that it shows a degraded condition of society. One of these close listeners whispered to another, "I wonder if he will dare to say 'mothers-in-law,'" and a negative opinion was given. Hardly had the words been uttered before he exclaimed: "Many people in this world joke about their mothers-in-law, as if to have a mother-in-law is one of the curses of humanity. I want to say now to you all that the best friends I ever had have been my mothers-in-law. I loved and honored them and shall ever hold their memory sacred. They were true women and worthy of their daughters."

I testify that the great audience, who knew that the president has five wives living and forty-five children, heard this statement quietly and respectfully, and if they had not done so they would have been subdued by the seeming sincerity and depth of feeling with which he spoke.

He did not flinch, and took up one by one several New Testament passages and attempted to harmonize them with Mormonism. For instance, he read Luke XX, 27-35, where the woman was married successively to seven brothers under Jewish law. This passage overthrows his whole system, for when the Sadducees said unto him, "Whose wife is she in the resurrection?" Christ replied:

"The children of this world marry, and are given in marriage: but they which shall be accounted worthy to obtain that world, and the resurrection from the dead, neither marry, nor are given in marriage: neither can they die any more: for they are equal unto the angels; and are the children of God, being the children of the resurrection."

But President Smith thus undertook to dispose of it: Christ intimates that she belonged only to the one to whom God had given her. In the same way, when Horace Greeley asked Brigham Young how he harmonized his numerous wives with the passage, "Let every bishop be the husband of one wife," the foxy Brigham Young answered: "This means that he must have one at least; he can not be an unmarried man."

Neither fanaticism nor hypocrisy finds much difficulty in interpreting Scripture so as to make it suit its needs.

Soon after uttering these words a great change took place in his manner. His voice rang out as strong and clear as that of William J. Bryan; he was not defiant, but most earnestly definite and determined as he exclaimed: "I dare not and can not cast aside those to whom God in his infinite wisdom has joined me for time and for eternity. I dare not and will not cast aside the mothers of my children. If I did, I should forfeit all the blessings that God will bestow upon those who are faithful to their trust. If I did I should be forever damned and be forever deprived of the companionship of God, my wives, my sons, my daughters, and all those most dear to me throughout eternity."

"I am not a coward or a craven thing. I may be driven to the last extremity, but I would not shrink from exile, imprisonment, or any earthly hardship that might come to me in fulfilling my duty to God and man. When it comes, however, to throwing aside all hope of future happiness, all expectation of continued union with those I love, I will not make such a sacrifice. I dare not and can not. I am not prepared to forfeit an eternal inheritance by yielding to the customs of the world. I can not, I dare not risk eternal damnation by putting away the responsibilities which God has placed upon me. But rather I will be true to my duty, true to my trust, true to my God, my wives, and my children."

In conclusion he assured the people that the Mormon system is not a system of adultery nor of concubinage, but a system of marriage, and pleaded with Latter-Day Saints to enter into it in the manner appointed by God, and said the blessings of life and posterity would result. He pleaded also for the purity of the home, and affirmed that there are none more pure in all the earth than the homes of the Latter-Day Saints. He concluded with the passage, "Whosoever looketh on a woman to lust after her hath committed adultery with her already in his heart," and called upon the people to avoid adultery as they would a pestilence.

TESTIMONY OF GEORGE REYNOLDS.

GEORGE REYNOLDS, being duly sworn, was examined and testified as follows:

Mr. TAYLER. Where do you live, Mr. Reynolds?

Mr. REYNOLDS. I live in Salt Lake City.

Mr. TAYLER. How long have you lived there?

Mr. REYNOLDS. Since July, 1865.

Mr. TAYLER. You are a member of and an officer in the Church of Jesus Christ of Latter-Day Saints?

Mr. REYNOLDS. I am.

Mr. TAYLER. How long have you been a member of that church?

Mr. REYNOLDS. I was baptized in 1856.

Mr. TAYLER. So that for some years before going to that country you were a Mormon?

Mr. REYNOLDS. I was.

Mr. TAYLER. What official position in the church do you hold?

Mr. REYNOLDS. I am one of the first seven presidents of the seventy.

Mr. TAYLER. Any other position?

Mr. REYNOLDS. I am the first assistant superintendent of the Sunday schools of the church.

Mr. TAYLER. Do you hold any other position?

Mr. REYNOLDS. Not actually in the church. I am one of the church secretaries. That is my business.

Mr. TAYLER. In what work are you mostly employed?

Mr. REYNOLDS. I am mostly employed in the missionary department of the church. I am the secretary of the missionary committee of the apostles.

Mr. TAYLER. Secretary of the missionary committee of the apostles?

Mr. REYNOLDS. Yes, sir. That is where most of my work is done.

Mr. TAYLER. Your time, as I gather from what you say, is wholly occupied by your duties to the church organization?

Mr. REYNOLDS. Yes, sir; I may say so.

Mr. TAYLER. Have you named all the positions which you occupy?

Mr. REYNOLDS. I am associate editor of the Juvenile Instructor, the organ of the Sunday schools, if you consider that a church position.

Mr. TAYLER. What relation do you sustain to the keeping of the records of the church?

Mr. REYNOLDS. None, sir.

Mr. TAYLER. You make no certificates of records of the church?

Mr. REYNOLDS. I have done so in years past.

Mr. TAYLER. What position did you hold then?

Mr. REYNOLDS. I was at that time the clerk or recorder of the endowment house.

Mr. TAYLER. When was that?

Mr. REYNOLDS. It was many years ago that I was the recorder, and since that time at various periods I have been asked for certificates, principally in behalf of persons who had married soldiers, and whose husbands were dead, and who were endeavoring to get pensions. I have made out certificates with regard to that.

Mr. TAYLER. You have made out certificates?

Mr. REYNOLDS. Yes.

Mr. TAYLER. How recently have you made out such a certificate?

Mr. REYNOLDS. I have no idea whatever.

Mr. TAYLER. You have no idea whatever?

Mr. REYNOLDS. Not the least.

Mr. TAYLER. That is, you do not know whether you made it out within the last year?

Mr. REYNOLDS. No; I think not.

Mr. TAYLER. You think not?

Mr. REYNOLDS. I believe not.

Mr. TAYLER. Within the last two years?

Mr. REYNOLDS. I believe not. According to my best recollection, I have not.

Mr. TAYLER. Within the last five years?

Mr. REYNOLDS. I may have done it. I am not sure.

Mr. TAYLER. You may have done so. What position did you hold when you last made out a certificate of that kind?

Mr. REYNOLDS. I held the position I occupy now, but the marriage took place in all probability at the time that I was acting as the recorder in the endowment house, and the books at that time I had access to.

Mr. TAYLER. That is to say, you had access to the books?

Mr. REYNOLDS. Yes.

Mr. TAYLER. Say five years ago, when you held the same official positions that you now hold?

Mr. REYNOLDS. Yes, sir.

The CHAIRMAN. May I ask a question right here? What year did you cease to be recorder in the endowment house?

Mr. REYNOLDS. It is so long ago I can not tell you.

The CHAIRMAN. Do you know whether it was ten, or twenty, or thirty years ago?

Mr. REYNOLDS. I have never acted in the endowment house as recorder since, to the best of my knowledge, 1871.

The CHAIRMAN. I wanted to get the date.

Mr. WORTHINGTON. The endowment house was torn down in 1890 or 1891.

Mr. REYNOLDS. Somewhere about there.

Mr. TAYLER. You say the endowment house was torn down in 1890. Do you mean that a spiritual edifice in which endowments are taken was annihilated in 1890?

Mr. REYNOLDS. Yes; by the direction of the president of the church.

Mr. TAYLER. By direction of the president of the church? Nobody has taken an endowment since then?

Mr. REYNOLDS. The endowments are continued in the temples.

Mr. TAYLER. Of course. Then, when you speak of the endowment house being taken down you mean some physical, temporal structure?

Mr. REYNOLDS. Yes, sir; I mean a house in the common acceptation of the word.

Mr. TAYLER. So the endowment house spiritually exists?

Mr. REYNOLDS. No, sir.

Mr. TAYLER. But people take endowments still?

Mr. REYNOLDS. Yes; they still take endowments.

Mr. TAYLER. When you say the endowment house was taken down you merely mean that some particular edifice was taken down?

Mr. REYNOLDS. I mean the edifice known by that name was taken down.

Mr. TAYLER. You certified to marriages at the time when you held the same positions that you hold now?

Mr. REYNOLDS. Yes, sir; but the records were accessible to me.

Mr. TAYLER. Were accessible to you? How accessible to you?

Mr. REYNOLDS. Some of them were in my possession at that time.

Mr. TAYLER. What was the title of your office then?

Mr. REYNOLDS. I was one of the secretaries of the church.

Mr. TAYLER. Are you now?

Mr. REYNOLDS. Yes, sir.

Mr. TAYLER. Are they in your custody now or under your control?

Mr. REYNOLDS. No, sir.

Mr. TAYLER. Have you access to them?

Mr. REYNOLDS. No.

Mr. TAYLER. How or why not?

Mr. REYNOLDS. They were taken away several years ago.

Mr. TAYLER. Taken away from where?

Mr. REYNOLDS. Taken away from the office where I worked.

Mr. TAYLER. So that where you worked when you gave the certificates the records were?

Mr. REYNOLDS. Yes, sir.

Mr. TAYLER. Where was that place?

Mr. REYNOLDS. In the office of the president of the church.

Mr. TAYLER. When were they taken away from there?

Mr. REYNOLDS. Several years ago; how long, I have no recollection.

Mr. TAYLER. Was it a matter of any interest or consequence that they were taken away from that place?

Mr. REYNOLDS. I scarcely understand your question.

Mr. TAYLER. I mean did it make any impression on your mind that they were taken away?

Mr. REYNOLDS. Nothing particular.

Mr. TAYLER. Where were they taken?

Mr. REYNOLDS. I understand they were taken to the temple.

Mr. TAYLER. Do you understand they are there now?

Mr. REYNOLDS. I do not know; I have not seen them since.

Mr. TAYLER. Who is the custodian of them?

Mr. REYNOLDS. That would be very difficult for me to say. I think I can say truthfully I do not know.

Mr. TAYLER. Have you any idea who has custody of them?

Mr. REYNOLDS. The most probable persons are the recorders in the temple.

Mr. TAYLER. Who are they?

Mr. REYNOLDS. There are several of them, Mr. Nicholson being one.

Mr. TAYLER. Who is the chief?

Mr. REYNOLDS. Mr. Nicholson.

Mr. TAYLER. Who are his assistants?

Mr. REYNOLDS. I can not tell the names of all of them.

Mr. TAYLER. How long is it since you have acted in any way in relation to these records?

Mr. REYNOLDS. In granting certificates?

Mr. TAYLER. Yes.

Mr. REYNOLDS. I told you I could not remember. It was a thing

of very small importance in the performance of my daily duties and made no impression on me.

Mr. TAYLER. The matter of giving certificates while the records were under your eye was a matter of daily occurrence?

Mr. REYNOLDS. No, sir; not of daily occurrence. I gave only a few. But it came in the regular routine of my work as secretary.

Mr. TAYLER. And you gave them?

Mr. REYNOLDS. I gave them on going to the records and comparing them. I gave a copy of the entry and certified thereto.

Mr. TAYLER. You at that time had access to the marriage records of the church?

Mr. REYNOLDS. To those that had been performed in the Endowment House.

Mr. TAYLER. Did you have there any record of the marriages performed otherwise or elsewhere than in the Endowment House which was taken down?

Mr. REYNOLDS. There are some that were performed in the early days in the office of President Brigham Young and in the temple at Nauvoo.

Mr. TAYLER. And no record of the marriages that occurred in the temple at Salt Lake?

Mr. REYNOLDS. None.

Mr. TAYLER. Where was that record kept?

Mr. REYNOLDS. I imagine it was kept in the temple.

Mr. TAYLER. You imagine it was kept in the temple?

Mr. REYNOLDS. I do not know that I have ever seen it.

Mr. TAYLER. Was this record that you saw a separate book which contained only a certain class of records, or the record of a certain class of marriages—that is, occurring within a certain period?

Mr. REYNOLDS. There were a large number of small books that contained records of various ordinances that had been performed at different times—marriages and work for the dead and other things.

Mr. TAYLER. So that the records of the different ordinances were kept in separate books, according to the kind of ordinance?

Mr. REYNOLDS. No. Sometimes the same book contained various ordinances, sometimes not.

Mr. TAYLER. Was there any system by which those records were kept?

Mr. REYNOLDS. The system apparently changed with the condition of the people. When we first went to Utah conditions were different from what they are now, and paper was very scarce, and the records were all put together in one small book.

Mr. TAYLER. One small book?

Mr. REYNOLDS. Yes, sir.

Mr. TAYLER. You say that up to the time that you ceased to have personal knowledge of these records they were kept in a good many different books—small books.

Mr. REYNOLDS. Yes, sir; small books.

Mr. TAYLER. How recent were the records of which you have knowledge and to which you had access?

Mr. REYNOLDS. Prior to the opening of the temple, as far as Salt Lake City is concerned.

Mr. TAYLER. Prior to the opening of the temple?

Mr. REYNOLDS. Yes, sir.

Mr. TAYLER. When was the temple opened?

Mr. REYNOLDS. In 1898, I believe.

Senator OVERMAN. I should like to ask a question right here. You say these books contained records of marriage and the work for the dead?

Mr. REYNOLDS. Yes, sir.

Senator OVERMAN. What do you mean by work for the dead?

Mr. REYNOLDS. We believe it takes as much to save a dead man or woman as a living man or woman, and every ordinance necessary for the salvation of a living person, performed by themselves, can be done by proxies or their heirs, such as baptism, ordination.

Senator OVERMAN. You baptize people after they are dead?

Mr. REYNOLDS. Yes, sir.

Senator OVERMAN. You marry people after they are dead?

Mr. REYNOLDS. Yes, sir.

Senator OVERMAN. And people are saved after they are dead?

Mr. REYNOLDS. We believe that the mercy of the Lord continues through all eternity, and that the plan of salvation is not confined to this short life alone, but when persons die they go into the spirit world and are still subject to the mercy of the Lord.

Senator OVERMAN. They are married and given in marriage after death?

Mr. REYNOLDS. Yes, sir; as on earth.

Senator OVERMAN. As on earth?

Mr. REYNOLDS. Yes; by their representatives here.

Senator OVERMAN. You have a form of baptism after death?

Mr. REYNOLDS. Yes, sir; a form of baptism for those who are dead.

Mr. TAYLER. Is that all on that point, Senator?

Senator OVERMAN. Yes.

Mr. TAYLER. As you have a certain method of joining in marriage, do you also have one for severing the marriage relation?

Mr. REYNOLDS. Yes, sir; the church grants divorce of those who have been married for time and eternity. For the legal wives that is not done until the courts have acted and separated the parties. For plural wives—that is, marriages which are not recognized by the law, they are granted divorces on application, without any action of the courts, because the courts will take no action, as they do not recognize the marriage.

Senator FORAKER. Are these divorce proceedings confined to the living? You spoke of marriages after death.

Mr. REYNOLDS. I have known very rarely of a woman seeking to be separated from her husband after he was dead, and the president of the church hearing her statement has directed that the marriage be canceled on the records.

Senator FORAKER. Do you say you have heard of that frequently or infrequently?

Mr. REYNOLDS. No, sir; not frequently. Once in a long while.

Mr. TAYLER. Is it not also customary for those who have been married solely for eternity—that is to say, a living person married to a dead person—to have that marriage also dissolved?

Mr. REYNOLDS. I have no recollection of ever having heard of such a thing or having to do with anything of that kind. I presume it is possible.

Mr. TAYLER. It is possible?

Mr. REYNOLDS. It is possible; but it has not come in my experience, according to my present recollection.

Mr. TAYLER. How often have you known of a divorce being granted by the church to a man or a woman whose husband or wife, as the case may be, had died?

Mr. REYNOLDS. I can not answer that question.

Mr. TAYLER. Many times?

Mr. REYNOLDS. I should not call it many; a few I should say.

Senator FORAKER. You confined your statement, as I understood you, to cases where women had applied for divorces from husbands who were deceased?

Mr. REYNOLDS. Yes, sir.

Senator FORAKER. Have there been any cases where the husband has applied for a divorce from the wife who was deceased?

Mr. REYNOLDS. Never to my knowledge.

Mr. TAYLER. Do you now whether the church grants a divorce, in so far as the church can do so, to what are called legally married persons prior to the order of the court in that respect?

Mr. REYNOLDS. In the early history of the church in Utah they did so, but for very many years they have not done so.

Mr. TAYLER. Ordinarily——

Senator FORAKER. Mr. Tayler, if I do not interrupt you——

Mr. TAYLER. Not at all.

Senator FORAKER. I should like to ask another question before we get away from the matter. It is about these divorces that are granted to women from their husbands who are deceased. Is that divorce, in the few cases you have referred to, granted on account of something that the man did in lifetime or something he is supposed to have done after death?

Mr. REYNOLDS. In lifetime. We do not know anything they do after death.

Senator FORAKER. The proceeding is taken against him without making him a party or giving him a chance to be heard?

Mr. REYNOLDS. That is exactly it, and that is why so few have been granted, because it has been regarded as unjust to the person who could not appear. But when the wife produced evidence sufficient to cause it to be evident that he had done certain things, making him unworthy of being her husband, then the divorce has sometimes been granted.

Senator FORAKER. Is anyone appointed to defend the dead man in such cases?

Mr. REYNOLDS. No, sir.

Senator FORAKER. The proceeding is purely *ex parte*?

Mr. REYNOLDS. Purely.

Mr. TAYLER. Then the man who dies, the fortunate possessor of a half a dozen wives, has no assurance that he will find them at the end; that is to say, the church on earth has the power to dissolve after a man's death the bonds of matrimony that have tied him to several wives?

Mr. REYNOLDS. Yes, sir.

The CHAIRMAN. I understand you to say that the power exists and is exercised through the president of the church?

Mr. REYNOLDS. When exercised, it is exercised through the presi-

dent of the church. He is the only man who has the right to seal and to loose.

The CHAIRMAN. The president alone.

Mr. TAYLER. So that, in so far as celestial marriage is concerned, the relation of husband and wife in the future world, the president of the church has absolute control of the fact of that relation and can dissolve it at will?

Mr. REYNOLDS. That is the theory.

Senator OVERMAN. What notice do you receive that a person who is dead desires baptism?

Mr. REYNOLDS. As a general thing it is done by the descendants of the dead—the son, the daughter, the grandson, the granddaughter, or other relative—who feel an interest in the salvation of their ancestors, and go and perform the work. Sometimes they will be notified in dreams or visions or by direct communication from the dead that they wish this done. But as a general thing it is done by reason of the love and regard they bear for their ancestors.

Senator OVERMAN. The communication generally comes by a dream?

Mr. REYNOLDS. If any communication comes at all; but as a general thing there is no communication, only what they deem the inspiration of the spirit of the Lord to do the work.

Mr. TAYLER. That applies generally to those who in their lifetime did not have the opportunity of learning of the Mormon Church and its belief?

Mr. REYNOLDS. Those who have not had the opportunity to accept the Gospel in its fullness as now preached upon earth.

Thereupon (at 11 o'clock and 50 minutes a. m.) the committee took a recess until 2 o'clock p. m.

The committee reassembled at the expiration of the recess.

The CHAIRMAN. The witness will resume the stand.

TESTIMONY OF GEORGE REYNOLDS—Continued.

GEORGE REYNOLDS having been previously sworn, was examined, and testified as follows:

The CHAIRMAN. You may proceed, Mr. Tayler.

Mr. TAYLER. Mr. Reynolds, how long is it since you have had anything to do with the official records of the church?

Mr. REYNOLDS. What am I to understand by "the official records?" It is too vague for me to answer.

Mr. TAYLER. Very well. What official records of the church do you have anything to do with now?

Mr. REYNOLDS. None.

Mr. TAYLER. None?

Mr. REYNOLDS. No, sir.

Mr. TAYLER. Very well. Tell us when you had anything to do with the official records of the church.

Mr. REYNOLDS. It is so long ago as to most of them that I can not answer that; some years with regard to most of them. The last I had in my possession was the divorce record.

Mr. TAYLER. How long ago was that?

Mr. REYNOLDS. I have had that until quite lately.

Mr. TAYLER. Until quite lately?

Mr. REYNOLDS. Yes.

Mr. TAYLER. That is, you mean within a few years?

Mr. REYNOLDS. No; I mean within a few weeks.

Mr. TAYLER. Those records are kept in a separate volume, are they?

Mr. REYNOLDS. The divorce records?

Mr. TAYLER. Yes.

Mr. REYNOLDS. Yes, sir.

Mr. TAYLER. How long have they been kept in a separate volume?

Mr. REYNOLDS. As far as I know, ever since the going of the church to Utah. That is my best recollection.

Mr. TAYLER. Who has possession of them now?

Mr. REYNOLDS. I don't know, sir.

Mr. TAYLER. What did you do with them?

Mr. REYNOLDS. The last I saw of them they were in a room in the president's office.

Mr. TAYLER. How long had they been there?

Mr. REYNOLDS. In the president's office?

Mr. TAYLER. Yes.

Mr. REYNOLDS. They have been there ever since my recollection extends.

Mr. TAYLER. A few weeks ago they were removed from the president's office?

Mr. REYNOLDS. I can't say that they were removed, sir.

Mr. TAYLER. You can not say that they were removed?

Mr. REYNOLDS. No. The last time I looked in the drawer where they generally were with other papers I didn't see them there. They might have been simply temporarily removed.

Mr. TAYLER. Have you any reason to believe they are not there now?

Mr. REYNOLDS. No, sir.

Mr. TAYLER. So far as you know, then, they are there?

Mr. REYNOLDS. So far as I know, they are somewhere there in the office.

Mr. TAYLER. What other official records are there?

Mr. REYNOLDS. There are no records relating to the Temple or to anything that you have been making inquiry of me in regard to since I have been on the witness stand, as far as my knowledge extends.

Mr. TAYLER. Now tell me how long is it since any of them were there.

Mr. REYNOLDS. I told you that this morning.

Mr. TAYLER. I have forgotten if you said it.

Mr. REYNOLDS. I said I could not remember how long it was. It is some years ago since they were removed out of the office, but how many years I don't know, nor can I recollect.

Mr. TAYLER. I want to revert now to the subject we had up just before the recess, respecting the power and authority of the head of the church to grant divorces or dissolve the marriage relation. It has always been true, has it not, since the church was organized, that the president of the church had that authority?

Mr. REYNOLDS. Yes, sir; as a religious body. Of course he don't pretend to give legal divorces.

Mr. TAYLER. And never did?

Mr. REYNOLDS. And never did, to my knowledge.

Mr. TAYLER. But in so far as the church recognized the marriage, he has, and has had authority to dissolve it?

Mr. REYNOLDS. To give an ecclesiastical divorce; yes, sir.

Mr. TAYLER. And when an ecclesiastical divorce was given, the church no longer concerned itself with or recognized the marriage relation as existing?

Mr. REYNOLDS. No, sir.

Mr. TAYLER. You are familiar with the several volumes printed by the church called "Journal of Discourses?"

Mr. REYNOLDS. I have read them sometimes, sir. I am not familiar with them. They ceased to be published a number of years ago.

Mr. TAYLER. It is a well-known publication, is it not, among your people?

Mr. REYNOLDS. It was when it was published.

Mr. TAYLER. Is it not known now?

Mr. REYNOLDS. It ceased to be published many years ago.

Mr. TAYLER. Yes; it ceased to be published, but it has not gone out of the knowledge or memory of men, has it?

Mr. REYNOLDS. Not of the older members, sir; but the copies preserved are very few. Very few of our people have ever seen it.

Mr. TAYLER. You think very few of your people read the discourses of Brigham Young?

Mr. REYNOLDS. Far fewer than there ought to be, in my opinion.

Mr. TAYLER. I only want to call attention to a statement of the doctrine you have just referred to, which seems to me to accord with what you have said, to ask you whether it is recognized by the church as correctly representing your view of the authority of the president of the church in this matter of severing the marital bond.

Mr. WORTHINGTON. What is the date of that?

Mr. TAYLER. This is a book in the Congressional Library. I did not want to have it put in the record. I will ask you to look at the book.

Mr. WORTHINGTON. Will you give me the date?

Mr. TAYLER. I hold in my hand a book the title page of which is as follows:

"Journal of discourses by Brigham Young, president of the Church of Jesus Christ of Latter Day Saints, his two counsellors, and the twelve apostles. Reported by G. D. Watt, and humbly dedicated to the Latter Day Saints in all the world. Vol. IV. Liverpool: Edited and published by S. W. Richards, 42, Islington. London: Latter Day Saints' Book Depot, 85, Jewin Street, City. 1857."

The book is in fact what it purports to be, is it not, from that title as you understand it?

Mr. REYNOLDS. As I understand it; yes, sir.

Mr. TAYLER. This book, as you are aware, contains a large number of sermons and discourses by various officials of the Mormon Church, as recited in the title page, and among them Brigham Young. Now, on page 55 of this volume, in a sermon entitled "The people of God disciplined by trials—Atonement by the shedding of blood—Our Heavenly Father—A privilege given to all the married sisters in Utah. A discourse by President Brigham Young, delivered in the Bowery, Great Salt Lake City, September 21, 1856," I find the following:

"Now, for my proposition. It is more particularly for my sisters, as it is frequently happening that women say they are unhappy. Men

will say, 'My wife, though a most excellent woman, has not seen a happy day since I took my second wife; no, not a happy day for a year,' says one. And another has not seen a happy day for five years. It is said that women are tied down and abused; that they are misused and have not the liberty they ought to have; that many of them are wading through a perfect flood of tears because of the conduct of some men, together with their own folly.

"I wish my own women to understand that what I am going to say is for them as well as others, and I want those who are here to tell their sisters, yes, all the women of this community, and then write it back to the States, and do as you please with it. I am going to give you from this time to the 6th day of October next for reflection, that you may determine whether you wish to stay with your husbands or not, and then I am going to set every woman at liberty and say to them: 'Now, go your way, my women with the rest, go your way.' And my wives have got to do one of two things—either round up their shoulders to endure the afflictions of this world and live their religion or they may leave, for I will not have them about me. I will go into heaven alone rather than have scratching and fighting around me. I will set all at liberty."

Do you understand that to be an expression by Brigham Young of the doctrine of authority to divorce?

Mr. REYNOLDS. No, sir; he spoke as an individual with regard to his wives. I don't understand that he spoke as the president of the church.

Mr. TAYLER. I did not put my question that way.

Mr. REYNOLDS. Excuse me, then, sir; I so understood it.

Mr. TAYLER. I will ask the stenographer to repeat the question.

The question was read, as follows:

"Do you understand that to be an expression by Brigham Young of the doctrine of authority to divorce?"

Mr. REYNOLDS. No; I don't think it related to his official authority as president of the church to divorce.

Mr. TAYLER. Do you mean that Brigham Young did not intend by that language to say that if certain things did not happen he would divorce these women?

Mr. REYNOLDS. He certainly did not do it.

Mr. TAYLER. I am not asking if he did. I am asking you whether that was what he meant by that statement.

Mr. REYNOLDS. I don't think he meant it at that time.

Mr. TAYLER. Then what do you think he meant by it?

Mr. REYNOLDS. I simply think that he was talking as a man does sometimes when he gets annoyed and did not mean what he said.

Mr. TAYLER. Do you understand that that was habitual with Brigham Young?

Mr. REYNOLDS. No, sir; but it was occasional.

Mr. TAYLER. And when he made this proclamation to his people he did not intend ever to exercise it?

Mr. REYNOLDS. That is my understanding.

Mr. TAYLER. That may be true; but do you mean that he did not intend to be interpreted as assuming the power and ability to do it?

Mr. REYNOLDS. It don't strike me at all in that light.

Mr. TAYLER. It does not!

Mr. REYNOLDS. I don't believe it; no, sir.

Mr. TAYLER. What do you think he meant when he said this, immediately after what I have read:

"I will set all at liberty. 'What, first wife, too?' Yes; I will liberate you all."

What did he mean by that?

Mr. REYNOLDS. If he was serious, he meant ecclesiastically he would liberate them.

Mr. TAYLER. What do you mean by "liberate them?"

Mr. REYNOLDS. What I believe he intended to say was to free them from their marriage relations; but I don't believe he was serious for a moment.

Mr. TAYLER. That is the same thing, is it not, as you have stated to us the President now has authority to do?

Mr. REYNOLDS. Yes; but he doesn't do it, only when it is brought before him in a regular manner by the complainant.

Mr. TAYLER. Exactly.

Mr. REYNOLDS. Not on general principles.

Mr. TAYLER. Is there any limitation on the method by which the president shall exercise that authority?

Mr. REYNOLDS. It is either on the complaint of the party directly, either personally or in writing, by complaint made through their local officers—their bishops.

Mr. TAYLER. Where did the president of the church get his authority to loose on earth?

Mr. REYNOLDS. By that same authority and revelation that gave him the authority to bind on each.

Mr. TAYLER. Precisely. Was that authority given to him with any limitation?

Mr. REYNOLDS. Only those limitations that righteousness and justice require.

Mr. WORTHINGTON. That authority is in writing in the books, is it not, Mr. Tayler?

Mr. TAYLER. I suspect it is.

Who is the judge of what are righteous limitations?

Mr. REYNOLDS. He must be.

Mr. TAYLER. Proceeding with this sermon of Brigham Young's I quote:

"I know what my women will say; they will say, 'You can have as many women as you please, Brigham.' But I want to go somewhere and do something to get rid of the whiners; I do not want them to receive a part of the truth and spurn the rest out of doors.

"I wish my women and Brother Kimball's and Brother Grant's to leave, and every woman in this Territory, or else say in their hearts that they will embrace the Gospel—the whole of it. Tell the Gentiles that I will free every woman in this Territory at our next conference. 'What, the first wife, too?' Yes, there shall not be one held in bondage; all shall be set free. And then let the father be the head of the family, the master of his own household; and let him treat them as an angel would treat them; and let the wives and the children say

amen to what he says, and be subject to his dictates, instead of their dictating the man, instead of their trying to govern him."

Now, to what extent, Mr. Reynolds, is that doctrine declared by Brigham Young—whether he intended to exercise it or not upon those women—qualified by the teachings of the church to-day, that the president of the church might, as Brigham Young declared he would, dissolve the marriage relation?

Mr. REYNOLDS. I have never read that discourse before, and I don't know what to say with regard to it. I don't think I fully understand your question.

Mr. TAYLER. The stenographer will read it.

The question was read, as follows:

"Now, to what extent, Mr. Reynolds, is that doctrine declared by Brigham Young—whether he intended to exercise it or not upon those women—qualified by the teachings of the church to-day, that the president of the church might, as Brigham Young declared he would, dissolve the marriage relation?"

Mr. REYNOLDS. I don't believe that the president of the church claims to-day any right to dissolve the marriage relation of anyone but those who make application to him for that marriage to be dissolved and show causes why it should be dissolved.

Mr. TAYLER. The president of the church, as you have stated, dissolves what we call the legal marriage as well as the plural marriage relation, does he not?

Mr. REYNOLDS. After the parties who have been legally married have been divorced by the courts, and not without.

Mr. TAYLER. Before you grant a divorce on that ground, do you always know that that is the fact?

Mr. REYNOLDS. Always. If it is not so stated when the matter has been brought before me, I have invariably made the inquiry.

Mr. TAYLER. Has that business always been in your charge, or has it for many years been in your charge?

Mr. REYNOLDS. On and off for many years, but not always. I have been absent from home a great deal.

Mr. TAYLER. I want to show you a document which I will ask you to read and tell me about it.

Mr. REYNOLDS. Do you wish me to read it?

Mr. TAYLER. Yes.

Mr. VAN COTT. Aloud?

Mr. TAYLER. Yes; read it aloud.

Mr. WORTHINGTON. Let me see it, to see if there is any objection to it, before you read it.

The CHAIRMAN. What does that purport to be?

Mr. WORTHINGTON. It purports to be an agreement between a husband and a wife to dissolve the marriage relation.

Senator McCOMAS. What year is that?

Mr. WORTHINGTON. 1897.

Mr. REYNOLDS (reading):

"Triplicate. Know all persons by these presents that we, the undersigned, George T. Watson and Ellen Elsmore Watson, his wife, before her marriage to him Ellen Elsmore, do hereby mutually covenant, promise, and agree to dissolve all the relations which have hitherto existed between us as husband and wife, and to keep ourselves separate and apart from each other from this time forth.

"In witness whereof we have hereunto set our hands, at San Francisco and Salt Lake City, this 15th day of January, 1897.

"GEORGE T. WATSON.

"ELLEN ELSMORE WATSON.

"Signed in the presence of—

"E. H. NYE.

"GEO. REYNOLDS."

MR. TAYLER. That was signed by one of them, at least, in your presence, was it?

MR. REYNOLDS. By the woman, sir.

MR. TAYLER. Was this the dissolution of a plural or legal marriage?

MR. REYNOLDS. I don't remember.

MR. TAYLER. The certificate is in the same form in either case, is it?

MR. REYNOLDS. In either case.

MR. TAYLER. If this was the certificate of the dissolution of a legal marriage, so called, then it was issued after you were informed or had shown to you that a civil divorce has been granted?

MR. REYNOLDS. Yes, sir.

MR. TAYLER. This is headed "Triplicate." What is the significance of that word at the time of this certificate?

MR. REYNOLDS. The original is kept in the office—

MR. TAYLER. Of the church?

MR. REYNOLDS. Of the church. The duplicate is given to the man and the triplicate to the woman, as evidence of the separation.

MR. TAYLER. When you signed that certificate you had knowledge, of course, of the fact that they had been married, had you not?

MR. REYNOLDS. I should take that for granted, on the statement of the parties that they had been.

MR. TAYLER. If the parties came in and said they had been married, you would take that for granted, would you?

MR. REYNOLDS. I never thought of doubting the statement of persons who came into the office or wrote letters saying they were married at a certain time and at a certain place, as they generally did, and requested a divorce.

MR. TAYLER. What relation would Mr. Nicholson have to this sort of a transaction?

MR. REYNOLDS. None whatever, sir, only as he might sign one as a witness, as I have done that one.

MR. TAYLER. What is his office?

MR. REYNOLDS. His office is in the Salt Lake Temple. That is, the recorder's office is there. I can't say it is his. He works there.

MR. TAYLER. And where do you work?

MR. REYNOLDS. I work in the president's office.

MR. TAYLER. Which is not in the temple?

MR. REYNOLDS. No, sir; it is an office by itself.

MR. TAYLER. Yes; so I supposed. How long have you known Mr. Nicholson?

MR. REYNOLDS. Probably since 1861, 1862, or 1863. I can not recollect the first time I saw him.

MR. TAYLER. You are the Reynolds whose case appears in the case of Reynolds v. Utah?

Mr. REYNOLDS. Reynolds v. The United States.

Mr. TAYLER. Yes; that is true. It was your case that was decided along in 1878 or 1879?

Mr. REYNOLDS. Yes, sir.

Mr. WORTHINGTON. 1878.

Mr. TAYLER. Are you a polygamist?

Mr. REYNOLDS. Yes, sir.

Senator OVERMAN. Mr. Reynolds, you stated you were the assistant superintendent of Sunday schools. Who is the general superintendent?

Mr. REYNOLDS. The president of the church, President John F. Smith.

Mr. TAYLER. Are you on the general board of education?

Mr. REYNOLDS. No, sir.

Mr. TAYLER. Have you been on that board?

Mr. REYNOLDS. Never. I was its secretary.

Mr. TAYLER. You were its secretary?

Mr. REYNOLDS. Yes, sir.

Mr. TAYLER. You are not now?

Mr. REYNOLDS. No, sir.

Mr. TAYLER. You have stated, have you, all of the official positions in the church that you hold?

Mr. REYNOLDS. I believe so; all that I recollect.

Mr. TAYLER. How many wives have you?

Mr. REYNOLDS. I have two. My legal wife is dead. My other two are plural wives and are living at the present time.

Mr. TAYLER. Have you any daughters married in polygamy?

Mr. REYNOLDS. I believe I have one.

Mr. TAYLER. To whom is she married?

Mr. REYNOLDS. If married, she is married to Benjamin Cluff, jr.

Mr. TAYLER. When was she married to him?

Mr. REYNOLDS. I have no idea.

Mr. TAYLER. How old is she?

Mr. REYNOLDS. Probably 31, or probably more.

Mr. TAYLER. You do not mean that she is indefinitely 31 or more?

Mr. REYNOLDS. No; I mean to say I don't remember at the present time her exact age. I couldn't tell you when her birthday was.

Mr. TAYLER. You do not mean that she might be 40?

Mr. REYNOLDS. Certainly not.

Mr. TAYLER. I did not think you meant to be uncandid in the answer or to have any wide margin. But she is about 31?

Mr. REYNOLDS. She is about 31.

Mr. TAYLER. When did you first have the idea that she was married to Benjamin Cluff?

Mr. REYNOLDS. A few years ago.

Mr. TAYLER. What was he doing at that time?

Mr. REYNOLDS. I think he was in South America; but as to that my memory won't serve me with accuracy.

Mr. TAYLER. She was there then, was she?

Mr. REYNOLDS. No, sir; she was in Mexico.

Mr. TAYLER. When was it that he was in South America?

Mr. REYNOLDS. He was in charge of an exploring expedition. It was a few years ago, but I don't remember when. I had no particular interest in it.

Mr. TAYLER. About four or five years ago!

Mr. REYNOLDS. Yes; that is about it.

Mr. TAYLER. Prior to that time where had your daughter been living?

Mr. REYNOLDS. My daughter had been living largely in Provo.

Mr. TAYLER. With her mother?

Mr. REYNOLDS. No, sir; her mother is dead.

Mr. TAYLER. She was the daughter of your first wife, was she?

Mr. REYNOLDS. Yes, sir; she was living with her sister.

Mr. TAYLER. She had a married sister? Was it her married sister with whom she was living?

Mr. REYNOLDS. No; she went to school with her sister. They were both students in the academy together, and afterwards her sister became one of the teachers in the academy.

Mr. TAYLER. And she was going to school in Provo, was she, at the time you learned or supposed that she was married?

Mr. REYNOLDS. No; she had left the school, and was then living in Mexico. She was teaching in Mexico.

Mr. TAYLER. When did she leave the school?

Mr. REYNOLDS. I can't tell you.

Mr. TAYLER. About when?

Mr. REYNOLDS. I can't tell you.

Mr. TAYLER. How many children have you?

Mr. REYNOLDS. I have 26 living children.

Mr. TAYLER. Have you any idea how old she was when she left the school?

Mr. REYNOLDS. No, sir; I can't tell anything with regard to exact dates.

Mr. TAYLER. Did she go to Mexico about the time that Mr. Cluff went?

Mr. REYNOLDS. I think so.

Mr. TAYLER. They went together, did they not?

Mr. REYNOLDS. I don't know.

Mr. TAYLER. Is that your understanding about it—that they went together?

Mr. REYNOLDS. I don't know whether they went together, or nearly at the same time.

Mr. TAYLER. I do not know that it is important that they went in immediate company, but I mean the party or two or three parties that went down there about the same time. She and he were in those parties?

Mr. REYNOLDS. I don't know whether she went previously or later, sir.

Mr. TAYLER. When did you first learn of her supposed marriage to Benjamin Cluff? That was his name—Benjamin Cluff, jr.?

Mr. REYNOLDS. Yes; Benjamin Cluff, jr.

Mr. TAYLER. When did you first learn of that?

Mr. REYNOLDS. I couldn't tell you. It was some time after, I presume, the marriage had taken place. It is all presumption on my part.

Mr. TAYLER. That was when, however? Not with reference to the time she was married, but absolutely, or with reference to the present time, when was it that you learned it?

Mr. REYNOLDS. I learned it a few years ago.

Mr. TAYLER. Was it three or four years ago?

Mr. REYNOLDS. It may be three or four or five—somewhere about that. It is more than three, I am satisfied.

Mr. TAYLER. Did you learn who married them?

Mr. REYNOLDS. No, sir.

Mr. TAYLER. Have you seen her since?

Mr. REYNOLDS. She paid me a short visit once since.

Mr. TAYLER. Has she children?

Mr. REYNOLDS. She has two children, I believe.

Mr. TAYLER. How old are they? Are they little children?

Mr. REYNOLDS. One is an infant and the other is a little girl of a few years old.

Mr. TAYLER. Did she tell you anything about when she was married?

Mr. REYNOLDS. No, sir; not a word.

Mr. TAYLER. You did not ask her anything about it?

Mr. REYNOLDS. No, sir.

Mr. TAYLER. Why did you not?

Mr. REYNOLDS. Because I was satisfied in my mind that they had been married, and she never wrote to me or told me anything about it, and I made no inquiries.

Mr. TAYLER. Why did you make no inquiries?

Mr. REYNOLDS. Because she was away, you see, nearly all the time, and it would be difficult for me to say why, at the time, I didn't make inquiries.

Mr. TAYLER. Of course you do not desire any inference to be drawn from the ignorance that you have of that fact that you have any less affection for your children than any other man would have for his children?

Mr. REYNOLDS. No, sir; I claim to be a good father.

Mr. TAYLER. And if you failed to inquire as to that was it not wholly on account of the fact that you believed that she was a plural wife and that you did not care to know about such a fact?

Mr. REYNOLDS. It was largely that, sir.

Mr. TAYLER. How many wives did you understand Cluff to have prior to his marriage to your daughter?

Mr. REYNOLDS. Two.

Mr. TAYLER. Do you know where they live?

Mr. REYNOLDS. I suppose the family are in Mexico.

Mr. TAYLER. What is Cluff's business?

Mr. REYNOLDS. He at present is the manager, director, or something of that kind, of the Mexican Rubber Company.

Mr. TAYLER. What was his business at Provo?

Mr. REYNOLDS. He was a teacher in the academy there, now known as the "Brigham Young University."

Mr. TAYLER. How long had he been a teacher there?

Mr. REYNOLDS. A number of years. I don't know when he first took hold of teaching.

Mr. TAYLER. Has he been back to teach there since the time he married your daughter?

Mr. REYNOLDS. No, sir.

Mr. TAYLER. What was his official position? Was he president?

Mr. REYNOLDS. He was during the latter portion of his term in Provo.

Mr. TAYLER. Is that the institution of which Mr. Smoot is a trustee?

Mr. REYNOLDS. I really don't know, sir, whether Mr. Smoot is a trustee or not.

Mr. TAYLER. There was some institution of which he was a trustee. You do not know whether he is a trustee of that institution or not?

Mr. REYNOLDS. No, sir.

Mr. TAYLER. How long was he president; some time?

Mr. REYNOLDS. Yes; but I can't tell how long. I think two or three years; possibly more.

Mr. TAYLER. Have you any other daughter married in polygamy?

Mr. REYNOLDS. No, sir; not to my knowledge and belief.

Mr. TAYLER. That is all.

Senator DUBOIS. Mr. Reynolds, you state you were the first of the seven presidents of seventies?

Mr. REYNOLDS. Yes, sir.

Senator DUBOIS. Of course there are seven presidents of seventies?

Mr. REYNOLDS. There are seven presidents in the council of the first seven presidents of the seventies.

Senator DUBOIS. You are the first of those?

Mr. REYNOLDS. No; I am not the first, but I am one of that council. That is known by the name of the "First Seven Presidents of the Seventies." I stand fourth.

Senator DUBOIS. Is Brigham H. Roberts one of those also?

Mr. REYNOLDS. He is.

Senator DUBOIS. Who are the other five?

Mr. REYNOLDS. I will name you the seven in the order of their presidency: Seymour B. Young—

Senator DUBOIS. Is Mr. Young a polygamist?

Mr. REYNOLDS. I can't tell you anything about his private life, sir.

Senator DUBOIS. Is he reputed to be a polygamist?

Mr. REYNOLDS. It is reputed that at one time he had two wives.

Senator DUBOIS. Well, what is the next one?

Mr. REYNOLDS. Christian D. Fjelsted.

Senator DUBOIS. Is he reputed to be a polygamist?

Mr. REYNOLDS. I think he has only one wife.

Senator DUBOIS. The next one?

Mr. REYNOLDS. B. H. Roberts.

Senator DUBOIS. Is he reputed to be a polygamist?

Mr. REYNOLDS. Yes, sir.

Senator DUBOIS. The next one?

Mr. REYNOLDS. George Reynolds.

Senator DUBOIS. You have testified you are a polygamist, I believe. Now, the next.

Mr. REYNOLDS. Jonathan Golden Kimball.

Senator DUBOIS. Is he reputed to be a polygamist?

Mr. REYNOLDS. No, sir.

Senator DUBOIS. The next, please.

Mr. REYNOLDS. Rulo S. Wells.

Senator DUBOIS. Is he a polygamist?

Mr. REYNOLDS. No, sir; he is reputed to be a monogamist.

Senator DUBOIS. You have named six, I believe. Who is the next?

Mr. REYNOLDS. Joseph W. McMurrin.

Senator DUBOIS. What is his repute?

Mr. REYNOLDS. He is a monogamist; he has only one wife.

Senator DUBOIS. What ecclesiastical position do the seven presidents of seventies occupy as to authority in the church? In other word—I will put it more directly—do they not rank next to the apostles in authority?

Mr. REYNOLDS. In a general sense, yes. Locally, no. They stand next to the twelve apostles in the general authorities of the church. Their business is to preach the gospel in all the world, and see that it is preached under the direction of the twelve apostles.

Senator DUBOIS. Yes; we have all that.

Mr. TAYLER. Locally they have no jurisdiction, like a bishop or a stake president?

Mr. REYNOLDS. No; they are entirely different officers to a stake president or a bishop. Their only authority extends to the seventies.

Senator DUBOIS. I believe you said your legal wife is dead?

Mr. REYNOLDS. Yes, sir.

Senator DUBOIS. If you should marry to-morrow who would be your legal wife?

Mr. REYNOLDS. My understanding is, if I were to marry to-morrow, the woman I married would be my legal wife.

Senator DUBOIS. And you would not be then violating the laws of the land, would you?

Mr. REYNOLDS. By marrying to-morrow?

Senator DUBOIS. Yes.

Mr. REYNOLDS. I understand not.

Senator DUBOIS. That is your understanding?

Mr. REYNOLDS. That is my understanding.

Senator DUBOIS. Having two wives now, if you married to-morrow you would not be violating the laws of the land?

Mr. REYNOLDS. I should be violating the laws of the land if I continued to live with them as wives any longer. Then I should be subject to the laws pertaining to adultery—the State laws.

Senator DUBOIS. But having testified you have two wives, you could take a wife to-morrow and she would be your legal wife, and you would not be violating the laws of the land? You would not be in polygamy according to your understanding?

Mr. REYNOLDS. I understand that I should not be violating the law of the land by marrying that woman, but if it was not one of my two plural wives I should have to entirely cease the relationship of wife and husband with the two women who are my present plural wives. That is my understanding. I may be wrong.

Senator DUBOIS. You are holding out to the world now these two women as your wives. It is understood they are your wives, is it not?

Mr. REYNOLDS. It is understood that I have never repudiated them.

Senator DUBOIS. And your relations as husband to these two wives have not ceased?

Mr. REYNOLDS. I am only living with one wife as a husband. I have not lived with the other for several years.

The CHAIRMAN. Mr. Reynolds, when did you take these two plural wives; since the death of your wife?

Mr. REYNOLDS. No, sir; or else they would not be my plural wives.

The CHAIRMAN. I say, did you take them before her death?

Mr. REYNOLDS. Yes, sir.

The CHAIRMAN. And while she was living?

Mr. REYNOLDS. While she was living.

The CHAIRMAN. So long as she lived you sustained the relation of husband to three women?

Mr. REYNOLDS. As long as she lived; yes, sir.

Senator DUBOIS. I did not quite finish my questions. How did you interpret the manifesto?

Mr. REYNOLDS. Excuse me; I did not hear you.

Senator DUBOIS. What interpretation did you put upon the manifesto when it was issued in regard to your conduct toward your plural wives?

Mr. REYNOLDS. My understanding was that it did not affect my relationships with my plural wives at the time it was issued. I considered, and so understood at the time, that it only related to the fact that the president of the church, who held the right to say so, declared that no more plural marriages should take place. At that time I understood that it in no wise affected those who had plural wives; that the old relationships would continue or might continue if the parties saw fit.

Senator DUBOIS. That is, you understood it to mean that you could continue your relation as husband to your two wives?

Mr. REYNOLDS. Certainly.

Senator DUBOIS. That was your understanding of the manifesto when it was issued?

Mr. REYNOLDS. Most certainly it was, sir.

Senator DUBOIS. Do you think that was the general understanding of your people?

Mr. REYNOLDS. I believe it was. I feel confident it was.

Senator DUBOIS. I have not the reference here, but I think you disagree entirely with all the previous witnesses.

Mr. WORTHINGTON. It was testified that afterwards, when President Woodruff gave his explanation of the manifesto, they accepted it as forbidding plural cohabitation as well as plural marriages.

Senator DUBOIS. I thought from his answer he was living up to the spirit of the manifesto.

Mr. WORTHINGTON. You will notice that he says "when it was issued." He does not say that continued. It is in the record already that a year, I think it was, after the manifesto the president preached a certain sermon, in which he expounded the manifesto as applying to cohabitation as well as to plural marriages, and from that time on they so understood it.

The CHAIRMAN. Mr. Reynolds, you have no children by these two wives?

Mr. REYNOLDS. I have no children by the plural wives, did you say?

The CHAIRMAN. Yes; I asked if you have.

Mr. REYNOLDS. Oh, I have children by all three of my wives.

The CHAIRMAN. You have children by these two women you are living with now?

Mr. REYNOLDS. I have children by my two plural wives, sir.

The CHAIRMAN. When was the last one born?

Mr. REYNOLDS. The last one born of the woman my third wife was born probably sixteen or eighteen months ago.

Mr. VAN COTT. Months?

Mr. REYNOLDS. Months; yes, sir.

The CHAIRMAN. Have you children by both of these wives?

Mr. REYNOLDS. I have children by both, but the youngest by the other wife is 5 or 6 years old now.

Mr. WORTHINGTON. He said, Mr. Chairman, that for several years he had been living with only one of these women as her husband.

The CHAIRMAN. I understood that; but you said one of these children is 5 or 6 years old?

Mr. REYNOLDS. Yes.

The CHAIRMAN. And the other is 18 months old?

Mr. REYNOLDS. The other is 18 months old.

The CHAIRMAN. And they have two mothers?

Mr. REYNOLDS. Yes.

Mr. TAYLER. They are both the plural wives?

Mr. REYNOLDS. They are the children of my plural wives. My legal wife has been dead nearly twenty years.

The CHAIRMAN. That we understand, but you have had children by both these wives since 1890?

Mr. REYNOLDS. Yes, sir.

The CHAIRMAN. The last by one of the wives about five years ago and the other about eighteen months ago?

Mr. REYNOLDS. Yes, sir.

The CHAIRMAN. How many children have you had by these two women all told?

Mr. REYNOLDS. I have had thirty-two children by the three wives.

The CHAIRMAN. How many by these two plural wives, or how many by the first wife, the legal wife?

Mr. REYNOLDS. Eleven, I believe, sir.

The CHAIRMAN. And the balance by the other two?

Mr. REYNOLDS. Yes, sir.

The CHAIRMAN. What do you mean, then, by saying you have lived with only one of these wives since the manifesto?

Mr. REYNOLDS. No, sir; I did not say that. I said for some years past.

The CHAIRMAN. You mean by "some years," six years?

Mr. REYNOLDS. Yes.

The CHAIRMAN. The manifesto was in 1890, I believe, was it not?

Mr. WORTHINGTON. Yes.

The CHAIRMAN. And you have lived with both of them since the manifesto?

Mr. REYNOLDS. Yes, sir.

The CHAIRMAN. You understood the manifesto permitted you to live with your legal wife?

Mr. REYNOLDS. My legal wife was dead long before the manifesto.

The CHAIRMAN. Your understanding, then, of the manifesto was that you could continue to live with both plural wives and raise families?

Mr. REYNOLDS. Yes, sir; at the time the manifesto was issued.

Senator McCOMAS. Mr. Reynolds, what is your age?

Mr. REYNOLDS. Sixty-three.

Senator McCOMAS. The manifesto was in what year?

Mr. REYNOLDS. I don't know, sir; 1890, I hear these gentlemen say.

Senator McCOMAS. That is only fourteen years ago?

Mr. REYNOLDS. Yes, sir.

Senator McCOMAS. You understood the subject of that manifesto

to be to stop plural marriages because of this violation of the laws of the land, did you not?

Mr. REYNOLDS. Yes, sir.

Senator McCOMAS. To break up polygamy; did you so understand it?

Mr. REYNOLDS. I understood that it was to stop all future marriages in plurality—all future plural marriages.

Senator McCOMAS. Did you find this manifesto accepted by those who, having that relation, still continued in polygamy thereafter?

Mr. REYNOLDS. No; but I construed it to mean what it said. If you will read the manifesto you will find that is all it says.

Senator McCOMAS. I have it here:

"We are not teaching polygamy or plural marriage, nor permitting any person to enter into its practice; and I deny that either 40 or any other number of plural marriages have, during that period, been solemnized in our temple or any other place in the Territory."

You understood that polygamy was to be practiced by those who practiced it, but it was not to be undertaken by people who had not yet commenced the practice. Is that your idea?

Mr. REYNOLDS. I understood that if they wished to continue in the plural relation, that manifesto did not interfere with them.

Senator McCOMAS. But as one of the seven presidents of the seventies, you then began to denounce polygamy, did you, and the practice of plural marriages, from that time on—from the time of the manifesto?

Mr. REYNOLDS. I don't think I have ever preached for or against polygamy in my whole lifetime.

Senator McCOMAS. Would you not have felt a little hampered about preaching against polygamy after the Woodruff manifesto, if you engaged in it yourself, because of the disparity between practice and preaching?

Mr. REYNOLDS. I have never preached anything I didn't practice.

Senator McCOMAS. And have you always preached what you practiced?

Mr. REYNOLDS. No; of course not.

Senator McCOMAS. Did you continue then——

Mr. REYNOLDS. No; I did not continue.

Senator McCOMAS. You did continue to practice polygamy; but you did not continue to preach against polygamy, or begin to preach against it?

Mr. REYNOLDS. I have never preached for or against polygamy.

Senator McCOMAS. And you would not do that now?

Mr. REYNOLDS. No; I would hold my tongue.

Senator McCOMAS. Your situation, perhaps, would influence you to hold your tongue, would it not?

Mr. REYNOLDS. I guess it would.

Senator McCOMAS. You understood that President Wilford Woodruff, in making that manifesto, did it in order to break up in the Mormon Church the practice of polygamy, did you not?

Mr. REYNOLDS. He did it on purpose to stop all future plural marriages, and, as I believe now, it was also in his mind that the practice of living with a plural wife should cease; but I did not so regard it at the time.

Senator McCOMAS. But you do now regard the purpose of the manifesto on his part as being to stop the practice of polygamy?

Mr. REYNOLDS. To prevent all future plural marriages, and also to stop the people living in plural marriage; that that was in his mind at the time.

Senator McCOMAS. Now, apart from your personal practice in polygamy—a great many of us preach some things and do not practice them—what have you done in your high place as one of the seven presidents of the seventies, preaching the gospel of Mormonism abroad throughout the world, to advance the purpose of that manifesto? Have you locally, in Salt Lake City, or in the United States, or elsewhere in the world been preaching at all in accordance with the injunction of Woodruff's manifesto?

Mr. REYNOLDS. I have said just now that I have no recollection of ever, during the time I have been in the church, preaching on the subject of plural marriage at all.

Senator McCOMAS. Why did you not obey this revelation and why did you not begin to preach against polygamy; or if you could not because you were hampered by circumstances personal to yourself, have you ever urged others to preach against it among the seven presidents of seventies that you speak of?

Mr. REYNOLDS. No, sir; I have not urged them. I never talked to them on the subject.

Senator McCOMAS. You never did?

Mr. REYNOLDS. No; never.

Senator McCOMAS. Did they ever urge you to quit your practices and preach in accordance with the Wilford Woodruff manifesto?

Mr. REYNOLDS. No, sir.

Senator McCOMAS. They never did?

Mr. REYNOLDS. No, sir.

Senator McCOMAS. Did they or you, in your high place, ever make any endeavor to check the practice of polygamy and to impress upon people their obligation to obey the law of the land?

Mr. REYNOLDS. I don't know what the others did, but I never have.

Senator McCOMAS. And, so far as you know, your associates never did either?

Mr. REYNOLDS. As far as my knowledge is concerned, I have no recollection of having heard them.

Senator McCOMAS. Have you heard or do you know of any concerted effort on the part of those higher in authority than yourself, the first presidency and the apostles, to have people obey the law of the land and not continue to encourage plural marriages and not practice polygamy?

Mr. REYNOLDS. No, sir; I know of no concerted effort.

Senator McCOMAS. So, from 1890 down to this time—and I do not want to misstate you—you have not had knowledge, in your important position in the church, of any concerted effort by the officials of the church, the president, the council, the apostles, or the seven first presidents of the seventies—by either of those bodies or all of them jointly—to stop polygamy in accordance with President Woodruff's manifesto?

Mr. REYNOLDS. I consider that polygamy was stopped there and then.

Senator McCOMAS. I want an answer to my question. I did not

ask what you consider. I ask you what either or all of these bodies have done, to your knowledge, to carry out this manifesto and to stop plural marriages, or to denounce and discourage the practice of polygamy? Just answer my question.

Mr. REYNOLDS. I have not heard them denounce it.

Senator McCOMAS. You have heard of no general effort on the part of the authorities of the church to do that thing, have you?

Mr. REYNOLDS. No, sir.

Senator McCOMAS. They have simply been keeping silent officially?

Mr. REYNOLDS. Some of them have. Some of them have quite strongly talked on the subject, but not in my presence.

Senator McCOMAS. You do not know what you did not hear?

Mr. REYNOLDS. No; I do not.

Senator McCOMAS. So your answer would stand that, so far as you know, there has been no effort made, either individually or as separate official bodies, or as a number of official bodies jointly acting together, to carry out the Woodruff manifesto?

Mr. REYNOLDS. I only know of what I have been told they have done individually.

Senator McCOMAS. What you know is not what you have heard. That is all, sir.

The CHAIRMAN. Where do you reside, Mr. Reynolds?

Mr. REYNOLDS. In Salt Lake City.

The CHAIRMAN. With your two wives?

Mr. REYNOLDS. Yes; they both live in Salt Lake City.

The CHAIRMAN. In different parts of the city, I suppose?

Mr. REYNOLDS. In different parts of the city.

The CHAIRMAN. Proceed, Mr. Tayler.

Mr. TAYLER. You were served with a subpoena to bring certain books with you, were you?

Mr. REYNOLDS. No, sir.

Mr. TAYLER. I did not know whether you were one of those who had received such a subpoena.

(The witness at this point handed Mr. Tayler a paper.)

Mr. TAYLER. That is all right.

Mr. WORTHINGTON. Mr. Reynolds, I think you have not stated yet when you married your plural wives. When was it?

Mr. REYNOLDS. In 1874 and 1885, if my memory serves me right.

Mr. WORTHINGTON. It was long before the manifesto?

Mr. REYNOLDS. Oh, yes, sir; it was before my first wife died.

The CHAIRMAN. When did she die, Mr. Reynolds?

Mr. REYNOLDS. Twenty years ago, sir.

The CHAIRMAN. That would be in 1884.

Mr. REYNOLDS. Yes, sir. Then I must have married before 1885, sir.

Mr. WORTHINGTON. You said several times that when the manifesto was first issued you understood it to apply only to future plural marriages, and not to continued cohabitation with plural wives already existing. Have you changed your mind about that at any time?

Mr. REYNOLDS. Yes; I believe to-day that the intention of President Woodruff was that those living together were to cease.

Mr. WORTHINGTON. Do you remember that within a year or so

after the manifesto was issued he preached a sermon, which was published in Utah, in which he stated that?

Mr. REYNOLDS. No, sir; I have no recollection of reading it.

Mr. WORTHINGTON. Do you remember he so testified before a commission out there?

Mr. REYNOLDS. I was not present, nor did I hear the proceedings.

Mr. WORTHINGTON. When you say, as you stated to Senator McComas just now, that you know of no effort being made to stop polygamy, do you refer to continued future marriages, or only to the continuous living with those wives who already were in existence?

Mr. REYNOLDS. What I wished to be understood was that all future plural marriages were forbidden.

Mr. WORTHINGTON. You did not mean to say that you did not know of any efforts being made to stop that?

Mr. REYNOLDS. It was stopped.

Mr. WORTHINGTON. When you say it was stopped, do you know of any plural marriage since the manifesto? Have you any personal knowledge of any such?

Mr. REYNOLDS. No, sir; only the one which has been referred to, of my daughter. I have the understanding she was married.

Mr. WORTHINGTON. And that, you say, was after she went to Mexico?

Mr. REYNOLDS. I so understand.

Mr. WORTHINGTON. If that happened, do you know why she did not stay and get married in Utah instead of going to Mexico?

Mr. REYNOLDS. I did not catch your question.

Mr. WORTHINGTON. If she did become the plural wife of a man, why did she not go through that ceremony in Utah, where Mr. Cuff lived and where she had lived?

Mr. REYNOLDS. My understanding is that both in Utah and in the whole of the United States plural marriages have discontinued from that time to the present, and that they were in Mexico at the time and she married him there.

Mr. WORTHINGTON. Do you not understand the manifesto to apply to Mexico as well as to the United States?

Mr. REYNOLDS. At first I understood it to apply to the United States, where there was a law against it; but I have since come to the conclusion that the intention of the president was that it was to cover the whole world; that there were to be no future plural marriages in the church the world over.

Mr. WORTHINGTON. When it first came to your knowledge that your daughter had become a plural wife, did it surprise you at all?

Mr. REYNOLDS. Yes, sir; very much, because I was thoroughly convinced at the time that they could not do it, that there were no marriages, and that it was impossible for them to get married.

Mr. WORTHINGTON. Had your consent or acquiescence in that ceremony been asked at all? Had it been suggested to you?

Mr. REYNOLDS. It was indirectly; but I told them that such a thing was impossible, and it was no good for them to think of it.

Mr. WORTHINGTON. Was that before they actually went away and, as you understand, got married in Mexico?

Mr. REYNOLDS. Yes; that was before.

Senator DUBOIS. Was she cut off from the church for being married in polygamy?

Mr. REYNOLDS. Was he cut off the church?

Senator DUBOIS. Was she?

Mr. REYNOLDS. No.

Senator DUBOIS. Was he?

Mr. REYNOLDS. No; not that I know of.

Senator DUBOIS. Did he lose any standing in the church?

Mr. REYNOLDS. He is away from the church—away by himself off in Mexico, and I don't think he has ever been before the officers where he properly belongs who could try him.

Mr. WORTHINGTON. I want to ask something about this matter of church divorces. I understand that where the legal marriage exists the church does not divorce except after being informed that there has been a legal divorce by the courts?

Mr. REYNOLDS. You are correct.

Mr. WORTHINGTON. For what causes does the church grant a divorce, such as it does grant?

Mr. REYNOLDS. In the cases where there has been a legal marriage, when the cause is considered by the courts and they grant the divorce.

Mr. WORTHINGTON. I understand that. Of course you grant the divorce when there is a legal marriage and when the courts grant the divorce. You give the sanction of the church to what has already been made legal. But in the other cases, when you grant a divorce where there is no legal marriage, and there can be, therefore, no divorces in the courts, for what causes does the church give a divorce?

Mr. REYNOLDS. Well, any actual sins against the marriage relation, or even incompatibility of temper, where they can not agree.

Mr. WORTHINGTON. Are those divorces numerous?

Mr. REYNOLDS. No, sir; not numerous, comparatively.

Mr. WORTHINGTON. Does the divorce apply to marriages for time only, or for time and eternity, or both?

Mr. REYNOLDS. Time and eternity.

Mr. WORTHINGTON. Have you ever known of any attempt of the church to separate a husband from a wife and do away with the relation, where it existed in law, until the courts had acted finally in the matter?

Mr. REYNOLDS. I do not understand you, sir.

The question was read as follows:

"Have you ever known of an attempt of the church to separate a husband from a wife and do away with the relation, where it existed in law, until the courts had acted finally in the matter?"

Mr. REYNOLDS. In the earlier times it may have been so, but since—

Mr. WORTHINGTON. Say, since the manifesto.

Mr. REYNOLDS. Well, long before the manifesto it was not done so.

Senator McCOMAS. Mr. Reynolds, are you the George Reynolds who was selected to make the test case?

Mr. REYNOLDS. I am the George Reynolds.

Senator McCOMAS. Mr. Worthington asked you in respect of the practice of polygamy by those who had been married prior to the manifesto, and the preaching against plural marriages thereafter. To make it quite clear, I want to now ask this question: Do you now say that your first presidents of the seventies ever took any action in pursuance of Woodruff's manifesto to discourage or forbid subsequent plural marriages? Did anybody take any action?

Mr. REYNOLDS. Not officially, sir.

Senator McCOMAS. Not officially?

Mr. REYNOLDS. No; we had nothing to do with it.

Senator McCOMAS. So far as you are advised in your church, did the higher official bodies take any other action to have Woodruff's manifesto enforced? Do you know of any subsequent acts, supplementing the manifesto, taken by the first presidency and the apostles, to prevent future violations of the law of the land by polygamous marriages after the manifesto?

Mr. REYNOLDS. Yes, sir; on two occasions in the general conference the whole church has voted with regard to it, and the last time it was presented by unanimous vote the church decided that any man who performed such a ceremony in future should be excommunicated from the church.

Senator McCOMAS. I asked you about the first presidency and the apostles. You are now telling me about the general conference. I want to know whether there was any general act of the first presidency and the apostles.

Mr. REYNOLDS. They were the ones who presented the matter to the conference.

Senator McCOMAS. In the general conference?

Mr. REYNOLDS. In the general conference, after having decided in their own councils so to do.

Senator McCOMAS. Where were you and the other first presidents of seventies at that time?

Mr. REYNOLDS. Where were we?

Senator McCOMAS. Yes.

Mr. REYNOLDS. We were at the conference.

Senator McCOMAS. Did you and they take any action in pursuance of that action of the conference?

Mr. REYNOLDS. We voted with the rest of the people.

Senator McCOMAS. And you voted the same way?

Mr. REYNOLDS. We voted the same way; yes, sir.

Senator McCOMAS. In aid of that general statement of the conference has your body ever practically taken any steps to carry out that vote of the conference and the purpose of the Woodruff manifesto, as you now understand it to be?

Mr. REYNOLDS. No, sir; it is not our business. That is the business of the bishops.

Senator McCOMAS. But you teach and preach?

Mr. REYNOLDS. Yes; we teach and preach.

Senator McCOMAS. In your teaching and preaching as a body of presidents of the seventies what teaching and preaching have you arranged to do all over the world—because you must have concert of action for seven of you to preach all over the world—what have you resolved, or done, or ordained to carry out that effort to stop polygamy?

Mr. REYNOLDS. There is no polygamy in the outside missions of the church.

Senator McCOMAS. There is none?

Mr. REYNOLDS. No, sir.

Senator McCOMAS. Do you prohibit that or discourage it, or what do you do?

Mr. REYNOLDS. We have never permitted it.

Senator McCOMAS. You have not permitted it outside of the United States?

Mr. REYNOLDS. Not in the foreign missions of the United States which we have control over.

Senator McCOMAS. How about Mexico?

Mr. REYNOLDS. Mexico is included in the stakes of Zion, over which we have no jurisdiction.

Senator McCOMAS. You have no jurisdiction?

Mr. REYNOLDS. Not as seventies; no, sir.

Senator McCOMAS. Have you known of any acts, any efforts, made by the first presidency and the apostles to make effective in Mexico the prohibition of which I have just spoken?

Mr. REYNOLDS. I know so little of what is done in Mexico that my opinion is worthless. As far as my knowledge is concerned, I don't know anything about it.

Senator McCOMAS. I will confine it to Utah. Can you now recall any acts, declarations, or publications made by the first presidency and the apostles to carry out this prohibition of the Woodruff manifesto?

Mr. REYNOLDS. I should think those were entirely sufficient—the two things at the general conference, where the people all joined together and voted. I should think that was sufficient for everything.

Senator McCOMAS. Has it been sufficient? Has it in your judgment stopped polygamy?

Mr. REYNOLDS. What do you mean by polygamy—more plural marriages?

Senator McCOMAS. I mean a man who lives in the relation of marriage with more than one woman.

Mr. REYNOLDS. It is very rapidly decreasing, sir.

Senator McCOMAS. It is rapidly decreasing?

Mr. REYNOLDS. Yes; the number of those living in plural marriage is very rapidly decreasing.

Senator McCOMAS. Do you mean to say there have been since that manifesto no plural marriages at all?

Mr. REYNOLDS. I mean to say there have been no plural marriages, to my knowledge, only the one to which I have referred.

Senator McCOMAS. Only that one?

Mr. REYNOLDS. Only that one. I know of no others.

Senator McCOMAS. You do not mean to be understood as saying that you think that is the only one?

Mr. REYNOLDS. I know of no other, sir; nor am I acquainted with any others.

Senator McCOMAS. So far as you can gather information from general report, living in a community like Salt Lake City, do you mean to be understood as saying that to the best of your knowledge and belief and information there have been no marriages since the Woodruff manifesto which are polygamous marriages as we have had them in this testimony?

Mr. REYNOLDS. Yes, sir; as far as I understand.

Senator McCOMAS. Yes, sir; what? That there have or have not been?

Mr. REYNOLDS. There have not. I know of none.

Senator McCOMAS. You do not know of any?

Mr. REYNOLDS. No.

Senator McCOMAS. And yet, in all those years, you yourself have never preached against that practice?

Mr. REYNOLDS. No, sir; I have never preached either for or against it. It has not been within the scope of my special duties.

Senator McCOMAS. You said a while ago that you did not at the time, or for some time thereafter, understand the Woodruff manifesto to mean what you now understand it to mean, to wit, a prohibition of living in the polygamous relation by reason of past polygamous marriages. When did that light appear to you, from that language, which has not been changed since it was published by Woodruff?

Mr. REYNOLDS. Oh, it was very gradual, sir. From the talk of the brethren with whom I associated, and other things, gradually I came to the conclusion that that was President Woodruff's intention.

Senator McCOMAS. Did you take the trouble to read the declaration yourself at the time? You were there, were you not?

Mr. REYNOLDS. Yes, sir.

Senator McCOMAS. You heard it at the time?

Mr. REYNOLDS. I heard it; yes, sir.

Senator McCOMAS. You read it thereafter, did you not?

Mr. REYNOLDS. I assisted to write it.

Senator McCOMAS. You helped to write it?

Mr. REYNOLDS. Yes, sir.

Senator McCOMAS. If you helped to write it, when was it that it came to you that the writing you helped to compose and to publish had ceased to have one meaning and had another?

Mr. REYNOLDS. I can't tell you when it commenced.

Senator McCOMAS. It came gradually, did it?

Mr. REYNOLDS. Very gradually.

Senator McCOMAS. It took three or four or five years—it was a gradual process?

Mr. REYNOLDS. A gradual process.

Senator McCOMAS. Then, after you did come to the conviction that the president of your church had made a manifesto which positively prohibited all these marriages thereafter, can you tell me why you and the council to which you belonged, the seven presidents of the seventies, did not take some effective means to carry out the official declaration of the president of your church? If you thought he was sincere, and you were all sincere, and it meant that, and you intended to carry it out, why did you not begin to do it?

Mr. REYNOLDS. Because we would have been interfering with the judicial courts of the church, which is none of our business. We are not a judicial body.

Senator McCOMAS. And neither you nor the members of your body, even unofficially, expressed or sanctioned a heartfelt purpose to carry out the purpose of the manifesto?

Mr. REYNOLDS. I consider we showed extreme sincerity in accepting the manifesto, and we did our utmost. We did all you could expect of people. We gave up our religious convictions to the decree of the nation to which we belong, and I think you little understand, sir, how much it cost us to do so.

Senator McCOMAS. I can understand how much it cost you; but I understand you now also to say that you think you did your utmost,

when the fact is, as you have said, that you did not say yea or nay, took no sides and said nothing about it.

Mr. REYNOLDS. I think so.

Senator McCOMAS. You think that was the utmost you could do with the strain upon your conscience—to say nothing and do nothing, officially or personally, to carry out the purpose of the manifesto in the prohibition of plural marriages. Is that a fair statement?

Mr. REYNOLDS. Is that fair to me?

Senator McCOMAS. Yes.

Mr. REYNOLDS. No, sir.

Senator McCOMAS. Your purpose was to do nothing. Is that the idea?

Mr. REYNOLDS. The difference, as I understand it, is that the duties of the first council of the seventies did not lie in those directions. They were the duties of other officers of the church. Probably if we had occupied the other positions we should have done differently.

Senator McCOMAS. I only ask you these questions because you said your body were preachers and teachers of the faith and the practice of your religion.

Mr. WORTHINGTON. You have said to Senator McComas, Mr. Reynolds, that you did not consider this matter of preaching about polygamy within the scope of your official duties. What do you mean by that? Explain yourself.

Mr. REYNOLDS. The especial duties of the seventies are to travel outside the stakes of Zion when they are not appointed by the first presidency to travel in the stakes. Their especial business is to see that the Gospel is preached, and to send out the seventies under their direction into the different nations and among the different peoples, and to preach the first principles of the Gospel—faith, repentance, baptism, the laying on of hands, the gift of the Holy Ghost, and those principles that are called by us the first principles of the Gospel. We do not interfere with internal matters.

Mr. WORTHINGTON. You said something about helping to write the manifesto. Will you explain that?

Mr. REYNOLDS. President Woodruff wrote it in his own hand—and he was a very poor writer, worse, I believe, than Horace Greeley—and he gave it into the hands of three of the elders to prepare it for the press. I was one of those three.

Mr. WORTHINGTON. Who were the three?

Mr. REYNOLDS. C. W. Penrose, John R. Winder, and myself.

Mr. WORTHINGTON. What did you do? You said you helped to write the manifesto, and I want to have an understanding of what you mean by that.

Mr. REYNOLDS. The answer came from the fact of the question coming to me whether I had read it and understood it, and I answered that I had assisted in writing it.

Mr. WORTHINGTON. Did you three, then, transcribe these notes of President Woodruff, or did you rewrite it, or what?

Mr. REYNOLDS. We transcribed the notes and changed the language slightly to adapt it for publication.

Mr. WORTHINGTON. It contained the substance?

Mr. REYNOLDS. Yes; it contained the substance.

Senator McCOMAS. Did you, in transcribing the utterance of President Woodruff, make such change of phraseology as would make it

ambiguous, so that it might apply to marriages subsequent and not to living with wives who had been married prior?

Mr. REYNOLDS. No, sir.

Senator McCOMAS. It must have come to your mind when you were copying and changing the phraseology whether this is to apply to the future and whether the past is to be expected, did it not?

Mr. REYNOLDS. No, sir; I have told you honestly what my feelings and opinions were.

Senator McCOMAS. It did not occur to you then?

Mr. REYNOLDS. No, sir.

Senator McCOMAS. That required years?

Mr. REYNOLDS. Yes, sir. We wrote it as we understood the president intended, with his manuscript before us.

The CHAIRMAN. I do not know but I may have misunderstood. I understood this manifesto was inspired.

Mr. REYNOLDS. Yes.

The CHAIRMAN. That is your understanding of it?

Mr. REYNOLDS. My understanding was that it was inspired.

The CHAIRMAN. And when it was handed to you it was an inspiration, as you understand, from on high, was it not?

Mr. REYNOLDS. Yes.

The CHAIRMAN. What business had you changing it?

Mr. REYNOLDS. We did not change the meaning.

The CHAIRMAN. You have just stated you changed it.

Mr. REYNOLDS. Not the sense, sir; I didn't state we changed the sense.

The CHAIRMAN. But you changed the phraseology?

Mr. REYNOLDS. We simply put it in shape for publication—corrected possibly the grammar, and wrote it so that——

The CHAIRMAN. You mean to say that in an inspired communication from the Almighty the grammar was bad, was it? You corrected the grammar of the Almighty, did you?

Mr. REYNOLDS. That was not a revelation—"Thus saith the Lord." It was simply that the inspiration of the Lord came to President Woodruff, and he gave it in his own language. It had nothing to do with correcting what the Lord said.

The CHAIRMAN. Then was it inspired?

Mr. REYNOLDS. I consider it so. There are various degrees of inspiration, in some of which the man simply has the ideas and he writes it in his own language. I regard the manifesto as one of those.

The CHAIRMAN. Do you remember what it was before you changed it?

Mr. REYNOLDS. No, sir. I haven't any idea whatever.

The CHAIRMAN. You have no idea what it was?

Mr. REYNOLDS. Do you mean to say I haven't any idea——

The CHAIRMAN. Before you revised this revelation from the Almighty, can you state what it was?

Mr. REYNOLDS. No, sir.

The CHAIRMAN. You do not remember?

Mr. REYNOLDS. I believe the copy was destroyed right off.

The CHAIRMAN. Who destroyed it?

Mr. REYNOLDS. I don't know; I suppose one of us three. When we had done with it, we probably——

The CHAIRMAN. After you had revised it, did you submit it to the president of the church?

Mr. REYNOLDS. Yes, sir; and he accepted it as his.

Mr. WORTHINGTON. Mr. Reynolds, in reference to this discourse of Brigham Young's that has been quoted from here, does everything that a man in his position says in such discourses become a part of the doctrine of the church?

Mr. REYNOLDS. No, sir; only that which the Lord reveals.

Mr. WORTHINGTON. And how is the revealed doctrine made manifest? How do you know where to find it?

Mr. REYNOLDS. The church has accepted four standard works of the church as their authority—the Bible, the Book of Mormon, the Doctrine and Covenants, and the Pearl of Great Price. They have been accepted by the church in general conference as the standard works of the church and the authority on all questions of doctrine.

Mr. WORTHINGTON. About the matter of Mr. Nicholson. I did not understand just what you said about his having custody of the records. You were asked whether he had custody. Have you any personal knowledge on that subject?

Mr. REYNOLDS. No, I have not; only I understand him to be the recorder of the temple.

Mr. WORTHINGTON. And whether he, as recorder, has the custody of the books to which you refer, you do not know?

Mr. REYNOLDS. I don't know, sir.

The CHAIRMAN. Mr. Reynolds, I wish to ask you this question. The ceremony that used to be performed in the endowment house is now performed in the temple, as I understand it?

Mr. REYNOLDS. What ceremony, sir?

The CHAIRMAN. The ceremony, whatever it was, that used to be performed in the endowment house. That endowment house has been taken down?

Mr. REYNOLDS. Yes, sir.

The CHAIRMAN. Those ceremonies are now performed in the temple?

Mr. REYNOLDS. The same ceremonies; yes, sir. That is my understanding, though I have never taken part in them.

The CHAIRMAN. That is all I care to ask.

Mr. TAYLER. You must add to those four books of which you speak as being inspired the Woodruff manifesto as equally inspired, is it not?

Mr. REYNOLDS. To my mind they are not identical, for the simple reason that the revelations given by the Lord commence, "Thus saith the Lord." That does not. To me it makes a difference.

Mr. TAYLER. But they are of the same binding effect?

Mr. REYNOLDS. Yes; they are of the same binding effect.

Mr. TAYLER. The Woodruff manifesto overrules and overrides the Doctrine and Covenants, does it not, in so far as it touches the same subject?

Mr. REYNOLDS. I do not consider that it overrules or overrides. It simply declares that there shall be no further plural marriages.

Mr. TAYLER. Does not the book of Doctrine and Covenants declare that plural marriages are proper?

Mr. REYNOLDS. There is a revelation on celestial marriage, including plurality of wives.

Mr. TAYLER. Yes.

Mr. REYNOLDS. The manifesto of President Woodruff only affects it in this way—that there are to be no more such marriages.

Mr. TAYLER. It does not in any sense affect the belief of your people that the revelation respecting celestial marriage is divine.

Mr. REYNOLDS. No, sir; at least it don't affect mine.

Mr. TAYLER. Well, it does not generally among your people, does it?

Mr. REYNOLDS. I think not.

Mr. TAYLER. You have stated what was interesting, and perhaps we ought to inquire a little about it. The jurisdiction of the Salt Lake stake extends to Mexico, does it?

Mr. REYNOLDS. No, sir; not the Salt Lake stake. I didn't mention that.

Mr. TAYLER. In what jurisdiction is Mexico?

Mr. REYNOLDS. The jurisdiction in Mexico is under a president of a stake of Zion, like the Salt Lake stake, but entirely independent.

Mr. TAYLER. Entirely independent?

Mr. REYNOLDS. Yes.

Mr. TAYLER. Is it a foreign country?

Mr. REYNOLDS. Of course Mexico is not in the United States, but the organization of the stakes of Zion, whether in the United States, in Canada, in Mexico, or anywhere else, ecclesiastically are the same.

Senator McCOMAS. If you will allow me, where does that president live now; in Mexico?

Mr. REYNOLDS. He is in Mexico, sir.

Senator McCOMAS. He does not live and did not live in Salt Lake City?

Mr. REYNOLDS. No, sir; he lives in Mexico at one of our settlements there.

Senator OVERMAN. Who has the right to seal or unseal celestial marriages in Mexico?

Mr. REYNOLDS. Nobody but the president of the church.

Senator OVERMAN. The president of the church, Joseph F. Smith?

Mr. REYNOLDS. Joseph F. Smith.

Senator OVERMAN. He has the right in Mexico, then—

Mr. REYNOLDS. He has the right the world over, and he is the only one who has that right.

Senator OVERMAN. Therefore he does have some jurisdiction over the church in Mexico?

Mr. REYNOLDS. Yes, sir.

Mr. TAYLER. Did I correctly understand you in believing that you stated that the presidents of the seventies do not have jurisdiction over Mexico; that that is not a missionary region?

Mr. REYNOLDS. There is a portion of Mexico that is a missionary region, but there is a portion of Mexico that is organized into a stake of Zion, and where it is organized into a stake of Zion the seven presidents of seventies only have jurisdiction over the seventies, not over the others.

Mr. TAYLER. They send their missionaries into the places that are not organized into stakes; is that it?

Mr. REYNOLDS. Yes, sir.

Mr. TAYLER. Nevertheless, they preach everywhere, do they not, and counsel the people everywhere, do they not?

Mr. REYNOLDS. They preach in the stakes of Zion as they may be sent by the general authorities of the church.

Mr. TAYLER. The apostles are at the head of the missions of the church, are they not?

Mr. REYNOLDS. The apostles are at the head.

Mr. TAYLER. They also have other duties besides those of head of the missions?

Mr. REYNOLDS. Yes, sir.

Mr. TAYLER. The apostles are constantly preaching in Utah, are they not?

Mr. REYNOLDS. Yes; some of them are.

Mr. TAYLER. The most of them, or half of them, are generally in Utah, are they not? As a rule, you will find a number of apostles in Utah, will you not?

Mr. REYNOLDS. I think possibly, as a general thing, the majority are in Utah.

Mr. TAYLER. And they are holding services constantly?

Mr. REYNOLDS. Constantly.

Mr. TAYLER. Of course, those are not services as missionaries, are they?

Mr. REYNOLDS. Why not?

Mr. TAYLER. I did not know that they had missionary jurisdiction in Utah.

Mr. REYNOLDS. The twelve apostles have jurisdiction everywhere.

Mr. TAYLER. And their jurisdiction, then, as the head of missions, covers the whole world, wherever the church may be?

Mr. REYNOLDS. Wherever there are Latter Day Saints the twelve apostles have jurisdiction.

Mr. TAYLER. And they have other jurisdiction coupled with their relation to the president?

Mr. REYNOLDS. Yes.

Mr. TAYLER. Now, the presidents of the seventies have no such jurisdiction in Utah. Is that right?

Mr. REYNOLDS. Yes, sir.

Mr. TAYLER. They have nothing to do with that?

Mr. REYNOLDS. They have nothing to do with the local government of the church.

Mr. TAYLER. Is Canada or British Columbia a part of the country, like Mexico?

Mr. REYNOLDS. There are two stakes of Zion organized in Alberta, with their local presidents and bishops.

Mr. TAYLER. So that your missionary authority does not extend to those stakes?

Mr. REYNOLDS. Only as we may be sent.

Mr. TAYLER. Then, outside of those stakes, you might go as missionaries, or send missionaries to them?

Mr. REYNOLDS. Yes, sir.

Mr. TAYLER. Your daughter married in Mexico?

Mr. REYNOLDS. I can't say; but that is my understanding.

Mr. TAYLER. By whom you do not know?

Mr. REYNOLDS. I do not.

Mr. TAYLER. Is she the only person in regard to whom you have heard that a plural marriage had taken place since the manifesto?

Mr. REYNOLDS. She is the only person of whom I have heard of a plural marriage having taken place, except street rumor.

Mr. TAYLER. Of course, as she is your daughter, street rumor you would probably run down to see if it was more than that, would you not?

Mr. REYNOLDS. Yes, sir.

Mr. TAYLER. Because she was your daughter?

Mr. REYNOLDS. Because she was my daughter.

Mr. TAYLER. Have you heard a street rumor to the effect that Apostle Teasdale took a plural wife?

Mr. REYNOLDS. No, sir.

Mr. TAYLER. Have you heard that he married since the manifesto?

Mr. REYNOLDS. I understand that he married, but he had no wife then. That is my understanding.

Mr. TAYLER. You understand he married since the manifesto upon the theory that the woman that he had married thirty years before turned out not to be his wife. Is that it?

Mr. REYNOLDS. No, sir.

Mr. TAYLER. That the marriage was void?

Mr. REYNOLDS. No, sir; I never heard that.

Mr. TAYLER. You never heard that?

Mr. REYNOLDS. No.

Mr. TAYLER. Did you ever hear that Abram Cannon married Lillian Hamlin in 1896?

Mr. REYNOLDS. I have heard it talked of; questioned whether he had or not.

Mr. TAYLER. He was an apostle at that time?

Mr. REYNOLDS. He was.

Mr. TAYLER. Did you ever hear it said that he was married on the high seas? You have heard that, have you not? The charge, I mean.

Mr. REYNOLDS. I have heard it; yes.

Mr. TAYLER. You have not undertaken to satisfy yourself that it was not true, have you?

Mr. REYNOLDS. I have taken no means of any kind to satisfy myself whether it was true or not.

Mr. TAYLER. One way or the other?

Mr. REYNOLDS. One way or the other.

Mr. TAYLER. There was no duty laid on you to discover the truth?

Mr. REYNOLDS. No, sir.

Mr. TAYLER. Have you heard that Brigham Young performed a plural marriage ceremony since the manifesto?

Mr. REYNOLDS. I simply heard it through the minutes of this committee.

Mr. TAYLER. Have you heard that it is the repute in one of the communities where he lives that Apostle Taylor has taken two plural wives since the manifesto?

Mr. REYNOLDS. No, sir.

Mr. TAYLER. You have not heard that, either?

Mr. REYNOLDS. No, sir.

Mr. TAYLER. Have you heard or known that Apostle Merrill married his son to a plural wife since the manifesto?

Mr. REYNOLDS. Only what I was told appeared before this committee.

Mr. TAYLER. You stated that you did not permit polygamy outside of the organized stakes of Zion. Is that right?

Mr. REYNOLDS. Plural marriages occur in the temples, and there are no temples out of the organized stakes of Zion.

The CHAIRMAN. What was that last statement?

Mr. REYNOLDS. Excuse me; I made a mistake when I made that remark. What I intended to say was this, that plural marriages were at one time celebrated in the temples by the ordinances of the temple, but for many years they have not been so celebrated, according to the best of my knowledge and belief.

Mr. TAYLER. So that plural marriages always occurred in the temple, did they?

Mr. REYNOLDS. That was the rule.

Mr. TAYLER. And you understand that no plural marriage was valid if not solemnized in the temple?

Mr. REYNOLDS. They were solemnized in the endowment house.

Mr. TAYLER. In the endowment house or in the temple?

Mr. REYNOLDS. In the endowment house or in the temple; and before there was an endowment house they were celebrated in some other building, but that was all before my time.

Mr. TAYLER. When you speak of no plural marriages having been solemnized, do you mean that you know of none that have been solemnized in the temple?

Mr. REYNOLDS. I mean that I know of none that have been solemnized anywhere.

Mr. WORTHINGTON. Since the manifesto?

Mr. REYNOLDS. Of course, since the manifesto.

Mr. TAYLER. Of course I understand that, and it would not be very important if he did or did not know of any prior to that.

Senator McCOMAS. Mr. Reynolds, if a plural marriage were celebrated in the stake of Mexico, would that be an unlawful ecclesiastical plural marriage because it was not performed in the Temple?

Mr. REYNOLDS. These marriages are a mystery to me, sir, and I can't answer you. I was as surprised as you probably are when I heard that my daughter was married. I can't answer your question without knowing the whole of the circumstances.

Senator McCOMAS. You can not tell me whether or not a plural marriage celebrated in Mexico would be ecclesiastically unlawful because it was not performed in the Temple at Salt Lake City? You can not tell me that?

Mr. REYNOLDS. No, sir; I can't answer without knowing all of the circumstances of the case.

Senator McCOMAS. Take any case that happens. I am asking now not about the particular persons or the incidents of the ceremony. I am asking you if a plural marriage, performed by a lawful priest of your church in Mexico, otherwise legal in every respect, would be ecclesiastically illegal because of the mere fact that it was not performed in the temple?

Mr. REYNOLDS. No; I think if all other things were right and proper and consistent with the law of the church, then that marriage would be considered ecclesiastically legal.

Senator McCOMAS. So that the performance of the ceremony in the temple itself is not essential to a valid religious marriage?

Mr. REYNOLDS. Not absolutely, but it is the general rule.

Senator McCOMAS. Such marriages might therefore be made in Mexico and be just as valid as if made in the temple at Salt Lake City?

Mr. REYNOLDS. There are conditions under which I think that is possible.

Mr. TAYLER. Mr. Reynolds, you said something in your examination, either by Senator McComas or Mr. Worthington, about your judicial courts. You have judicial courts in the church?

Mr. REYNOLDS. Yes, sir.

Mr. TAYLER. What kind of questions do they try?

Mr. REYNOLDS. They try any disagreements that may arise between members of the church, or, when one member of the church makes complaint against another, or they try a person for their standing in the church when they have committed any sin or act contrary to the regulations of the church.

Mr. TAYLER. So that if two members of the church disagree about a debt or a title to a horse or a piece of land, that question is settled in your church courts?

Mr. REYNOLDS. If they bring it up before the church courts; but the church court never undertakes to enforce its decision beyond ecclesiastical punishment—either suspending the party or excommunicating them.

Mr. TAYLER. Of course there would be no other way in which the church could execute its decrees, could there?

Mr. REYNOLDS. I don't think they could, but they don't attempt to.

Mr. TAYLER. If the party against whom judgment is rendered refuses or fails to abide by the order of the court, he is excommunicated if it is thought of sufficient importance?

Mr. REYNOLDS. Yes.

Mr. TAYLER. And can you tell us, as an ecclesiastical officer of the church, what is conveyed in the term "excommunication?"

Mr. REYNOLDS. All fellowship is withdrawn from them as a church member.

Mr. TAYLER. What else?

Mr. REYNOLDS. Nothing else that I know of.

Mr. TAYLER. Is it accompanied by the declaration that the party will be damned in the future?

Mr. REYNOLDS. No, sir.

Mr. TAYLER. Or that he will suffer here or hereafter if he does not obey the order of the mouthpiece of God?

Mr. REYNOLDS. No, sir; I have never heard any such appendage to a decision or to an excommunication.

Senator OVERMAN. How many courts do you have? Do you have courts of appeal in the church?

Mr. REYNOLDS. Yes, sir; the first court is the bishop's court, who sits as a common judge among the people ecclesiastically. When any of the members of his ward—he presides over a ward—have disagreements they take them to him. He sits with two counselors. The three form the court, and he gives his decision after hearing the testimony and the evidence; but either of the parties feeling aggrieved can take an appeal to the high council of the stake in which they live, which court consists of the presidency of the stake, the president and his two counselors and twelve high priests.

Mr. WORTHINGTON. All that is in the record already.

Mr. TAYLER. Oh, no.

Senator OVERMAN. This is the first time I have heard of a court.

Mr. TAYLER. And it is time it should go in so that we will know it.

Senator OVERMAN. Go ahead. This is very interesting to me.

Mr. REYNOLDS. These sit without pay or recompense and decide between the members of the church as between right and wrong. They are a court of original jurisdiction and also an appellate court from the bishop's court, and even after that the party not feeling satisfied can appeal to a third court—the first presidency of the church—that every man's rights can be protected.

Senator OVERMAN. Do they litigate matters in those courts involving property rights?

Mr. REYNOLDS. No, sir; not unless it is done by mutual consent of the parties.

Senator OVERMAN. Is it done by mutual consent?

Mr. REYNOLDS. If it is done by mutual consent, they will take such things under consideration, except land and things of that kind, which they always request the parties to take to the legal courts, that the decision may be final and binding.

Senator OVERMAN. Are private wrongs adjusted in those courts?

Mr. REYNOLDS. Yes; private wrongs and disagreements and things of that kind.

The CHAIRMAN. They have regular trials—witnesses sworn, etc.?

Mr. REYNOLDS. Yes, sir.

The CHAIRMAN. And counsel appear for each side?

Mr. REYNOLDS. There are not lawyers employed, but certain members of the high council are chosen to represent both parties—one on each side, or two or three of the high councilors are chosen to see that the rights of each party are protected.

The CHAIRMAN. The object being to secure justice between the litigants?

Mr. REYNOLDS. That is the object.

The CHAIRMAN. I want to ask you one question while we are waiting, Mr. Reynolds. You spoke of this manifesto as being a revelation that did not on its face appear to come from the Lord; that it did not say, "Thus saith the Lord," and that revelations which are prefaced with that declaration or that have that declaration connected with them, "Thus saith the Lord," are regarded as inspired?

Mr. REYNOLDS. I regard that the servant of the Lord who receives the word of the Lord may have more or less inspiration in this respect; that sometimes the Lord only gives the general idea. Sometimes He gives the concrete idea without giving the exact words, and other times He will inspire the man with the exact words He wishes said.

The CHAIRMAN. This manifesto did not say, "Thus saith the Lord?"

Mr. REYNOLDS. No, sir; it did not.

The CHAIRMAN. It did not purport to come from the Lord?

Mr. REYNOLDS. It purported to be the instruction of the president of the church to the people.

The CHAIRMAN. And nothing more?

Mr. REYNOLDS. No.

The CHAIRMAN. Which would you regard as higher authority, the book of Doctrine and Covenants or this manifesto?

Mr. REYNOLDS. I should regard the book of Doctrine and Covenants as the higher authority.

The **CHAIRMAN.** I find in the book of Doctrine and Covenants, prefaced with the statement, "Thus saith the Lord," the following at page 473:

"If any man espouse a virgin, and desires 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 no one else;

"And if he have ten virgins given unto him by this law, he can not commit adultery, for they belong to him; and they are given unto him; therefore is he justified."

This revelation is accompanied with this declaration: "Thus saith the Lord." Would you regard that of greater binding force than the manifesto?

Mr. REYNOLDS. No, sir; because I understand that the Lord has full right, after giving a general revelation, and may make special provisions at certain times for the carrying out of a law; and he has, through the inspiration of his servant who held the keys, who stood at the head of the church, and was his mouthpiece, said that there should be no further plural marriages.

The **CHAIRMAN.** I understood you to say that this manifesto did not appear to come from the Lord; that it was written by the president and then passed over to three gentlemen named and they fixed it up and revised it and had it published.

Mr. REYNOLDS. I think you misunderstood me.

The **CHAIRMAN.** That is not as great authority as the Book of Doctrine and Covenants, you say?

Mr. REYNOLDS. I regard it for the time being as our rule of church practice, because it came from the head of the church, who has the right to direct in all such things.

The **CHAIRMAN.** Very well; it is a rule of the church.

Mr. REYNOLDS. Yes; the rule of the church is binding now since we have accepted it, and by our vote at conference declared we would accept it. Therefore we are bound to regard it in all respects. In my mind, there is no conflict.

Mr. TAYLER. Mr. Reynolds, these actions begin, then, with the bishop's court?

Mr. REYNOLDS. Generally, sir; but throughout the church there are what are called teachers, who visit from house to house under the direction of the bishop. They do not sit as a court, but if any difficulties arise between the parties residing in the district which they visit, they have the right to reconcile the parties to prevent them coming into court if possible.

Mr. TAYLER. If one party has a grievance against another he files his complaint with the bishop's court, does he not?

Mr. REYNOLDS. I can't tell you. I was never at a bishop's court, sir.

Mr. TAYLER. You were undertaking to tell us about the method of proceeding in these bishop's courts.

Mr. REYNOLDS. Yes; I know what I have told you, but whether they—

Mr. TAYLER. You do not mean that two parties come into the

bishop's court and say: "We have a grievance and want you to settle it for us." That is not the way it is done, is it?

Mr. REYNOLDS. No, sir.

Mr. TAYLER. One party endeavors to draw the other into court to settle the controversy. Is not that right?

Mr. REYNOLDS. One party goes to the bishop and tells him the grievance and asks the bishop to appoint a time to hear it.

Mr. TAYLER. And then they proceed to hear it?

Mr. REYNOLDS. Yes, sir.

Mr. TAYLER. And they hear all kinds of controversies between members of the church. Is that right?

Mr. REYNOLDS. Controversies between members of the church—I believe I am justified in saying yes.

Senator OVERMAN. Suppose one of the members of the church is charged with larceny. Would he be tried in that court?

Mr. REYNOLDS. No, sir; no crime that a man is amenable for to the laws of the land. Such things are not considered in the church courts. The book of Doctrine and Covenants, which has just been quoted from, says that such people shall be taken before the officers and tried by the laws of the land.

Mr. TAYLER. Do you know Mr. William H. Seegmiller?

Mr. REYNOLDS. Yes, sir.

Mr. TAYLER. How long have you known him?

Mr. REYNOLDS. I have known him as long as I can recollect.

Mr. TAYLER. Where does he live?

Mr. REYNOLDS. He lives at Richfield, in Sevier County.

Mr. TAYLER. What does he do?

Mr. REYNOLDS. Do you mean his ecclesiastical position?

Mr. TAYLER. Yes.

Mr. REYNOLDS. He is president of a stake.

Mr. TAYLER. How long has he been the president of a stake?

Mr. REYNOLDS. Quite a number of years. I don't know how long.

Mr. TAYLER. You have had business relations with him—I mean official relations with him, more or less?

Mr. REYNOLDS. Yes; he has written to me with regard to missionary matters.

Mr. TAYLER. What sort of relations would he have with you officially?

Mr. REYNOLDS. He would probably recommend certain men as worthy to be called on missions, and send the letter to me as secretary of the missionary committee of the apostles to attend to the business.

Mr. TAYLER. And on that account you and he had more or less correspondence?

Mr. REYNOLDS. Yes.

Mr. TAYLER. You have met him, of course? You know him personally?

Mr. REYNOLDS. I have met him a few times.

Mr. TAYLER. I wish you would look at this letter I now hand you and tell me whether that is in his handwriting.

Mr. REYNOLDS. I don't know, sir. It somewhat resembles it.

Mr. TAYLER. Give us your opinion as to whether it is Mr. Seegmiller's handwriting.

Mr. REYNOLDS. It don't look—I am doubtful of it, sir. I am quite doubtful. That signature don't seem to me to be the same.

Mr. TAYLER. Then, in your opinion, that is not Mr. Seegmiller's handwriting?

Mr. REYNOLDS. No; I didn't say so, sir.

Mr. TAYLER. You do not say so!

Mr. REYNOLDS. No; I say I am simply doubtful. It don't seem to be exactly like his handwriting, but I dare not say it is not.

Mr. TAYLER. I wish you would give your opinion one way or the other whether it is or is not Mr. Seegmiller's handwriting.

Mr. REYNOLDS. I am not an expert on handwriting, sir.

Mr. TAYLER. No; I know you are not. I am not calling you as an expert or asking you that as an expert.

Mr. REYNOLDS. Well, I am doubtful of it, sir; that is all that I can say.

Mr. TAYLER. You mean you have no opinion one way or the other?

Mr. REYNOLDS. No; I have no direct opinion one way or the other. Sometimes I look at it, and it looks pretty much like his, and then again it does not.

Mr. TAYLER. Have you an indirect opinion on the subject?

Mr. REYNOLDS. I don't know what you mean by an indirect opinion.

Mr. TAYLER. You said you had no direct opinion on the subject. Have you any other kind of opinion on the subject?

Mr. REYNOLDS. No, sir; I have none. It may be and it may not.

Mr. TAYLER. Then you are unable to express an opinion as to whether that is Mr. Seegmiller's handwriting?

Mr. REYNOLDS. Yes; as a witness I am unable to express an opinion.

Mr. TAYLER. Suppose you were just an ordinary business man and received that paper. Would you have your doubts aroused as to whether that was Mr. Seegmiller's handwriting?

Mr. REYNOLDS. Yes. It don't appear as good writing as he writes.

Mr. TAYLER. It does not appear as good?

Mr. REYNOLDS. No.

Mr. TAYLER. Well, he must have a very high reputation for penmanship.

Mr. REYNOLDS. You don't call that particularly good, do you?

Mr. TAYLER. Would you say—

Mr. WORTHINGTON. How much more time will you want this afternoon to finish with this witness, Mr. Tayler?

Mr. TAYLER. This subject of the courts was opened up on the other side, and I wanted to make a little proof in this connection by this witness.

Mr. WORTHINGTON. I understood the committee would adjourn about 4 o'clock, and I made an arrangement in view of that fact.

Mr. TAYLER. I might suspend with this witness and take Mr. Hamlin, whose examination will not take more than five minutes, I believe.

The CHAIRMAN. We will go on with the examination of this witness, and if Mr. Worthington is obliged to leave at this time, he can, if he desires to do so, cross-examine him further in the morning.

Mr. TAYLER. Mr. Reynolds, about this method of trials. Parties go into the bishop's court, or the complainant goes there, and at his suggestion the bishop appoints a day and cites the other party to

appear; and on that occasion, or at some other appointed time, the question of right which is involved is tried before that court?

Mr. REYNOLDS. Yes.

Mr. TAYLER. If the aggrieved party desires to do so, after judgment in that court, he can appeal?

Mr. REYNOLDS. Yes, sir.

Mr. TAYLER. To what court?

Mr. REYNOLDS. To the high council of the stake of which he is a member.

Mr. TAYLER. Precisely; and if the aggrieved party in that court desires it, after judgment in that court, he goes to——

Mr. REYNOLDS. The first presidency.

Mr. TAYLER. Composed now of Joseph F. Smith, Anton Lund, and John R. Winder?

Mr. REYNOLDS. Yes, sir.

Mr. TAYLER. Now, the refusal of the party against whom judgment is rendered to abide the judgment of the court is followed by excommunication?

Mr. REYNOLDS. Not always.

Mr. TAYLER. Not necessarily; but that is what can be done if the case is of sufficient consequence in the mind of the officials?

Mr. REYNOLDS. Yes, sir.

Mr. TAYLER. By whom is the order of excommunication issued?

Mr. REYNOLDS. The party who refuses to abide by the decision would, as a general thing, be summoned before the high council to show cause why he had not done so, and upon his refusal the high council—now this is not universal, but the general rule——

Mr. TAYLER. Yes.

Mr. REYNOLDS. The high council would decide upon whether he is to be suspended temporarily, to give him an opportunity of changing his mind, or whether he should be severed from the church.

Mr. TAYLER. Now, let me ask you whether this would be the usual form of the order of the court trying the case. I will assume that this is a case of the right or title to lands.

Mr. REYNOLDS. No; do not assume that, because title to land is always referred to the civil courts.

Mr. TAYLER. Always?

Mr. REYNOLDS. As far as I know, sir.

Mr. TAYLER. Now, suppose this was the form in any particular case:

"Bishop's court held to decide in the case of (Blank) against (Blank), presented at the bishop's court held October 18, 1901. After duly considering the matter as presented by both parties, our decision is that the party named, being the defendant, shall deed unto the other party the northwest 40 acres of the southeast quarter of section 1, township 25, south of range 4, west of Salt Lake meridian. You are hereby required to comply with this decision in writing, or an appeal taken to the high council on or before the 15th day of November, 1901."

It is headed "Bishop's office, Monroe Ward, Sevier stake, November 1, 1901," and is signed "Orson Magleby, Samuel W. Goold, Joseph A. Smith."

Is that about the form in which that decision would be rendered?

Mr. REYNOLDS. I couldn't say, because I believe there is no form,

but each stake of Zion or each bishop's court will make its decision after its own manner. There are no printed forms that I have any knowledge of.

Mr. TAYLER. If that case was appealed, would the order be something about in this form:

"This appeal, brought from Bishop Orson Magleby's court, in which (Blank) is the accuser and (Sister So-and-So) is the accused. She appeals from the decision of Bishop Orson Magleby's court. On this case we render the following decision: We sustain the decision of Bishop Magleby's court, that the accused shall deed unto the accuser the northwest 40 acres of the southeast quarter of section 1, in township 25, etc., and we require her thereafter to comply with this decision or appeal to the first president of our church.

"WILLIAM H. SEEGMILLER,

"JOSEPH S. HORN,

"JAMES CHRISTIANSON,

"State Presidency."

Is that about the way it would be?

Mr. REYNOLDS. I have never seen one before, sir, so I can't tell you. I never recollect having any such paper pass through my hands.

Mr. TAYLER. Let me ask you if, upon the persistent, contumacious refusal of the party to abide by the order of the court, this is the kind of a notice she would receive, after having received notice to show cause why she should not be excommunicated:

"DEAR SISTER: By direction of the stake presidency you are hereby informed that at the session of the high council of the Sevier Stake of Zion, held June 19, 1903, you were excommunicated from the Church of Jesus Christ of Latter Day Saints for failure to comply with the decision of the first presidency of the church in the case of (Blank v. Blank),

"Very respectfully,

"J. M. LAURITZEN,

"Stake Clerk, and Clerk of the High Council."

Is that the usual form of excommunication?

Mr. REYNOLDS. I have never seen one before, sir.

Mr. TAYLER. And if this, after that situation had arisen, would be the usual form of influence to bring to bear upon the parties to abide by the decree of the court:

"DEAR SISTER: Yours of January 4 came duly to hand. I have read the contents with interest, and I regret very much that Cora is in the position you describe her to be. Surely an evil power is leading her to her destruction. If she wants relief from her present situation, she can obtain it by humbly complying with President Joseph F. Smith's decision in the accusation brought against her by James Leavitt, of Joseph; heard first by the Monroe bishopric, then appealed to the high council of the Sevier Stake of Zion, then appealed to Joseph F. Smith, whose decision stands against her, and will so stand until she complies with it; and while this condition is maintained she will be in distress and misery. Her only relief will be in complying with President Smith's wishes.

"You say she has never broken a rule of the church. You forget that in this case she has done so by failing to abide by the decision of

the mouthpiece of God. I pray God to bless her, that humility may possess her soul and lead her to do that which the president requires her to do. If she can not do this, I fear for her happiness here and hereafter.

"I am yours, in the Gospel,

"WILLIAM H. SEEGMILLER."

Is there anything in all I have read to you which contradicts your notion of the method by which the church enforces its decrees? Is there anything unnatural or strained about it?

Mr. REYNOLDS. That letter is somewhat strained—to me. It is a personal letter. It does not belong to the courts. It is simply his opinion and advice to her, as president of a stake, if I understand it right.

Mr. TAYLER. Do you think his signature as president of a stake would be more cogent than his signature to a letter without "president of the stake" added?

Mr. REYNOLDS. Not without it was an official letter.

Mr. TAYLER. Do you not think she would have quite as much fear for her future here and hereafter without "president of the stake" being added to William H. Seegmiller's name?

Mr. REYNOLDS. It all depends on the person.

Mr. TAYLER. We will suppose it is a woman.

Mr. REYNOLDS. I do not mean male or female, but the disposition of the person.

Mr. TAYLER. I understand. That is all.

Senator OVERMAN. Do they have lower courts in the wards?

Mr. REYNOLDS. The ward is under the jurisdiction of a bishop. The teachers, who are his assistants in the management and control of the ward, can meet and talk the matter over, but they do not sit as a court. They simply act as the friends of the parties—as mediators.

Senator OVERMAN. These courts you have been talking about are in the stakes, are they?

Mr. REYNOLDS. These courts I have been talking about are in the stakes of Zion. Wherever there is a bishop, there these courts exist.

Senator OVERMAN. Suppose the higher court in the stake should decide a matter, would there be an appeal then to the Salt Lake City court?

Mr. REYNOLDS. If the higher court in the stake decides a matter, then either party can appeal to the presidency of the church, whose headquarters is in Salt Lake City.

Senator OVERMAN. He is the supreme power?

Mr. REYNOLDS. He is the supreme power, but beyond that, under certain circumstances which I can not explain, the person can even appeal from the presidency of the church to the whole church in conference assembled, and have the decision of the whole body of the church. I have never known such a thing to take place, but it is provided for.

The CHAIRMAN. I was out for a moment, and I do not know, Mr. Tayler, whether you have asked him how these decrees or judgments are imposed.

Mr. TAYLER. I have asked him; yes.

The CHAIRMAN. Is there anything further?

Mr. VAN COTT. It was our understanding that Mr. Worthington

might have the opportunity to examine the witness further in the morning.

The CHAIRMAN. I did not know but that you might want to ask him something now.

Mr. VAN COTT. No, sir.

The CHAIRMAN. Then you may be excused for the present, Mr. Reynolds. Mr. Worthington may want to ask you some further questions in the morning. Who is your next witness, Mr. Tayler?

Mr. TAYLER. Mr. Hamlin.

TESTIMONY OF JOHN HENRY HAMLIN.

JOHN HENRY HAMLIN, having been first duly sworn, was examined and testified as follows:

Mr. TAYLER. What is your first name?

Mr. HAMLIN. John Henry Hamlin.

Mr. TAYLER. Where do you live, Mr. Hamlin?

Mr. HAMLIN. Salt Lake City, Utah.

Mr. TAYLER. How long have you lived there?

Mr. HAMLIN. Forty-two years.

Mr. TAYLER. What relation are you to Lillian Hamlin?

Mr. HAMLIN. Brother.

Mr. TAYLER. She is younger than you?

Mr. HAMLIN. Yes, sir.

Mr. TAYLER. How much younger?

Mr. HAMLIN. Possibly ten years.

Mr. TAYLER. Where was she early in 1896?

Mr. HAMLIN. I don't remember exactly.

Mr. TAYLER. What was she doing?

Mr. HAMLIN. What year was that?

Mr. TAYLER. 1896. I am speaking now of the time immediately prior to the time when she was married.

Mr. HAMLIN. She was home.

Mr. TAYLER. Had she always lived at home up to that time?

Mr. HAMLIN. Yes, sir.

Mr. TAYLER. How long had she been teaching school?

Mr. HAMLIN. Four or five years, I believe.

Mr. TAYLER. And prior to that time she had been going to school, had she?

Mr. HAMLIN. Yes, sir.

Mr. TAYLER. Where?

Mr. HAMLIN. At the public schools, and then finally to the University of Utah.

Mr. TAYLER. Where is that?

Mr. HAMLIN. In Salt Lake City.

Mr. TAYLER. When did you first learn of her marriage?

Mr. HAMLIN. I don't know just what year it was.

Mr. TAYLER. How long was it before she was a widow that you learned of her marriage?

Mr. HAMLIN. Two weeks, I think.

Mr. TAYLER. And whom did she marry?

Mr. HAMLIN. I only know what I heard.

Mr. TAYLER. What was your family conviction and understanding about that?

Mr. HAMLIN. That she was married to a Mr. Cannon.

Mr. TAYLER. What was his first name?

Mr. HAMLIN. Abram.

Mr. TAYLER. An apostle of the church?

Mr. HAMLIN. I believe so. I understood so.

Mr. TAYLER. That was in the summer of 1896, was it not?

Mr. HAMLIN. Yes, sir.

Mr. TAYLER. And where did you understand she was married?

Mr. HAMLIN. On the Pacific coast.

Mr. TAYLER. By whom?

Mr. HAMLIN. Well, our understanding was that President Joseph F. Smith married her.

Mr. TAYLER. You say "our misunderstanding." Whom do you mean—your father and mother and yourself? Have you other sisters or brothers?

Mr. HAMLIN. My brothers—my sisters, rather, and my folks.

Mr. TAYLER. Prior to the summer of 1896 she had been living at home always, had she?

Mr. HAMLIN. Yes, sir.

Mr. TAYLER. Had she been married prior to that time?

Mr. HAMLIN. No, sir.

Mr. TAYLER. Was she an attractive young woman?

Mr. HAMLIN. Yes, sir.

Mr. TAYLER. Had she been receiving attentions from young men constantly?

Mr. HAMLIN. I think so.

Mr. TAYLER. You lived in the neighborhood after you were married, did you?

Mr. HAMLIN. Yes.

Mr. TAYLER. You saw your sister and your family how often?

Mr. HAMLIN. Oh, every two or three days.

Mr. TAYLER. There was no intimation or indication prior to this time that you speak of, when you learned she was married to Apostle Abram Cannon, that your sister Lillian had ever been married, was there?

Mr. HAMLIN. No, sir.

Mr. TAYLER. Where is she now?

Mr. HAMLIN. I don't know.

Mr. TAYLER. When did you last see her?

Mr. HAMLIN. I can't exactly tell. It has been such a long while.

Mr. TAYLER. About how long ago?

Mr. HAMLIN. It has been four or five years.

Mr. TAYLER. Have you not heard of her?

Mr. HAMLIN. Not directly.

Mr. TAYLER. Have you no idea where she is, Mr. Hamlin?

Mr. HAMLIN. No, sir.

Mr. TAYLER. Has she a child?

Mr. HAMLIN. Yes; she has a child.

Mr. TAYLER. Named Cannon?

Mr. HAMLIN. Yes; the child goes by the name of Cannon?

The CHAIRMAN. Do you know the whole name?

Mr. HAMLIN. Marva, I believe—Marva Cannon.

Mr. TAYLER. You say it goes by the name of Cannon. Nobody has ever questioned that the child was the daughter of Abram Cannon? Nobody has ever doubted that that you know of?

Mr. HAMLIN. No, sir.

Mr. TAYLER. I think that is all.

Mr. VAN COTT. Mr. Hamlin, in what way did you find that Joseph F. Smith performed that ceremony, so that you state it is your general understanding that he did perform it?

Mr. HAMLIN. From relatives—the family.

Mr. VAN COTT. What relatives?

Mr. HAMLIN. My wife.

Mr. VAN COTT. Mr. Hamlin, did you ever hear that Joseph F. Smith performed that ceremony, any more than just talk among the relatives? What I want to know is whether there is any fact that you have that Joseph F. Smith performed that ceremony?

Mr. HAMLIN. No, sir.

Mr. VAN COTT. It is just the talk in the family. Is that all?

Mr. HAMLIN. Yes, sir.

Mr. VAN COTT. Are you a member of the Mormon Church, Mr. Hamlin?

Mr. HAMLIN. No, sir.

Mr. VAN COTT. Were you ever a member?

Mr. HAMLIN. No. I might say I was baptized at church once, when I was young.

Mr. VAN COTT. Eight years of age?

Mr. HAMLIN. Eight years of age.

Mr. VAN COTT. But you have never been an active member or a member of the Mormon Church?

Mr. HAMLIN. No, sir.

Mr. VAN COTT. Are your parents?

Mr. HAMLIN. Yes, sir.

Mr. VAN COTT. That is all.

The CHAIRMAN. You say "talk in the family." Who?

Mr. HAMLIN. Why, I just answered that I heard it from my wife.

The CHAIRMAN. Anyone else?

Mr. HAMLIN. No, sir.

The CHAIRMAN. You do not know where she got her information?

Mr. HAMLIN. No; I couldn't say.

The CHAIRMAN. Let us know where she got her information, as you understand it.

Mr. HAMLIN. I suppose from my sisters and my mother and folks. She visited there.

The CHAIRMAN. I believe Mr. Cannon died, did he not?

Mr. HAMLIN. Yes, sir.

The CHAIRMAN. After this marriage?

Mr. HAMLIN. Yes, sir.

The CHAIRMAN. Did his wife, your sister, attend the funeral?

Mr. HAMLIN. Yes, sir.

The CHAIRMAN. Where was it held?

Mr. HAMLIN. In the tabernacle.

The CHAIRMAN. Do you remember when that was?

Mr. HAMLIN. Soon after the marriage.

The CHAIRMAN. About how long?

Mr. HAMLIN. In the neighborhood, I should say, of thirty days, or three weeks, or such a matter.

The CHAIRMAN. Did she go as one of the mourners?

Mr. HAMLIN. I don't know.

The CHAIRMAN. Did you attend?

Mr. HAMLIN. Yes, sir.

The CHAIRMAN. Well, do you not know whether she came in at the close of the service, or came in as one of the mourners?

Mr. HAMLIN. They were all assembled together there. I didn't make any particular note of it.

The CHAIRMAN. And you have no impression upon that question?

Mr. HAMLIN. No, sir; I seen her there.

The CHAIRMAN. Where did she go after the funeral?

Mr. HAMLIN. I couldn't say.

The CHAIRMAN. You do not know?

Mr. HAMLIN. No, sir.

The CHAIRMAN. Do you know whether this child inherits any of the property?

Mr. HAMLIN. Yes, sir.

The CHAIRMAN. Does it or does it not?

Mr. HAMLIN. It does.

The CHAIRMAN. It inherits the property?

Mr. HAMLIN. Yes, sir.

Senator DUBOIS. The property of what? Of the Cannon estate?

The CHAIRMAN. Of the Cannon estate?

Mr. HAMLIN. Yes, sir.

Senator OVERMAN. Did your sister tell you, or your wife, who married her?

Mr. HAMLIN. No, sir.

Mr. TAYLER. Did your sister Lillian have no conversation with you about it?

Mr. HAMLIN. No, sir.

Mr. TAYLER. Did she have with your wife?

Mr. HAMLIN. I don't believe so.

Mr. TAYLER. Did you have any talk with your father or mother about it?

Mr. HAMLIN. No, sir.

Mr. TAYLER. You have never talked with them about it?

Mr. HAMLIN. Oh, I don't know; not in a very direct way. I just possibly might have alluded to it once in a while, but not any special particular degree.

Mr. TAYLER. There never has been one understanding, or impression, or talk in the family respecting it, except that your sister Lillian married Abram Cannon a few weeks before he died, and that Joseph F. Smith married them? There has never been any variation from that in your family talk and consideration of that subject, has there?

Mr. HAMLIN. No, sir.

The CHAIRMAN. Where is the child?

Mr. HAMLIN. I can't tell you.

The CHAIRMAN. You do not know where your sister is?

Mr. HAMLIN. No, sir.

The CHAIRMAN. Is the child with Mrs. Cannon?

Mr. HAMLIN. I presume so.

Mr. VAN COTT. Mr. Hamlin, did anyone ever tell you that Joseph F. Smith performed that ceremony, who pretended to know that he did perform it?

Mr. HAMLIN. No.

Mr. TAYLER. I think that is all now, Senator.

The CHAIRMAN. I want to ask one question. Where did you receive the impression, or from whom did you receive the impression that the ceremony was performed by President Smith?

Mr. HAMLIN. From my wife.

The CHAIRMAN. Where is your wife?

Mr. HAMLIN. She is in Salt Lake City.

The CHAIRMAN. When did you receive that information from her?

Mr. HAMLIN. I can't say just exactly when it was.

The CHAIRMAN. Can you tell me about when it was? Was it about the time of his death?

Mr. HAMLIN. Yes, sir.

The CHAIRMAN. What did she say to you?

Mr. HAMLIN. I can not recall the exact conversation. That was just the substance of it.

The CHAIRMAN. Well, the substance.

Mr. HAMLIN. I say what I have related is the substance, that we understood she was married to Abram Cannon, and that Joseph F. Smith married her on the high seas.

The CHAIRMAN. What was the name of your wife before her marriage to you?

Mr. HAMLIN. Bates—Elizabeth Bates.

The CHAIRMAN. Where did she live?

Mr. HAMLIN. Earda, Tooele County.

Senator OVERMAN. She was not a witness to the marriage, was she?

Mr. HAMLIN. No.

The CHAIRMAN. When you received the information from your wife and as the matter was talked about, did the suggestion ever come to you that anyone else performed the ceremony except Mr. Smith?

Mr. HAMLIN. No, sir.

Senator DUBOIS. Mr. Hamlin, were your wife and sister on friendly terms?

Mr. HAMLIN. Yes, sir.

Senator DUBOIS. Usually so, or unusually so?

Mr. HAMLIN. Well, they were quite friendly.

Senator DUBOIS. They visited quite a good deal, and were really good friends; I mean beyond the mere relationship?

Mr. HAMLIN. Yes, sir.

Senator DUBOIS. Did you ever know of your sister saying that anyone married her beside Joseph F. Smith?

Mr. HAMLIN. No, sir.

Senator DUBOIS. She never said that he did not marry her and that somebody else married her?

Mr. HAMLIN. No, sir.

Mr. TAYLER. How long did your sister stay in Utah after her husband's death; several years?

Mr. HAMLIN. No; I believe she went away soon after that.

Mr. TAYLER. Have you any idea about how long she stayed?

Mr. HAMLIN. In the neighborhood of two years, I think.

Mr. TAYLER. Did you see her frequently after that time?

Mr. HAMLIN. No; I haven't seen her frequently since she was married.

Mr. TAYLER. Where did she live after Abram Cannon's death?

Mr. HAMLIN. Well, I am not sure. She did live in Provo for a

long while. I wouldn't want you to understand that my sister gave my wife—this sister you are speaking of—gave my wife this information. I have several sisters.

The CHAIRMAN. Yes; I understand that.

Mr. TAYLER. Did she go to a normal school in New York after her husband's death?

Mr. HAMLIN. Yes.

Mr. TAYLER. Then did she come back to Utah after that?

Mr. HAMLIN. Yes, sir.

Mr. TAYLER. How long was she at the normal school at Owego, N. Y.?

Mr. HAMLIN. Why, it was in the neighborhood of two years, I believe.

Mr. TAYLER. Then she came back and was at Provo for some time, was she not?

Mr. HAMLIN. Yes, sir.

Mr. TAYLER. And after she was at Provo she lived at Salt Lake for some time, did she not?

Mr. HAMLIN. Yes, sir.

Mr. TAYLER. After she left Salt Lake did she not go to Canada?

Mr. HAMLIN. I don't know where she is.

Mr. TAYLER. Is that your understanding—that she went to Canada?

Mr. HAMLIN. Well, I don't quite understand it that way.

Mr. TAYLER. What do you understand, then?

Mr. HAMLIN. I know that she is away somewhere.

Mr. TAYLER. What is your understanding about where she did go?

Mr. HAMLIN. It might be Canada or Mexico.

Mr. TAYLER. Would you make a choice between those two?

Mr. HAMLIN. No.

Mr. TAYLER. Toward which of them does the inclination of your opinion go?

Mr. HAMLIN. I am puzzled about that.

Mr. TAYLER. Well, I will not refine any more on that point.

The CHAIRMAN. How many sisters have you, Mr. Hamlin?

Mr. HAMLIN. Five.

The CHAIRMAN. Do you know where the others are?

Mr. HAMLIN. Yes, sir.

The CHAIRMAN. All of them?

Mr. HAMLIN. Yes, sir.

The CHAIRMAN. But you do not know where this one is?

Mr. HAMLIN. No, sir.

Mr. TAYLER. Is she married again?

Mr. HAMLIN. I can not tell you.

Mr. TAYLER. Have you an opinion about that?

Mr. HAMLIN. No, sir.

Mr. TAYLER. Have you not heard she was married again? [After a pause.] Have you not heard that she has been married again?

Mr. HAMLIN. Yes; I did hear some rumor—talk.

Mr. TAYLER. Have you not heard she is the plural wife of another Cannon?

Mr. HAMLIN. Yes, I heard that.

Mr. TAYLER. And you have heard that she is in Canada, have you not?

Mr. HAMLIN. Why, I wouldn't be sure. It was either Canada or Mexico; I can't remember now which.

Mr. VAN COTT. Did you ever hear that your sister was married to another Cannon other than the rumor you have spoken of?

Mr. HAMLIN. No.

Mr. VAN COTT. You never got more definite information than simply gossip or rumor?

Mr. HAMLIN. That is all.

Mr. TAYLER. You never had any contradiction of it, had you?

Mr. HAMLIN. No, sir.

Mr. TAYLER. That is all, Senator.

The CHAIRMAN. Then the committee will stand adjourned until to-morrow morning at 10 o'clock.

The committee (at 4 o'clock and 30 minutes p. m.) adjourned until Tuesday morning, December 13, 1904, at 10 o'clock.

WASHINGTON, D. C., *December 13, 1904.*

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

Present: Senators Burrows (chairman), McComas, Dubois, and Overman; also Senator Smoot; also R. W. Tayler, counsel for protestants; A. S. Worthington and Waldemar Van Cott, counsel for the respondent, and Franklin S. Richards, counsel for certain witnesses.

The CHAIRMAN. Mr. Tayler, are you ready to proceed?

Mr. TAYLER. Mr. Worthington wanted to ask the witness who was on the stand last evening a question or two.

Mr. WORTHINGTON. I have not had time to look at his testimony.

Mr. VAN COTT. We will let the matter go over for the present.

The CHAIRMAN. Are you ready, Mr. Tayler?

Mr. TAYLER. Call J. H. Wallis.

TESTIMONY OF J. H. WALLIS, SR.

J. H. WALLIS, Sr., being duly sworn, was examined, and testified as follows:

Mr. TAYLER. Where do you live, Mr. Wallis?

Mr. WALLIS. In Salt Lake City.

Mr. TAYLER. Where were you born?

Mr. WALLIS. In London, England.

Mr. TAYLER. Have you been a member of the Mormon Church?

Mr. WALLIS. Yes, sir; from 1851.

Mr. TAYLER. Where did you become a member of the church in London?

Mr. WALLIS. In the Whitechapel branch of the London conference.

Mr. TAYLER. When did you come to this country?

Mr. WALLIS. In May, 1890.

Mr. TAYLER. And did you go directly to Salt Lake City?

Mr. WALLIS. No; I went to Nephi first of all.

Mr. TAYLER. You went to Utah, however?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. Had you any relatives or friends in Utah?

Mr. WALLIS. I had a son there.

Mr. TAYLER. How long had he been there?

Mr. WALLIS. He had been there since 1881.

Mr. TAYLER. Is your wife living?

Mr. WALLIS. Yes, sir; she came with me.

Mr. TAYLER. You have, and have had, but one wife?

Mr. WALLIS. I have had three.

Mr. TAYLER. Have you had more than one at one time?

Mr. WALLIS. No, sir.

Mr. TAYLER. Did you do any work in connection with the Church of Jesus Christ of Latter Day Saints after you came to this country?

Mr. WALLIS. No, sir; only as a block teacher.

Mr. TAYLER. As a block teacher?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. Where was that?

Mr. WALLIS. In Salt Lake City, on the seventh block of the Sixteenth Ward.

Mr. TAYLER. When did you go to Salt Lake City?

Mr. WALLIS. In 1892.

Mr. TAYLER. And you have lived there ever since?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. Do you know Apostle George Teasdale?

Mr. WALLIS. I was well acquainted with him. He came from the same end of London as I did myself.

Mr. TAYLER. Did you know him before he came to this country?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. Did you know Marian Scoles?

Mr. WALLIS. I was well acquainted with her.

Mr. TAYLER. Where did she live before she came to this country?

Mr. WALLIS. She lived in the northern end of London.

Mr. TAYLER. Do you know about when she came to this country?

Mr. WALLIS. Yes, sir. She came to Salt Lake City about the same time my eldest son did, about 1891, I think. It was September, 1891.

[A pause.]

Mr. TAYLER. Never mind the exact date.

Mr. WALLIS. I can not find the exact paper.

Mr. TAYLER. Was she an unmarried woman when she left London to come to this country?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. Did you see her often after she came to this country?

Mr. WALLIS. Yes, sir.

The CHAIRMAN. What was her name?

Mr. TAYLER. Marian Scoles. [To the witness.] Do you know when she married Apostle Teasdale?

Mr. WALLIS. No, sir; only by repute.

Mr. TAYLER. Did you see her after her reputed marriage to him?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. Do you know about when she died? I do not mean to ask you the date, but did you know about the time she died?

Mr. WALLIS. No, sir; my memory does not serve me on that point.

Mr. TAYLER. You recall her death?

Mr. WALLIS. I recall her death right enough.

Mr. TAYLER. And about the time it occurred you knew of it?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. And she died as the wife of Apostle Teasdale?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. So reputed?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. Have you seen the inscription on her tomb?

Mr. WALLIS. No, sir.

Mr. TAYLER. Were you for a great many years a believer in the Mormon faith?

Mr. WALLIS. I beg your pardon.

Mr. TAYLER. Were you a believer in the Mormon faith for a great many years?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. And you believed in the doctrine of celestial marriage?

Mr. WALLIS. No, sir; never.

Mr. TAYLER. Did you believe in the doctrine of marriage to those who were dead?

Mr. WALLIS. Well, I did, partly; but I could not say that I was fully a believer in that.

Mr. TAYLER. Were any marriage ceremonies performed in the temple between you and any women who were dead?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. How many times were such ceremonies performed?

Mr. WALLIS. Four times for the dead.

Mr. TAYLER. And in what other respects did you stand in relation to a marriage ceremony?

Mr. WALLIS. I was married to my present wife there for time and all eternity.

Mr. TAYLER. I want to make headway, and therefore lead on that, as I understand what it is that you will say about it. Did you stand as proxy for somebody else?

Mr. WALLIS. Well, yes; on one occasion I did.

Mr. TAYLER. That is to say, some living woman was married for eternity to a dead man?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. And you stood as proxy for the dead?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. That is the usual way in which such marriages are performed, is it not?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. Are those all of the ceremonies that you passed through in the temple?

Mr. WALLIS. In the marriage relation, I think.

Mr. TAYLER. In the marriage relation?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. What other ceremonies than those connected with the marriage relation did you pass through?

Mr. WALLIS. I took the endowment for all the dead that I had anything to do with.

Mr. TAYLER. That is to say, endowments for those whom you had thus married?

Mr. WALLIS. Yes; for all those, and some that I had nothing to do with in the marriage line.

Mr. TAYLER. How is that?

Mr. WALLIS. And some that I had nothing to do with in the marriage line. I took endowments for a quantity of them.

Mr. TAYLER. What was the occasion for taking endowments for those with whom you were not married?

Mr. WALLIS. Well, for a son, a brother, a sister-in-law, and so forth—relatives of mine.

Mr. TAYLER. Were they living persons?

Mr. WALLIS. Oh, no; all dead.

Mr. TAYLER. All dead?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. Were those persons for whom you thus took endowments persons who were not in their lifetime members of the church?

Mr. WALLIS. With one exception; and that was my brother, and he died in full fellowship in the church in the old country.

Mr. TAYLER. Was there what was called an endowment ceremony in connection with the marriage ceremony?

Mr. WALLIS. It had to be taken first. The endowment had to be taken before you could be married.

The CHAIRMAN. Before what?

Mr. WALLIS. Before you could be married—before you could go through the marriage ceremony.

Mr. TAYLER. Then, am I correct in understanding you as saying that each time you were married to some person who was dead—each time that you stood as proxy for some man who was dead—to be married for eternity only, with some living woman, as well as each time that you undertook to take endowments for some person dead, for the mere purpose of associating them fully with the church, you took the endowments?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. How many times in all, then, in that way did you pass through the temple, if that is the proper term to use?

Mr. WALLIS. Yes; that is the proper term. I think about twice, so far as males are concerned.

Mr. TAYLER. But altogether how many times?

Mr. WALLIS. I could not say. I am not provided with the figures. My temple book is in Salt Lake City. I did not think to bring it.

Mr. TAYLER. It was many times?

Mr. WALLIS. Yes, sir; I suppose 20.

Mr. TAYLER. When did you first go through the temple?

Mr. WALLIS. In 1895.

Mr. TAYLER. When did you last go through it?

Mr. WALLIS. In 1898.

Mr. TAYLER. And without referring now to the specific method of conducting the ceremony, was it always substantially the same?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. How long did the ceremony require?

Mr. WALLIS. About two hours.

Mr. TAYLER. Were there others in company with you generally?

Mr. WALLIS. Yes, sir; sometimes upwards of a hundred.

The CHAIRMAN. Mr. Tayler, if it will not interrupt you, I would like to ask a question for my own information.

Mr. TAYLER. Not at all.

The CHAIRMAN. You say that this endowment was always taken previous to the ceremony of marriage with the living or the dead?

Mr. WALLIS. Yes, sir; the endowment always came first.

The CHAIRMAN. Is that true where two living parties were married in the temple; was the endowment taken first?

Mr. WALLIS. Yes, sir.

The CHAIRMAN. Always?

Mr. WALLIS. It was the same with myself and my wife.

The CHAIRMAN. Then the endowment is a prerequisite to marriage?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. When did you take the endowment for the purpose of marrying your present wife?

Mr. WALLIS. The first time I went into the temple.

Mr. TAYLER. That was about 1895 then?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. Were all these taken in the same building?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. At Salt Lake City?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. In the temple at Salt Lake City?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. Had you and your present wife been previously married in England?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. What particular reason was there for the marriage ceremony taking place again?

Mr. WALLIS. The fact that we wished to be married for time and all eternity according to the ritual of the Mormon Church.

Mr. TAYLER. You had not been so married in England?

Mr. WALLIS. No, sir.

Mr. TAYLER. Is it, according to the Mormon belief, possible to be married for time and all eternity in any other place than a temple, as you understand it?

Mr. WALLIS. I have known of such things, but I am told they were not legal according to the church.

Mr. TAYLER. Now, Mr. Wallis, do you feel that you have a distinct familiarity with the endowment ceremony?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. From beginning to end?

Mr. WALLIS. Yes; pretty near, I believe.

Mr. TAYLER. I have no special desire myself for a detailed account of it, but I want to reach certain parts of it as promptly as possible. At some stage in the endowment ceremony a certain obligation—

Mr. WALLIS. Yes, sir.

Mr. TAYLER. Was taken by those who passed through the ceremony?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. I would be obliged if you will state in a general way, so that we may understand its character, what occurred, without going into the details of it, down to the point where any certain obligation was taken by you and those who with you were going through the ceremony.

Mr. WALLIS. The obligations of priesthood were taken, the two with the Aaronic priesthood and two with the Melchisedec. Would you like me to give the details of it?

Mr. TAYLER. Go on.

Mr. WALLIS. Excuse my rising.

The CHAIRMAN. Certainly.

Mr. WALLIS (standing). "You, and each of you, do solemnly promise and vow that I will not reveal this the first token of the Aaronic priesthood with its accompanying name, sign, and penalty. Should I do so"—this is the sign [indicating]—"I agree that my throat be cut from ear to ear and my tongue torn out by its roots from my mouth."

That is the first obligation.

Mr. TAYLER. Is that taken by all who go through?

Mr. WALLIS. By all.

Mr. TAYLER. You took it with the rest?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. Each time that you passed through the ceremony?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. That is called the Aaronic?

Mr. WALLIS. That is called the first token of the Aaronic priesthood. The second token of the Aaronic priesthood—its sign is that [indicating], and the obligation commences the same, only that "I agree to have my breast cut asunder and my heart and vitals torn from my body."

Then the first token of the Melchisedec priesthood is this [indicating]; is this square [indicating], and about the same words, only that "I agree to have my body cut asunder in the midst and all my bowels gushed out." The second token of the Melchisedec priesthood there is no penalty to, but the sign is the crucifixion sign, and the words accompanying that are "Pale, hail, hail." I do not know what it means.

Mr. TAYLER. How do you spell it?

Mr. WALLIS. I do not know.

Mr. TAYLER. How do you spell the sound that you give?

Mr. WALLIS. The same as I pronounce it now—pale, hail.

Mr. TAYLER. Is it pao, or pal?

Mr. WALLIS. I can not tell you which is the spelling. I only know the way they all say it.

Mr. TAYLER. Some people sound certain letters different from others.

Mr. WALLIS. I think I have the pronunciation pretty near correct.

Mr. TAYLER. Pass on. Those are all vows to secrecy?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. With an accompanying penalty if the secret is disclosed?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. At any other stage of that ceremony is there an obligation?

Mr. WALLIS. Yes, sir. There are two or three obligations taken after that. There are vows—the "vow of the sacrifices" is one—where we vow conjointly to give all our substance and all we might ever become possessed of to the support of the Church of Jesus Christ of Latter-Day Saints.

Mr. TAYLER. That is the substance of that vow?

Mr. WALLIS. That is the substance of that vow.

Mr. TAYLER. What other vow?

Mr. WALLIS. Another is called the "vow of chastity," by which we

all vowed we would have no connection with any of the other sex unless they were given to us by the priesthood; and another vow was what we used to call the "oath of vengeance." I do not know whether I have it right or not—that we would never cease to importune high heaven to take vengeance on the inhabitants of the earth for the murders of the prophets. I do not know whether I have it exactly right, but that is the substance of it.

Mr. TAYLER. Stand up, if it will help you, and give us the words, if you can.

Mr. WALLIS (standing up). "That you and each of you do promise and vow that you will never cease to importune high heaven to avenge the blood of the prophets upon the nations of the earth or the inhabitants of the earth."

I could not tell you exactly which it was. It was some year or two ago. If my memory serves me, that is about right, and a passage of Scripture is quoted from the Revelations, the sixth chapter, ninth verse, I think it is, where the souls of those who had been slain cried aloud from under the altar for vengeance.

Mr. WORTHINGTON. Revelations, sixth chapter, ninth verse.

Mr. WALLIS. Revelations, sixth chapter, ninth verse, I believe.

Mr. TAYLER. Substantially in that form these obligations were taken each time that you went through?

Mr. WALLIS. Yes, sir.

Mr. TAYLER. I think that is all.

Mr. WORTHINGTON. Mr. Wallis, are you still a member of the Mormon Church?

Mr. WALLIS. Still, so far as I have received any official notification of my being severed from it. I could not say about it.

Mr. WORTHINGTON. Have you ever given the church or any officer or minister thereof any notification that you do not consider yourself to be a member of the church?

Mr. WALLIS. Yes, sir; I gave notification of that to George R. Emery, my bishop, that I intended having nothing whatever to do with them again.

Mr. WORTHINGTON. What is his jurisdiction? Where is his bishopric?

Mr. WALLIS. The Sixteenth Ward.

Mr. WORTHINGTON. When did you do that? When did you give him that notification?

Mr. WALLIS. Seven or eight months ago.

Mr. WORTHINGTON. Did you give it to him verbally or in writing?

Mr. WALLIS. Verbally.

Mr. WORTHINGTON. In the presence of any third person?

Mr. WALLIS. In the presence of his wife and mine.

Mr. WORTHINGTON. Where? At what place?

Mr. WALLIS. In Salt Lake.

Mr. WORTHINGTON. I know; but where in Salt Lake City?

Mr. WALLIS. On the main street; we met there. He asked me the question and I gave him an official notification.

Mr. WORTHINGTON. That was the first notification, then, which you had given to anybody representing the church that you did not consider yourself any longer bound to respect its obligations?

Mr. WALLIS. That was the first; yes, sir.

Mr. WORTHINGTON. And up to that time had you communicated to anybody the information which you have given here to-day?

Mr. WALLIS. No, sir.

Mr. WORTHINGTON. Anybody not a member of the church, I mean?

Mr. WALLIS. No, sir; I had not.

Mr. WORTHINGTON. When did you first communicate to anybody what you have testified to here this morning?

Mr. WALLIS. Some four or five months ago, I suppose.

Mr. WORTHINGTON. And to whom did you first make that disclosure of alleged events?

Mr. WALLIS. To Mr. Owen.

Mr. WORTHINGTON. This gentleman who sits here?

Mr. WALLIS. Yes, sir.

Mr. WORTHINGTON. Did you seek him out or did he seek you out?

Mr. WALLIS. I was at work for him. I worked for him.

Mr. WORTHINGTON. You worked for him?

Mr. WALLIS. Yes, sir.

Mr. WORTHINGTON. In what capacity?

Mr. WALLIS. As shoemaker. I repaired his shoes.

Mr. WORTHINGTON. Is that your vocation?

Mr. WALLIS. Yes, sir.

Mr. WORTHINGTON. Had you ever done any work in that line for him before?

Mr. WALLIS. No, sir.

Mr. WORTHINGTON. He came to have you do some work? What was it?

Mr. WALLIS. Repair his shoes.

Mr. WORTHINGTON. How did the repairing of shoes come to drift into the talk about the things to which you have testified here?

Mr. WALLIS. I suppose we talked, as most shoemakers do, about something, and that was the trend of the conversation.

Mr. WORTHINGTON. Did he sit down and stay with you while you mended his shoes?

Mr. WALLIS. No, sir. He called on me and brought them or fetched them away; I could not tell which.

Mr. WORTHINGTON. Did you have this talk with him when he brought you the shoes?

Mr. WALLIS. Yes; part of it.

Mr. WORTHINGTON. How did the subject come up?

Mr. WALLIS. I suppose I considered myself an aggrieved individual, and talked about the subject I had most at heart.

Mr. WORTHINGTON. Why did you talk to him?

Mr. WALLIS. The same as I would to anybody else.

Mr. WORTHINGTON. You say you never mentioned it to anybody else up to that time?

Mr. WALLIS. I did not know at the time that he was connected with anything of this sort, certainly.

Mr. WORTHINGTON. It was just a coincidence that you happened to talk first to the man who was looking for evidence against Senator Smoot?

Mr. WALLIS. Yes, sir; that is about all.

Mr. WORTHINGTON. Was this talk with him in your shop?

Mr. WALLIS. In my shop.

Mr. WORTHINGTON. Did any third person hear the conversation?

Mr. WALLIS. Not unless it was my wife; no.

Mr. WORTHINGTON. Did your wife?

Mr. WALLIS. Very likely she did.

Mr. WORTHINGTON. Did you have any further talk with him on the subject?

Mr. WALLIS. Yes, sir; I have talked with him on several occasions.

Mr. WORTHINGTON. Did you go to see him or did he come to see you?

Mr. WALLIS. I have taken his work home, and of course then I saw him.

Mr. WORTHINGTON. You have been doing work for him, then, since then?

Mr. WALLIS. Yes, sir.

Mr. WORTHINGTON. Always repairing shoes?

Mr. WALLIS. Yes, sir.

Mr. WORTHINGTON. The same pair?

Mr. WALLIS. Well, no, sir; not the same pair. I believe he is possessed of several pairs of shoes.

Mr. WORTHINGTON. Have you talked to anybody else than Mr. Owen about this business?

Mr. WALLIS. No; unless I may have done so on the road. I do not know whether I have dropped a word on the road. I have not had any real conversation with anybody.

Mr. WORTHINGTON. You said you were a block teacher in Salt Lake City.

Mr. WALLIS. Yes, sir.

Mr. WORTHINGTON. I wish you would explain what you mean by a "block teacher"—seventh block of the Sixteenth Ward.

Mr. WALLIS. The ward is divided into blocks, numbered from 1 upward. Each block has a separate teacher, or two, in fact, in most instances. They run together. They teach them the Gospel. They pay attention to their wants. They collect what they like to give by way of donations to the church.

Mr. WORTHINGTON. The city is divided into wards and the wards into blocks, and each block has its pair of teachers who go around in that way?

Mr. WALLIS. Yes, sir.

Mr. WORTHINGTON. How long did you fill that position?

Mr. WALLIS. About seven years.

Mr. WORTHINGTON. When did you cease to be one of the teachers?

Mr. WALLIS. I could not exactly say; pretty nearly three years ago.

Mr. WORTHINGTON. I think you said that you never believed in the doctrine of celestial marriage?

Mr. WALLIS. Never.

Mr. WORTHINGTON. You never did?

Mr. WALLIS. No, sir.

Mr. WORTHINGTON. And you married your present wife in England?

Mr. WALLIS. Yes, sir.

Mr. WORTHINGTON. First?

Mr. WALLIS. First.

Mr. WORTHINGTON. First for time; the ordinary marriage ceremony?

Mr. WALLIS. The civil marriage ceremony.

Mr. WORTHINGTON. When you came here you went through the celestial marriage ceremony in the temple, as you have testified?

Mr. WALLIS. Yes, sir.

Mr. WORTHINGTON. And a ceremony you did not believe in?

Mr. WALLIS. I do not know whether she did or not.

Mr. WORTHINGTON. I say you; that you did not believe in it?

Mr. WALLIS. That is right enough.

Mr. WORTHINGTON. You went through that ceremony which you did not believe in or have any faith in?

Mr. WALLIS. That is really the fact.

Mr. WORTHINGTON. Were you asked whether you believed in it or not?

Mr. WALLIS. No.

Mr. WORTHINGTON. But you took the vows?

Mr. WALLIS. I took the vows along with the rest.

Mr. WORTHINGTON. You took them without believing in them?

Mr. WALLIS. That is it. That's what's the matter. I took it as a sort of vaudeville entertainment—the whole of it.

Mr. WORTHINGTON. Did you give any indication by your manner that you considered it a joke?

Mr. WALLIS. Oh, no.

Mr. WORTHINGTON. You went through it with great solemnity?

Mr. WALLIS. Yes, sir; that is, the solemnity the rest of them did. There is not much solemnity attached to any of it.

Mr. WORTHINGTON. There is not?

Mr. WALLIS. No.

Mr. WORTHINGTON. You do not consider that there is any solemnity in going through the forms that you went through?

Mr. WALLIS. Not at all.

Mr. WORTHINGTON. Did you consider it a joke?

Mr. WALLIS. Pretty near so.

Mr. WORTHINGTON. Did the others seem to consider it a joke?

Mr. WALLIS. Lots of them did.

Mr. WORTHINGTON. Did I understand you to say, as a reason for your falling into this conversation when Mr. Owen came to you, that you felt aggrieved?

Mr. WALLIS. I felt aggrieved for a number of years.

Mr. WORTHINGTON. Did the matter about which you were aggrieved relate to any particular individual or the church?

Mr. WALLIS. The church at large, so far as my connection—

Mr. WORTHINGTON. And not to any particular person?

Mr. WALLIS. No particular person.

Mr. WORTHINGTON. Mr. Chairman, it is obvious from the examination of this witness that I will have to confer with others before we decide whether to cross-examine him further or not. We can do that probably during the recess. I should like to have him stand aside at least until we return at 2 o'clock.

The CHAIRMAN. Certainly. Mr. Wallis, you will stand aside for the present, but be here at 2 o'clock.

Mr. WALLIS. Yes, sir.

JOHN NICHOLSON.

The CHAIRMAN. Mr. Tayler, call your next witness.

Mr. TAYLER. John Nicholson.

The CHAIRMAN. John Nicholson will take the stand.

Mr. FRANKLIN S. RICHARDS. Mr. Chairman, I wish to state that Mr. Nicholson has been in very poor health for some time past, and the trip from Salt Lake City to this place has prostrated him so that he is unable to leave his room. I hold in my hand a certificate from Doctor Sowers as to his condition. May I read it?

The CHAIRMAN. It does not matter. Your word is sufficient for that. If he can not be here now, he may be here in the morning.

Mr. TAYLER. What does the doctor say about when he can probably be here?

Mr. RICHARDS. I should like to have the certificate read.

Mr. WORTHINGTON. I think it ought to be read and go into the record.

The CHAIRMAN. All right.

Mr. WORTHINGTON. It is very short.

Mr. RICHARDS. I will read it.

"This is to certify that I have this day made a very careful examination of Mr. Nicholson.

"I find him suffering from arterio-sclerosis, or hardening of the arteries.

"His condition is that of a prematurely old man, bad circulation and reduced nerve force, with loss of memory, etc.

"In my opinion, Mr. Nicholson is not able to testify correctly or intelligently in any important case.

"Z. T. SOWERS.

"DECEMBER 12, 1904."

Mr. TAYLER. Mr. Chairman, that goes to a question of his general capacity as a witness and not his present incapacity to be here. I understand that this witness was abroad all day Sunday attending public meetings and standing out in the inclement weather of that day. I do not doubt at all the correctness of the certificate—that he has that kind of arterial trouble which has been described—but it seems to me that unless there is some certificate radically different from that which is here presented to us the witness ought to be here. If he is incapable of testifying, surely it was unnecessary that he should travel two or three thousand miles and have a doctor here tell us that. This is a very important witness, and while not at all intimating that there is any other thing to be associated with his failure to appear than that which is stated in this communication, yet it is significant that he was brought here for a very important purpose, and that the things that were to accompany him were more important than his own presence. I know not whether he has brought the records which the subpoena called on him to bring, but he perhaps is mentally capable of testifying whether he has them with him or not or whether he can get possession of them.

Mr. WORTHINGTON. Mr. Chairman, it is exceedingly important to Senator Smoot that the testimony to be given here shall be given by witnesses whose brains are not so affected that they can not testify correctly or intelligently. The doctor states in his certificate that it is impossible for Mr. Nicholson to testify correctly or intelligently. He speaks of his loss of memory. If that be so, Mr. Nicholson certainly ought not to be put upon the witness stand. Of course counsel are not foreclosed by this certificate. They can have doctors

examine him, or the chairman could designate any physician or physicians to examine him and report to the committee.

As to whether the witness has brought with him what he was required to bring, that is a matter which the committee can very easily be informed about without bringing the man here.

Mr. TAYLER. I ought to say further, Mr. Chairman, that Mr. Richards spoke about Mr. Nicholson yesterday morning. He said he felt quite exhausted from the long journey and that he would like to have a day's rest. Although naturally he was the first witness I desired to call, I said that it was entirely agreeable to me to let Mr. Nicholson remain and rest as long as it seemed proper and necessary that he should. But I was wholly unprepared for a statement of his mental incapacity to testify. I understand that he holds a high official position in the Church of Jesus Christ of Latter Day Saints, that he performs the duties of that position; and we have yet to have the slightest intimation or indication that any person wanting in mental capacity is filling any such position in that organization.

Surely he might come here and let us inquire a little with respect to such things as even a feeble intellect might be able to enlighten us.

Mr. WORTHINGTON. There is an intimation conveyed in what Brother Tayler has said that I do not like, and that is that this is in the nature of suppression of testimony; that the witness, if capable of attending to the duties of the office to which he refers, is capable of testifying. He overlooks the fact to which Mr. Richards has referred, that the cause of the breakdown was the long journey. A man might very well be in a condition of health where he would be able to attend to the duties of a clerical office at home and yet be unable to respond when called upon 2,000 miles from home on a journey of this sort; and that, I understand, Mr. Richards to say is the fact.

Mr. RICHARDS. Mr. Chairman, in view of Mr. Tayler's statement I should like to say a word in personal explanation. I am personally acquainted with Mr. Nicholson and have been for years. I had not seen him for a considerable length of time until I saw him in Washington. But when I saw him last, at home, he was in reasonably good health. When I saw him here his condition was deplorable. I do not know what his condition was when he left Salt Lake City, but I was informed by his associate that he is very much worse now than when he left Salt Lake City. When he left there he was not a well man.

I said to Mr. Tayler yesterday that I thought Mr. Nicholson was suffering from nervous prostration—he will remember that—and that he was entirely unable to attend the examination yesterday; whether he would be able to attend to-day I could not tell. He seemed to me to be in bad condition, but I did not know how bad.

The CHAIRMAN. Have you seen him to-day?

Mr. RICHARDS. No, sir; I have not seen him to-day.

The CHAIRMAN. Did you see him yesterday?

Mr. RICHARDS. No; I did not see him yesterday. I saw him on Sunday.

The CHAIRMAN. Where?

Mr. RICHARDS. I saw him at the Raleigh Hotel. He came to the Raleigh and went from there home, as I understand it, and went to bed and has been in his room since. That is my information.

The CHAIRMAN. Where is he stopping?

Mr. RICHARDS. At the Driscoll. On being informed yesterday that he was no better, a physician was called last night, as I am informed, and this examination was made and the certificate given.

The CHAIRMAN. I think, gentlemen, you had better pass this matter over for the time being and we will look into it. Of course the statement of the physician that he thinks the witness has not sufficient mental capacity to testify is one thing, and whether he is able to appear here physically is another. We will find out the fact as to his mental condition when he is on the stand. Let this matter rest in abeyance.

Have you any other witness, Mr. Tayler?

Mr. TAYLER. Call Mr. Brimhall.

TESTIMONY OF GEORGE H. BRIMHALL.

GEORGE H. BRIMHALL, being duly sworn, was examined and testified as follows:

Mr. TAYLER. Where do you live, Mr. Brimhall?

Mr. BRIMHALL. In Provo, Utah County.

Mr. TAYLER. How long have you lived in Utah?

Mr. BRIMHALL. I was born there.

Mr. TAYLER. How old are you now?

Mr. BRIMHALL. I am 53.

Mr. TAYLER. How long have you lived in Provo?

Mr. BRIMHALL. I have lived in Provo since 1878.

Mr. TAYLER. What is your occupation?

Mr. BRIMHALL. I am a teacher.

Mr. TAYLER. Where are you a teacher?

Mr. BRIMHALL. In the Brigham Young University, in Provo.

Mr. TAYLER. How long have you been a teacher there?

Mr. BRIMHALL. I have been a teacher there since 1891, with the exception of about a year and a half that I was out.

Mr. TAYLER. How large a school is it?

Mr. BRIMHALL. It is a school of over a thousand students.

Mr. TAYLER. Gathered from all parts of the State?

Mr. BRIMHALL. We have students from all over Utah and other States and Territories.

Mr. TAYLER. Is it not a school of primary education?

Mr. BRIMHALL. The school has all the grades of tutorship from the kindergarten up to the graduates—six years' degree.

Mr. TAYLER. What is the degree that is given?

Mr. BRIMHALL. We give the degree of civil engineering and bachelor of pedagogy.

Mr. TAYLER. Bachelor of arts?

Mr. BRIMHALL. We are not giving the degree of bachelor of arts now.

Mr. TAYLER. It is attended by both sexes?

Mr. BRIMHALL. Yes, sir.

Mr. TAYLER. About evenly divided between the two?

Mr. BRIMHALL. I should say about evenly divided.

Mr. TAYLER. What official position do you hold in the university now?

Mr. BRIMHALL. I am the president of it.

Mr. TAYLER. When did you become president?

Mr. BRIMHALL. I became president last January.

Mr. TAYLER. Who was your predecessor?

Mr. BRIMHALL. Benjamin Cluff, jr.

Mr. TAYLER. Was he in Provo at the time of your succession to him?

Mr. BRIMHALL. Yes, sir.

Mr. TAYLER. How long had he been president?

Mr. BRIMHALL. He had been president a number of years.

Mr. TAYLER. "A number of years" is almost as indefinite as you can make it.

Mr. BRIMHALL. I think since 1891; that is my recollection of it.

Mr. TAYLER. He had not been, however, in Provo all of that time, had he? Was he not absent?

Mr. BRIMHALL. He was absent a part of one year taking his master's degree at Ann Arbor. He was also absent about a year and a half or two years on an educational or exploring expedition in South America.

Mr. TAYLER. And except for the periods covered by those two absences he was at Provo in charge of his work as president of the university, was he?

Mr. BRIMHALL. Yes, sir.

Mr. TAYLER. During all this time you were connected with the university as a teacher in some way or other?

Mr. BRIMHALL. Yes, sir.

Mr. TAYLER. What special subject or subjects did you teach, Mr. Brimhall?

Mr. BRIMHALL. I had the chair of pedagogy and education.

Mr. TAYLER. Were you with President Cluff on his journey to Mexico during this time?

Mr. BRIMHALL. No, sir.

Mr. TAYLER. Did he go to Central America? Or were you not with him when he went on this exploration journey?

Mr. BRIMHALL. No, sir.

Mr. TAYLER. You were at work at Provo?

Mr. BRIMHALL. Yes, sir.

Mr. TAYLER. Did you know his wife, the daughter of George Reynolds?

Mr. BRIMHALL. Yes, sir; I was acquainted with her.

Mr. TAYLER. How long did you know her?

Mr. BRIMHALL. I think it was about a year that I was acquainted with her casually, there in the university.

Mr. TAYLER. She attended the university as a student?

Mr. BRIMHALL. Yes, sir; she took the kindergarten course.

Mr. TAYLER. That is, you mean, as teacher in kindergarten work, of course?

Mr. BRIMHALL. Yes, sir.

Mr. TAYLER. When was that?

Mr. BRIMHALL. I think that was about 1898.

Mr. TAYLER. When was it that President Cluff went to Mexico and on this exploring trip?

Mr. BRIMHALL. 1901; no, 1898, I think, was the time he was on the trip.

Mr. TAYLER. Did you see Miss Reynolds after the year she spent in kindergarten work?

Mr. BRIMHALL. No, sir; I have never seen her since.

Mr. TAYLER. Are you a polygamist?

Mr. BRIMHALL. I have two wives.

Mr. TAYLER. When were you married?

Mr. BRIMHALL. I was married to my first wife in 1874 and to my second wife in 1885, as I remember it now.

Mr. TAYLER. How many children have you?

Mr. BRIMHALL. I have 13.

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

Mr. BRIMHALL. Since 1890?

Mr. TAYLER. Yes.

Mr. BRIMHALL. Four, I think.

Mr. TAYLER. How many by the plural wife since 1890?

Mr. BRIMHALL. I think it is the four.

Mr. TAYLER. They are all by the plural wife?

Mr. BRIMHALL. Yes, sir.

Mr. TAYLER. Is Senator Smoot a trustee of the Brigham Young University?

Mr. BRIMHALL. Yes, sir.

Mr. TAYLER. Is he anything else than a trustee?

Mr. BRIMHALL. That is all I know of.

Mr. TAYLER. Is there an executive committee or an executive board or anything of that kind in connection with the university?

Mr. BRIMHALL. There is an executive committee to look after the finances.

Mr. TAYLER. Who constitutes that committee?

Mr. BRIMHALL. David John, L. H. Holbrook, Reed Smoot, Jesse Knight; W. H. Doosenberry is a member also.

Mr. TAYLER. Senator Smoot lives in Provo?

Mr. BRIMHALL. Yes, sir.

Mr. TAYLER. How large a place is it?

Mr. BRIMHALL. It is a place of about 7,500 people.

Mr. TAYLER. What is the age of your youngest child?

Mr. BRIMHALL. Our youngest child is 6 years old.

Mr. TAYLER. I believe that is all.

The CHAIRMAN. I should like to ask you a question. When were you chosen president of the institution?

Mr. BRIMHALL. I was chosen president last January.

Mr. TAYLER. Last January, he stated.

Mr. BRIMHALL. I believe the appointment was made in December.

The CHAIRMAN. December of what year.

Mr. BRIMHALL. December, 1903.

The CHAIRMAN. December, 1903?

Mr. BRIMHALL. Yes, sir; I believe the appointment was made then. That is my recollection.

The CHAIRMAN. Who makes the appointment?

Mr. BRIMHALL. The board.

The CHAIRMAN. What board?

Mr. BRIMHALL. The full board makes the appointment of president.

The CHAIRMAN. The what?

Mr. BRIMHALL. The full board; not the executive committee.

Mr. WORTHINGTON. The board of what?

Mr. BRIMHALL. The board of trustees.

The CHAIRMAN. Is Mr. Smoot a member of that board?

Mr. BRIMHALL. Yes, sir.

The CHAIRMAN. At the time you were appointed president of the institution were you a polygamist?

Mr. BRIMHALL. Yes, sir.

The CHAIRMAN. I have no further questions.

Senator DUBOIS. Mr. Smoot did not know you were a polygamist?

Mr. BRIMHALL. I do not know whether he does or not.

Senator DUBOIS. What do you think about it?

Mr. WORTHINGTON. Is that competent, Mr. Chairman?

Senator DUBOIS. Is this Brigham Young Academy a church institution?

Mr. BRIMHALL. Yes, sir.

Senator DUBOIS. Is it supported entirely by the church?

Mr. BRIMHALL. No, sir; not by the church entirely; by the church and tuitions and contributions from both members and nonmembers of the church.

Senator DUBOIS. Do nonmembers of the church contribute money to the support of the institution?

Mr. BRIMHALL. Yes, sir; they have done so.

Senator DUBOIS. In about what proportion to the funds contributed by the church?

Mr. BRIMHALL. I should say that perhaps 80 or 85 per cent of the funds and tuitions and all came from the church and church members.

Senator DUBOIS. There are no contributions from the State to support it?

Mr. BRIMHALL. None whatever.

Senator DUBOIS. The contributions by nonmembers are voluntary?

Mr. BRIMHALL. Yes, sir.

The CHAIRMAN. There is one more question. You live in Provo?

Mr. BRIMHALL. Yes, sir.

The CHAIRMAN. With your two wives?

Mr. BRIMHALL. No, sir; I am living with my second wife.

The CHAIRMAN. Does she live in Provo?

Mr. BRIMHALL. Yes, sir.

The CHAIRMAN. Where is the other?

Mr. BRIMHALL. The other is in a hospital.

The CHAIRMAN. Where?

Mr. BRIMHALL. The other is in the hospital.

The CHAIRMAN. At what place?

Mr. BRIMHALL. At Provo.

The CHAIRMAN. When did she go to the hospital?

Mr. BRIMHALL. She has been there since 1883, as I remember it.

The CHAIRMAN. As a patient?

Mr. BRIMHALL. Yes, sir; as a patient.

The CHAIRMAN. I did not know but that she might be there as a matron or something of that kind.

Mr. BRIMHALL. No, sir; as a patient.

The CHAIRMAN. That is all.

Mr. VAN COTT. Mr. Brimhall, was Mr. Smoot present when you were elected president of the Brigham Young College?

Mr. BRIMHALL. No, sir; he was not. At least, the records of the institution kept by the secretary show that he was not.

Mr. VAN COTT. You looked at the records?

Mr. BRIMHALL. Yes, sir.

Mr. VAN COTT. About when in December, 1903, was that election, or January, 1904?

Mr. BRIMHALL. It was in December, 1903, as I remember it—about the 17th or 18th. It was along during the latter part of the month, as I remember it.

Mr. VAN COTT. Does Mr. Smoot give active attention to the Brigham Young College at Provo?

Mr. BRIMHALL. Yes, sir; he is interested especially in the financial support of it, and often comes and speaks to the students.

Mr. VAN COTT. Is it at their general assembly?

Mr. BRIMHALL. Yes, sir; at their chapel services in the morning.

Mr. VAN COTT. What is the character of his remarks at those assemblies?

Mr. BRIMHALL. The general burden of his remarks on those occasions is "character forming, basis of honesty;" and he is noted among the students there as "honesty, the foundation of religion." That is an expression.

Mr. VAN COTT. Anything regarding obeying the laws?

Mr. BRIMHALL. Yes, sir; he delivered several addresses there in which students have been urged to be true to their country and stand by its laws and the flag. That was especially so in an address he delivered to the general assembly under the auspices of the business college.

Mr. WORTHINGTON. When?

Mr. VAN COTT. When?

Mr. BRIMHALL. That address was given two years ago.

Mr. VAN COTT. Have you heard Senator Smoot speak on other occasions?

Mr. BRIMHALL. Yes, sir; I have heard him speak at our conferences and our stake priesthood meetings.

Mr. VAN COTT. Has he ever said anything there in regard to obeying the law?

Mr. BRIMHALL. I have in mind one special occasion, at a priesthood meeting, when he spoke very earnestly on our being true to the laws of our country, and being earnest. At that meeting he read a letter that impressed me very strongly.

Mr. TAYLER. Of course, this even out-Herods Herod.

Mr. VAN COTT. This is a little liberal.

Mr. TAYLER. It has been getting remoter and remoter.

Mr. WORTHINGTON. What is the objection to it?

Mr. VAN COTT. Mr. Tayler does not object. He has not yet objected.

Mr. TAYLER. It is not the Brigham Young University business at all. It is some star chamber that the priesthood had.

Mr. VAN COTT. I want to ask what Senator Smoot said.

Mr. TAYLER. Where—in a public meeting?

Mr. VAN COTT. Yes.

Mr. TAYLER. If it was at a public meeting, I do not care. I would just as lief have it in.

Mr. VAN COTT. All right. You do not object, Mr. Tayler? [To the witness.] Have you the letter?

Mr. BRIMHALL. No, sir.

Mr. VAN COTT. Did you ever have it?

Mr. BRIMHALL. No, sir.

Mr. VAN COTT. Tell us what was said by Mr. Smoot.

Mr. BRIMHALL. Do you want me to tell the contents of the letter as I remember it?

Mr. VAN COTT. Yes; as he read it.

Mr. BRIMHALL. The letter contained a warning to Mr. Smoot and to all officers in the church, as I remember it, against officiating in or fostering polygamy among the members or officers of the church. The name of Francis M. Lyman was signed to the letter, as president of the twelve apostles. That is as I remember the circumstances.

Mr. VAN COTT. Did Senator Smoot say anything in addition to the letter?

Mr. BRIMHALL. If I remember, he said "we can not treat this matter lightly." That is as I remember it.

Mr. VAN COTT. And what was his manner in what he said?

Mr. BRIMHALL. His manner was that of earnestness and positiveness in it, associated with an element of pleading also.

Mr. VAN COTT. What do you understand to be Mr. Smoot's attitude in regard to polygamy—that is, whether it is negative—

Mr. TAYLER. I do not want to have anything that will throw light on Senator's Smoot's notions about this thing to fail to be disclosed, but I do not think that anything witnesses might say as to what they understand is Senator Smoot's attitude on a question is going to help us.

Mr. VAN COTT. All right; I will pass that for the present. (To the witness.) When was this letter read and this talk made that you have mentioned?

Mr. BRIMHALL. As I remember it it was last May some time.

Mr. VAN COTT. That is, of this year?

Mr. BRIMHALL. Yes, sir.

Mr. VAN COTT. You spoke of Florence Reynolds. When did you see her last?

Mr. BRIMHALL. I do not think I have seen her for four or five years; four years; I think it is about four or five years since I have seen her.

Mr. VAN COTT. I should like to know if it attracted your attention and whether you have any memory with respect to the fact that she went away about the time that Benjamin Cluff, jr., went away?

Mr. BRIMHALL. No, sir; she did not go away when he went. She went, as I remember it, a year before to teach kindergarten in Mexico, as I remember it.

Mr. VAN COTT. When you say Mexico, you do not mean New Mexico?

Mr. BRIMHALL. No, sir; I mean old Mexico.

Mr. VAN COTT. That is all.

Mr. TAYLER. You say that the records of the Brigham Young University show that Senator Smoot was not present at the time of your election as president?

Mr. BRIMHALL. Yes, sir.

Mr. TAYLER. That occurred while he was in Washington, I sup-

pose. Do you find on the records of the college or university any protest of Senator Smoot against your election?

Mr. BRIMHALL. No, sir.

Mr. TAYLER. Do you find any statement there that advantage was taken of his absence to elect you president?

Mr. BRIMHALL. I have never seen anything of the kind.

Mr. TAYLER. Nor heard of anything of the kind, have you?

Mr. BRIMHALL. No, sir.

Mr. TAYLER. When Senator Smoot so frequently addressed your assembly there on the subject of obedience to the law and reverence of it, did you or President Cluff take it that he was there intending to direct the attention of the assembled multitude to you and President Cluff as lawbreakers?

Mr. WORTHINGTON. I submit, Mr. Chairman, that the counsel is asking precisely the form of question which he objected to a moment ago, and his objection was good. The witness can be asked what was said, not what he understood.

Mr. TAYLER. It is hardly worth while to discuss the distinction between this question and the other one.

Mr. WORTHINGTON. I do not want to discuss it.

Mr. TAYLER. I think the question is proper. He says that Senator Smoot stood up there and glorified the law and obedience to it. Now, here was a stage, not full of lawbreakers, but one is here testifying about it and the other we know about—President Cluff. It may be—and I want to give Senator Smoot the benefit of the opportunity—that those strenuous speeches of his of reverence for the law were intended to hold up President Cluff and the present president directly to the contempt that law-abiding people, thus being instructed in law and reverence for it, would necessarily and naturally have.

The CHAIRMAN. I think, Mr. Tayler, you had better confine your question to what Mr. Smoot said, if anything, on the subject of polygamy, in any of those addresses.

Mr. TAYLER. Did he, in his address, make any special reference to President Cluff?

Mr. BRIMHALL. No, sir; not as I remember it.

Mr. TAYLER. Is it your understanding that on one occasion Senator Smoot, or Mr. Smoot, before he was Senator, made such a speech, and straightway President Cluff went and married Florence Reynolds as his plural wife?

Mr. WORTHINGTON. I object to that. It is the same form of question.

Mr. TAYLER. This is a fact I am after, not an inference.

Mr. WORTHINGTON. I object to the form of the question. It is exactly in the form of the one that has been ruled to be improper.

The CHAIRMAN. I think it is a little different. It is an effort to find out when the person was married, whether before or after a certain speech; that is all.

Mr. WORTHINGTON. If he asks him about the fact, I have no objection.

Mr. TAYLER. It is only a fact that I want. Suppose the stenographer reads the question.

The stenographer read as follows:

“Is it your understanding that on one occasion”——

Mr. TAYLER. Change that to "recollection."

Mr. WORTHINGTON. That is better.

The stenographer read as follows:

"Is it your recollection that on one occasion Senator Smoot—or Mr. Smoot, before he was Senator—made such a speech, and straightway President Cluff went and married Florence Reynolds as his plural wife?"

Mr. BRIMHALL. No, sir; it is not my recollection.

Mr. TAYLER. When did Mr. Smoot begin making speeches preaching loyalty to and reverence for the law?

Mr. BRIMHALL. He has done it for a number of years.

Mr. TAYLER. How many years?

Mr. BRIMHALL. I should say ever since I have been identified with the institution.

Mr. TAYLER. Then he did make speeches of that kind prior to President Cluff's marrying Florence Reynolds, did he not?

Mr. BRIMHALL. I do not know anything about President Cluff marrying Florence Reynolds.

Mr. TAYLER. Did you never hear anything about it?

Mr. BRIMHALL. I have heard it rumored.

Mr. TAYLER. You have heard it rumored? Senator Smoot made such speeches prior to 1899?

Mr. BRIMHALL. Yes, sir.

Mr. TAYLER. When did you first hear rumors about President Cluff and Florence Reynolds?

Mr. BRIMHALL. It was after the return of the expedition.

Mr. TAYLER. About 1900 that was, was it not?

Mr. BRIMHALL. The first I heard of it was along in the summer of 1902, because I was in California during those two years. On my return I heard something of this rumor.

Mr. TAYLER. Do you know whether there was any church inquiry about that matter—the marriage of Cluff?

Mr. BRIMHALL. I do not know anything about it.

Mr. TAYLER. Did you ever hear of the Wolf matter?

Mr. BRIMHALL. The controversy between Wolf and Cluff?

Mr. TAYLER. Yes.

Mr. BRIMHALL. I heard of it.

Mr. TAYLER. Where were you when it occurred?

Mr. BRIMHALL. I was in California.

Mr. TAYLER. You have no personal knowledge of it?

Mr. BRIMHALL. No, sir.

Mr. TAYLER. That is all.

The CHAIRMAN. For my own understanding, because I am not clear about it, I should like to ask you a question. Have you any children by the wife now in the hospital?

Mr. BRIMHALL. Yes, sir; I have five children by her.

The CHAIRMAN. When was the last one born by that woman?

Mr. BRIMHALL. The last one? The youngest one is 28 years old; in his twenty-third year.

The CHAIRMAN. That is the youngest?

Mr. BRIMHALL. Yes, sir.

TESTIMONY OF JOSIAH HICKMAN.

The CHAIRMAN. Who is the next witness, Mr. Tayler?

Mr. TAYLER. Call Josiah Hickman.

JOSIAH HICKMAN, being duly sworn, was examined, and testified as follows:

Mr. TAYLER. Where do you live, Mr. Hickman?

Mr. HICKMAN. I live in Provo.

Mr. TAYLER. What is your occupation?

Mr. HICKMAN. I am a teacher.

Mr. TAYLER. In Brigham Young University?

Mr. HICKMAN. Yes, sir.

Mr. TAYLER. How long have you been a teacher there?

Mr. HICKMAN. Nearly five years and a half.

Mr. TAYLER. Did you always live in Utah?

Mr. HICKMAN. Yes, sir; except a few years I was away as a student.

Mr. TAYLER. That has been your home always?

Mr. HICKMAN. Yes, sir.

Mr. TAYLER. What do you teach in the university?

Mr. HICKMAN. I have charge of psychology and astronomy.

Mr. TAYLER. How many wives have you?

Mr. HICKMAN. I have one living.

Mr. TAYLER. When did you marry her?

Mr. HICKMAN. In June, 1890.

Mr. TAYLER. June, 1890?

Mr. HICKMAN. Yes, sir.

Mr. TAYLER. When did the other one die?

Mr. HICKMAN. A little over four years ago.

Mr. TAYLER. When did you marry her?

Mr. HICKMAN. In 1885, perhaps 1884; I have just——

Mr. TAYLER. You married first in 1884 or 1885, did you?

Mr. HICKMAN. Yes.

Mr. TAYLER. And again in 1890?

Mr. HICKMAN. Yes, sir.

Mr. TAYLER. And the first wife died when?

Mr. HICKMAN. Four years ago the 2d of last November.

Mr. TAYLER. And the wife you married in 1890, who was at the time you were married your plural wife—that is correct, is it?

Mr. HICKMAN. If I understand your question rightly, it is.

Mr. TAYLER. She is your present wife?

Mr. HICKMAN. Yes, sir.

Mr. TAYLER. How old is she?

Mr. HICKMAN. About 33 or 34.

Mr. TAYLER. What children have you by her?

Mr. HICKMAN. Five children.

Mr. TAYLER. How old is the oldest?

Mr. HICKMAN. Thirteen years old, I think, the 13th of last September.

Mr. TAYLER. You have children by the other wife also?

Mr. HICKMAN. Yes, sir.

Mr. TAYLER. Where did you live when both of your wives were living—from 1890 to 1900?

Mr. HICKMAN. Part of the time in Utah and part of the time in Idaho.

Mr. TAYLER. And for ten years you lived with two wives?

Mr. HICKMAN. Yes, sir.

Mr. TAYLER. From 1890 to 1900? When did you begin to teach in the Brigham Young University?

Mr. HICKMAN. Five years ago.

Mr. TAYLER. Exactly five years ago?

Mr. HICKMAN. Five years ago last September.

Mr. TAYLER. Have you been married again to your plural wife?

Mr. HICKMAN. No, sir.

Mr. TAYLER. No ceremony has occurred except that which took place in 1890?

Mr. HICKMAN. Except we went through the Temple and were sealed there.

Mr. TAYLER. When?

Mr. HICKMAN. Something like a year ago—no, between two and three years ago.

Mr. TAYLER. You deem that a marriage ceremony, do you not?

Mr. HICKMAN. Well, it is simply the sealing.

Mr. TAYLER. There was no marriage license issued?

Mr. HICKMAN. No, sir.

Mr. TAYLER. I suppose you are familiar with such things and know that there is a law in that State—is there not—requiring certain formalities before a valid marriage can be solemnized?

Mr. HICKMAN. Yes, sir.

Mr. TAYLER. You have not undertaken to comply with that law at all?

Mr. HICKMAN. That is, to be married by the State—the laws of the land?

Mr. TAYLER. Yes.

Mr. HICKMAN. No, sir; not so far.

Mr. TAYLER. Then—and I merely want to get the truth and not at all to harass you by any unnecessary questions—as you understand it, you are not lawfully wedded to your wife?

Mr. HICKMAN. No, sir.

Mr. TAYLER. That is all.

Mr. VAN COTT. What do you mean by saying, in answering Mr. Tayler, that you have not been married “so far?”

Mr. HICKMAN. Not married according to the laws of the land.

Mr. VAN COTT. You said “so far;” did you mean anything by that?

Mr. HICKMAN. I can say this: It has been rather neglect on our part. We have talked it over and we have decided that we should take out a marriage license and be married according to the laws of the land. But on account of negligence, I stated, up to the present time we have not done that.

Mr. VAN COTT. How many teachers, professors, or instructors are there in the Brigham Young College at Provo?

Mr. HICKMAN. I think between 65 and 70.

Mr. VAN COTT. Of the 65 or 70, how many are polygamists or reputed to be polygamists?

Mr. HICKMAN. Well, if you count myself, I suppose there are two.

Mr. TAYLER. I did not catch the answer.

Mr. WORTHINGTON. He says counting himself there are two.

Mr. TAYLER. Two what?

Mr. WORTHINGTON. Two polygamists among the 65 or 70 teachers at the university.

The CHAIRMAN. You mean the president and yourself?

Mr. HICKMAN. Yes, sir.

Mr. VAN COTT. When you count yourself as a polygamist, it is under the answers you have given Mr. Tayler?

Mr. HICKMAN. Yes, sir.

Mr. TAYLER. I do not suppose he means that he is any different kind of a one than he told us about.

Mr. VAN COTT. That is all.

Senator DUBOIS. You have made it your special business to inquire whether the teachers are in polygamy or not?

Mr. HICKMAN. No, sir.

Senator DUBOIS. How do you know there are only two?

Mr. HICKMAN. I am simply speaking from what I know or what I do not know. I simply said that I know of no one in the institution——

Senator DUBOIS. You know of no one except the gentleman whom you yourself heard testify that he is in polygamy; and you know that you yourself are in polygamy?

Mr. HICKMAN. Have been.

Senator DUBOIS. Would you be surprised if ten others should come here and testify that they were in polygamy?

Mr. HICKMAN. Very much so.

Senator DUBOIS. Why?

Mr. HICKMAN. Because I never heard even the faintest rumor, and I am not certain that they believe in the principle. I know some do not.

Senator DUBOIS. Do you know whether John W. Taylor, an apostle of the church, has gone into polygamy since the manifesto?

Mr. HICKMAN. No, sir.

Senator DUBOIS. Did you ever hear a rumor to that effect?

Mr. HICKMAN. It is just possible I have heard that rumor; nothing definite.

Senator DUBOIS. You do not know much about that?

Mr. HICKMAN. Not a thing.

Senator DUBOIS. He is an apostle, I believe?

Mr. HICKMAN. Sir?

Senator DUBOIS. Do you know whether Mathias F. Cowley, an apostle of the church, has gone into polygamy recently?

Mr. HICKMAN. No, sir.

Senator DUBOIS. You have never made it your business to inquire?

Mr. HICKMAN. No, sir; I never heard, even, that he had.

Senator DUBOIS. But you are certain that there are none of the professors except yourself and the other gentleman in polygamy?

Mr. HICKMAN. Morally certain.

Senator DUBOIS. That is all.

Mr. TAYLER. When were you married?

Mr. HICKMAN. In June, 1890.

Mr. TAYLER. Where?

Mr. HICKMAN. In another nation.

Mr. TAYLER. Where?

Mr. HICKMAN. In old Mexico.

Mr. TAYLER. By whom?

Mr. HICKMAN. McDonald, I think, is the name; J F. McDonald.

Mr. TAYLER. A. F.?

Mr. HICKMAN. I am not certain as to the initials.

Mr. VAN COTT. Yes, it is A. F.

Mr. TAYLER. And what is the name of the place? [A pause.] Juarez?

Mr. HICKMAN. I think that was the place.

Mr. TAYLER. Was the young woman whom you married a resident there at the time?

Mr. HICKMAN. No, sir.

Mr. TAYLER. Were you?

Mr. HICKMAN. No, sir.

Mr. TAYLER. Where did she live?

Mr. HICKMAN. She lived in Utah.

Mr. TAYLER. And you lived in Utah?

Mr. HICKMAN. Yes, sir.

Mr. TAYLER. What were you doing then?

Mr. HICKMAN. I was a teacher.

Mr. TAYLER. And what was she doing?

Mr. HICKMAN. She had been a teacher.

The CHAIRMAN. Let me understand. Was this in New Mexico or Utah?

Mr. HICKMAN. In old Mexico.

Mr. TAYLER. She had been a teacher where, the Senator asks?

Mr. HICKMAN. In Utah.

Mr. TAYLER. Whereabouts?

Mr. HICKMAN. In Millard County.

Mr. TAYLER. Had you known her long?

Mr. HICKMAN. Three or four years.

Mr. TAYLER. Where had you known her?

Mr. HICKMAN. In Provo and in Millard County.

Mr. TAYLER. Had she gone to school at Provo?

Mr. HICKMAN. Yes, sir.

Mr. TAYLER. At the university?

Mr. HICKMAN. Yes.

Mr. TAYLER. How long after she left the university did you marry her?

Mr. HICKMAN. Three or four years; I do not remember exactly.

Mr. TAYLER. You married her when she was about 18 years old, did you not?

Mr. HICKMAN. About 19 or 20. I am not so certain; 19 or 20.

Mr. TAYLER. You and she made the journey to Mexico for the sole purpose of being married?

Mr. HICKMAN. Yes, sir.

Mr. TAYLER. Did you go together?

Mr. HICKMAN. Yes, sir.

Mr. TAYLER. What was the official position of the man who married you?

Mr. HICKMAN. I can not say.

Mr. TAYLER. What were you married in? What kind of a place?

Mr. HICKMAN. It was in no place; that is, just a small company; I do not remember who the company were, except this man. We

were out walking through the country—over the country—and we were married.

Mr. TAYLER. Who were the witnesses?

Mr. HICKMAN. I do not know the witnesses. They were all strangers to me.

Mr. TAYLER. Was no certificate given to you of the fact of your marriage?

Mr. HICKMAN. No, sir.

Mr. TAYLER. You have, therefore, no record, and no record, so far as you know, exists, of the fact of your marriage with this young woman?

Mr. HICKMAN. That is all.

Mr. TAYLER. You went there, I suppose, because you did not want to be guilty of the crime of bigamy or polygamy in the United States?

Mr. HICKMAN. There were no marriages even performed at that late date in the United States.

Mr. WORTHINGTON. You say "no marriages." You mean plural marriages, I suppose?

Mr. HICKMAN. Yes, sir.

Mr. TAYLER. You say there were none?

Mr. HICKMAN. That is, I was told that there were no marriages performed in the United States at that time.

Mr. TAYLER. Did you hear of Brigham Roberts being married about that time to a plural wife?

Mr. HICKMAN. No, sir.

Mr. TAYLER. You entered this plural marriage relation because you thought it was right to do so?

Mr. HICKMAN. Yes, sir.

Mr. TAYLER. You believed in the divinity as well as the propriety of the revelation on the subject of plural marriage?

Mr. HICKMAN. Yes, sir.

The CHAIRMAN. We will have to stop here.

Mr. TAYLER. I have only one or two more questions to ask.

Mr. VAN COTT. I have a few.

The CHAIRMAN. We may as well stop here.

Thereupon (at 11 o'clock and 55 minutes a. m.) the committee took a recess until 2 o'clock p. m.

The committee reassembled at the expiration of the recess.

The CHAIRMAN. Proceed, Mr. Tayler.

Mr. TAYLER. Is Mrs. Geddes here?

Mr. VAN COTT. We were not through with the witness on the stand.

Mr. TAYLER. That is true. I was about to ask him a question myself?

TESTIMONY OF JOSIAH HICKMAN—Continued.

JOSIAH HICKMAN, who had been previously sworn, was examined and testified as follows:

Mr. TAYLER. Mr. Hickman, do you remember the question I asked you?

Mr. HICKMAN. I do not.

Mr. TAYLER. All I remember about it is that I had not finished the line that I was pursuing. Did you know Lillian Hamlin?

Mr. HICKMAN. Yes, sir.

Mr. TAYLER. Did she teach in the Brigham Young Academy or University while you were there?

Mr. HICKMAN. In the academy; yes, sir.

Mr. TAYLER. Do you remember when she last taught there?

Mr. HICKMAN. Not exactly. Some two or three years ago.

Mr. TAYLER. What was her name then?

Mr. HICKMAN. She went by the name of Mrs. Cannon.

Mr. TAYLER. Did you know her when she taught there before that?

Mr. HICKMAN. No, sir.

Mr. TAYLER. You were not there in 1896?

Mr. HICKMAN. No, sir.

Mr. TAYLER. Can you tell me any more definitely when it was that she left or ceased to teach at that school?

Mr. HICKMAN. It seems to me her successor has been there a year and a half, and she left some three months before.

Mr. TAYLER. So that you estimate the time at something less than two years ago when she left?

Mr. HICKMAN. As I remember.

Mr. TAYLER. Did you know at the time where she went?

Mr. HICKMAN. I believe I am mistaken. I think it is two years and a half. Still my memory does not serve me on that. The records would show that.

Mr. TAYLER. What records?

Mr. HICKMAN. The catalogue of the university.

Mr. TAYLER. Have you it with you?

Mr. HICKMAN. I have not.

Mr. TAYLER. Do you recall that she went to Salt Lake?

Mr. HICKMAN. Yes, sir.

Mr. TAYLER. Have you any idea how long she taught there?

Mr. HICKMAN. I do not. I never saw her after she left the university.

Mr. TAYLER. I think that is all now.

The CHAIRMAN. I understood you to say that you were married in old Mexico?

Mr. HICKMAN. Yes, sir.

The CHAIRMAN. Will you state by whom?

Mr. HICKMAN. By McDonald.

The CHAIRMAN. What McDonald?

Mr. HICKMAN. I thought his initials were J. F., but somebody corrected and said—

Mr. WORTHINGTON. A. F.

Mr. HICKMAN. A. F.

The CHAIRMAN. That is already in evidence?

Mr. WORTHINGTON. Yes; he said he did not know what position the man held.

The CHAIRMAN. Had you ever seen him before?

Mr. HICKMAN. Never.

The CHAIRMAN. I did not understand clearly where you said this ceremony was performed?

Mr. HICKMAN. I forget the name of the little village or place. We just went down and back.

Mr. VAN COTT. Juarez was suggested by Mr. Tayler.

Mr. TAYLER. And he did not seem to have any recollection aroused by the suggestion?

Mr. HICKMAN. No.

Mr. TAYLER. It was merely a suggestion.

The CHAIRMAN. At some house in the city?

Mr. HICKMAN. No, sir.

The CHAIRMAN. Whereabouts?

Mr. HICKMAN. As I stated, just out in the country.

The CHAIRMAN. Out from the town?

Mr. HICKMAN. Yes, sir.

The CHAIRMAN. In the highway?

Mr. HICKMAN. Yes, sir.

The CHAIRMAN. How many were present in the highway when the ceremony took place?

Mr. HICKMAN. Perhaps half a dozen.

The CHAIRMAN. In the daytime, or evening?

Mr. HICKMAN. In the daytime.

The CHAIRMAN. Can you remember the ceremony?

Mr. HICKMAN. Only in general.

The CHAIRMAN. What was it?

Mr. HICKMAN. I could not quote it word for word. I could give the substance.

The CHAIRMAN. Well, give the substance.

Mr. HICKMAN. That I promised to take her as my wife, to care for and protect her, and to love her, and that she was to be mine for time and eternity; and I think she made some such a covenant.

The CHAIRMAN. Who can perform this ceremony of marriage for time and eternity?

Mr. HICKMAN. Only those that have authority.

The CHAIRMAN. Who are those who have authority to do that?

Mr. HICKMAN. I understood that McDonald had it at the time.

The CHAIRMAN. Presumably those higher in authority?

Mr. HICKMAN. Yes, sir.

The CHAIRMAN. He had not the authority himself?

Mr. HICKMAN. It must have been conferred upon him.

The CHAIRMAN. Who could confer it?

Mr. HICKMAN. It must have been the president, either directly or indirectly.

The CHAIRMAN. He had not the authority primarily?

Mr. HICKMAN. No, sir.

The CHAIRMAN. It was then conferred upon him by the president of the church?

Mr. HICKMAN. It must have been the president, directly or indirectly, as I say.

The CHAIRMAN. In order to have performed such a ceremony as that?

Mr. HICKMAN. Yes, sir.

The CHAIRMAN. Did you go to this place where the ceremony was performed on foot or by carriage?

Mr. HICKMAN. On foot.

The CHAIRMAN. How far was it from the town?

Mr. HICKMAN. Oh, perhaps about a mile. I don't remember now.

The CHAIRMAN. Why did you go out of the town or in the highway?

Mr. HICKMAN. Well, we did it to be secret, for one thing.

The CHAIRMAN. Did that make it secret, in the afternoon or in the daytime, in the highway?

Mr. HICKMAN. Well, we went away from where anyone would see the ceremony save those that would be there as witnesses.

The CHAIRMAN. Why did you want it secret?

Mr. HICKMAN. We didn't wish to create any more furore or trouble than could be helped.

The CHAIRMAN. Furore about what?

Mr. HICKMAN. About plural marriages.

The CHAIRMAN. That was a plural marriage?

Mr. HICKMAN. Yes, sir.

The CHAIRMAN. Your purpose was to consummate it with as little publicity as possible?

Mr. HICKMAN. Yes, sir.

The CHAIRMAN. After it was consummated, you then returned to Utah?

Mr. HICKMAN. Returned where?

The CHAIRMAN. To Utah.

Mr. HICKMAN. Yes, sir.

The CHAIRMAN. How long after?

Mr. HICKMAN. A week.

The CHAIRMAN. That is all.

Mr. VAN COTT. Mr. Hickman, was John W. Taylor ever a professor or instructor in the Brigham Young University?

Mr. HICKMAN. No, sir.

Mr. VAN COTT. Or M. F. Cowley?

Mr. HICKMAN. No, sir.

Mr. VAN COTT. You believed in the rightfulness of plural marriage, did you, at the time you took the second wife?

Mr. HICKMAN. I certainly did.

Mr. VAN COTT. Do you now believe or have you since the manifesto was issued, in 1890, believed in further or future polygamous marriages?

Mr. HICKMAN. Not since the manifesto.

Mr. VAN COTT. And why?

Mr. HICKMAN. Because I thought that that manifesto was binding and God's will to the people.

Mr. VAN COTT. Had the manifesto been issued at the time you took this second wife?

Mr. HICKMAN. No, sir.

Mr. VAN COTT. Has Mr. Smoot ever said anything to you regarding polygamy—that is, the future contracting of polygamous marriages?

Mr. HICKMAN. As I remember, he once told me, in conversation as a friend, that he believed there would be no more. He was not a believer in them at all since the manifesto.

Mr. VAN COTT. Did he ever call your attention to any letter?

Mr. HICKMAN. If I remember, he read me a letter. I think it was from Apostle Lyman to him.

Mr. VAN COTT. Is that the letter that was referred to by Mr. Brimhall?

Mr. HICKMAN. I should judge it was the same one.

Mr. VAN COTT. I would like to know a little more fully about this

matter than you testify to in regard to your taking the second wife up to the temple, and about that sealing.

Mr. HICKMAN. We went to the temple and went through the temple for the dead. When we were through we asked President Winder, then the president of the temple, in regard to being married. We told him that we had been sealed for time and eternity in Old Mexico many years before, and asked him if we could be married. He made the statement that if we desired to it could be done, but we would have to have a license. But under the circumstances he took a record of our marriage and said then if we desired to come and be married according to the laws of the land, and bring a license, they would marry us, but were forbidden to do so otherwise.

Mr. VAN COTT. This McDonald you have mentioned, do you know whether he is living or dead at the present time?

Mr. HICKMAN. I have heard that he is dead.

Mr. VAN COTT. Can you remember now, calling your attention to it, whether it is A. F. McDonald or J. F. McDonald?

Mr. HICKMAN. I do not.

Mr. TAYLER. Was he an elderly man?

Mr. HICKMAN. As I remember, he was a man perhaps 55 or 60 years of age. He may have been over 60, but I never saw him but that time and once after.

Mr. TAYLER. I noticed that the Biographical Encyclopædia, published by the church, in its description and account of Alexander Findley McDonald, first president of the Maricopa Stake of Zion, Arizona, was born September 11, 1825, which would make him 65 years old in 1890, and that he had lived for many years at Colonia, Juarez, Chihuahua, Mexico, and had been in charge down there. That age would probably correspond?

Mr. HICKMAN. I think that would correspond.

Senator McCOMAS. Mr. Hickman, what was the time of that conversation with Senator Smoot? When did it occur?

Mr. HICKMAN. It was some time last spring. Just when, I don't remember.

Senator McCOMAS. After the close of the last session of Congress, in April last?

Mr. HICKMAN. I think so.

Senator McCOMAS. What was the date, if you know, or about the time, of that letter of which you speak?

Mr. HICKMAN. I can't tell that. I don't remember recognizing the date.

Senator McCOMAS. Can you approximate it?

Mr. HICKMAN. I can not.

Senator DUBOIS. Last May, was it not?

Mr. HICKMAN. I really can not recall, but I remember it was last spring.

The CHAIRMAN. Have you anything further, gentlemen?

Mr. TAYLER. You went to Mexico to be married? You knew, of course, that there was a law against plural marriages in Utah?

Mr. HICKMAN. None, as I remember.

Mr. TAYLER. In Utah? Why did you go to Mexico to be married?

Mr. HICKMAN. For the simple reason that the brethren stated that they were not marrying any more in the United States.

Mr. TAYLER. Not because it was a violation of the law to be married to a plural wife in Utah?

Mr. HICKMAN. It had not been then decided so in their estimation.

Mr. TAYLER. How old are you?

Mr. HICKMAN. I am 41.

Mr. TAYLER. You knew that the courts had decided that those marriages were unlawful, did you not?

Mr. HICKMAN. As I remember, the litigation was going on in the Supreme Court. My memory, however, does not serve me accurately.

Mr. TAYLER. We have learned many times here that it was decided in the Supreme Court in 1878.

Mr. HICKMAN. But it was repealed, I believe.

Mr. TAYLER. Oh, no. And do you not know that prior to 1890, and that that was what brought about the manifesto, innumerable polygamous Mormons had been prosecuted?

Mr. HICKMAN. Yes, sir.

Mr. TAYLER. And were in 1890 in hiding?

Mr. HICKMAN. Yes, sir.

Mr. TAYLER. Now, you married before the manifesto?

Mr. HICKMAN. Yes, sir.

Mr. TAYLER. You intended, as indeed you did, in fact, to come back to Utah and live with two wives?

Mr. HICKMAN. Yes, sir.

The CHAIRMAN. You continued to do so, as you stated in your former examination, for ten years?

Mr. HICKMAN. My wives were not in the same place, but were in the United States.

Mr. TAYLER. Where was the other wife?

Mr. HICKMAN. In Idaho nearly all the time.

Mr. TAYLER. The first wife?

Mr. HICKMAN. The second wife.

Mr. TAYLER. What was she doing in Idaho?

Mr. HICKMAN. She taught school part of the time.

Mr. TAYLER. Of course you knew all this time that it was against the law to live with two women?

Mr. HICKMAN. Yes, sir.

Mr. TAYLER. Or to have two wives?

Mr. HICKMAN. Yes, sir.

Mr. TAYLER. How long have you known Senator Smoot?

Mr. HICKMAN. Twenty years; perhaps longer.

Mr. TAYLER. Intimately?

Mr. HICKMAN. I can't say it was intimately, but I knew him.

Mr. TAYLER. Have you any reason to suspect that he did not know you had two wives?

Mr. HICKMAN. I certainly do.

Mr. TAYLER. Was it concealed?

Mr. HICKMAN. If I might explain, I can give my reasons, if you desire.

Mr. TAYLER. Very well; I would like to have them.

Mr. HICKMAN. Soon after my marriage with my second wife she went to Idaho to live, and it was not known to the public; and during some two years after that I went East and studied. I was gone between three and four years, and when I returned she lived in Idaho most of the time. After being in Utah a year, or such a matter, I

moved to Idaho, and I had both my families in Idaho then; and five and a half years ago, or over five, I moved back to Utah, leaving my second wife in Idaho, and my second wife remained in Idaho until my first wife's death and until nearly a year afterwards. When I was engaged in the university or the academy I was very doubtful whether he knew it or not, and whether he knew anything of it until my second wife came to Utah. He may have, but, as I understand it, it was not generally known that I had two women.

Mr. TAYLER. Was it generally known that you had had two wives when you brought your second wife to Utah?

Mr. HICKMAN. Not generally.

Mr. TAYLER. I mean after you brought her did it not become known?

Mr. HICKMAN. I think so.

Mr. TAYLER. It has been generally understood in Provo what the status was of your legal relations to your present wife?

Mr. HICKMAN. I don't know what the knowledge is of the public on that.

Mr. TAYLER. There has been no studious effort to conceal that, has there?

Mr. HICKMAN. I don't know as I get your question. You said "legal rights." I don't know—if I understand your question—whether they knew that I had been married legally to my second wife or not. They knew that I lived with her.

Mr. TAYLER. You have been familiar with the doctrine of plural marriage and with the law of the church as laid down in respect to it, have you not?

Mr. HICKMAN. I think so.

Mr. TAYLER. Your first wife was not present when you were married to your second wife?

Mr. HICKMAN. No, sir.

Mr. TAYLER. You understood that that was the rule of the church—that the first wife should be present?

Mr. HICKMAN. Not necessarily.

Mr. TAYLER. You had her consent, had you?

Mr. HICKMAN. I did.

Mr. TAYLER. That is all.

The CHAIRMAN. Who is your next witness?

Mr. TAYLER. Mrs. Geddes.

TESTIMONY OF MRS. MARGARET GEDDES.

Mrs. MARGARET GEDDES, having been duly sworn, was examined and testified as follows:

Mr. TAYLER. What is your first name, Mrs. Geddes?

Mrs. GEDDES. Margaret.

Mr. TAYLER. Where do you live?

Mrs. GEDDES. Salt Lake City.

Mr. TAYLER. How long have you lived there?

Mrs. GEDDES. Off and on for twenty years.

Mr. TAYLER. Where were you born?

Mrs. GEDDES. In Glasgow, Scotland.

Mr. TAYLER. When did you come to this country?

Mrs. GEDDES. Twenty years ago last June—the 1st of June.

Mr. TAYLER. Did you come directly to Utah?

Mrs. GEDDES. I came directly to Utah, by way of New York.

Mr. TAYLER. Were you converted to the Mormon faith before you came?

Mrs. GEDDES. Oh, yes.

Mr. TAYLER. How long have you been a member of the church?

Mrs. GEDDES. Over two years.

Mr. TAYLER. Were you married when you came?

Mrs. GEDDES. No, sir.

Mr. TAYLER. When were you married?

Mrs. GEDDES. I came here the 1st day of June, 1884, and was married the December following—the 4th day, 1884.

Mr. TAYLER. Whom did you marry then?

Mrs. GEDDES. William S. Geddes.

Mr. TAYLER. Where did you marry him?

Mrs. GEDDES. In Logan.

Mr. TAYLER. Where did you live with him?

Mrs. GEDDES. Well, I didn't live with him very much for maybe two years anywhere.

Mr. TAYLER. Were you a plural wife?

Mrs. GEDDES. Yes, sir.

Mr. TAYLER. When you did live with him, where did you live?

Mrs. GEDDES. In Oregon.

Mr. TAYLER. And how long did you live there with him?

Mrs. GEDDES. You will have to give me time to think.

Mr. TAYLER. About how long?

Mrs. GEDDES. Maybe five years. I can't just remember. I didn't know what I was to be asked, of course, and I don't know.

Mr. TAYLER. Did you have children?

Mrs. GEDDES. Yes, sir.

Mr. TAYLER. How many?

Mrs. GEDDES. Four children.

Mr. TAYLER. Were they born in Oregon?

Mrs. GEDDES. Not all of them.

Mr. TAYLER. Had you children born before you went to Oregon?

Mrs. GEDDES. One child.

Mr. TAYLER. And were the others born in Oregon?

Mrs. GEDDES. Two were born in Oregon.

Mr. TAYLER. And the others?

Mrs. GEDDES. Two were born in Utah.

Mr. TAYLER. Do you know about what year you came back from Oregon?

Mrs. GEDDES. It was the year my husband died, sir. That is thirteen years ago last August; and I came back thirteen years ago last June, I think.

Mr. TAYLER. Did he die in Oregon?

Mrs. GEDDES. He died in Oregon.

Mr. TAYLER. And shortly after his death you came back to Utah?

Mrs. GEDDES. Before his death. I came back in June and he died the following August.

Mr. TAYLER. Where did you come to in Utah?

Mrs. GEDDES. To his home in Plain City.

Mr. TAYLER. Where?

Mrs. GEDDES. To my husband's home in Plain City, and lived with his other wife, his first wife.

Mr. TAYLER. How long did you live there?

Mrs. GEDDES. I lived there at her home, or in the town; which do you mean?

Mr. TAYLER. I mean, did you live at her home for some time?

Mrs. GEDDES. Oh, yes.

Mr. TAYLER. How long?

Mrs. GEDDES. Well, my husband died in August and my little baby was born the following January; so I lived there until she was several years old. I don't remember.

Mr. TAYLER. Until she was several years old?

Mrs. GEDDES. Yes.

Mr. TAYLER. How many children have you now, Mrs Geddes?

Mrs. GEDDES. Four living children.

Mr. TAYLER. How old are they?

Mrs. GEDDES. My oldest boy is dead, but the four living ones are aged, the one 17, the one 15, one 13, and one five and a half.

Mr. TAYLER. Who is your second husband?

Mrs. GEDDES. I have no second husband.

Mr. TAYLER. Who is the father of the youngest child?

Mrs. GEDDES. I decline to answer that question.

Mr. TAYLER. Is his name Echols?

Mrs. GEDDES. No, sir.

Mr. TAYLER. It is not?

Mrs. GEDDES. No, sir.

Mr. TAYLER. Where was the child born?

Mrs. GEDDES. Salt Lake City.

Mr. TAYLER. Mrs. Geddes, who has had charge of you, looking after you and guiding you about, since you came to Washington?

Mrs. GEDDES. No one at all. I got here this morning at 3 o'clock, and I remained in the waiting room until I came here, with the exception of getting a pair of rubbers. No one has had charge of me and I have had no introduction to anybody, to go to them and find out; but when I came in here I hunted out to see if I could find anyone from Utah, because I was all alone and a stranger, and I know nobody here, unless my own nephew, Mr. Peterson, and I didn't know he was here until a few minutes ago.

Mr. TAYLER. What is his business here?

Mrs. GEDDES. I don't know; studying law or something. I don't know his business.

Mr. TAYLER. That is all.

The CHAIRMAN. Who is the next witness, Mr. Tayler?

Mr. TAYLER. Arthur Morning.

The CHAIRMAN. Mr. Morning, will you take the stand?

TESTIMONY OF ARTHUR MORNING.

ARTHUR MORNING, having been duly sworn, was examined, and testified as follows:

Mr. TAYLER. Where do you live, Mr. Morning?

Mr. MORNING. I live at Collinston, Utah.

Mr. TAYLER. How long have you lived there?

Mr. MORNING. I have lived there now about sixteen months.

Mr. TAYLER. How long have you lived in Utah?

Mr. MORNING. Nearly four years.

Mr. TAYLER. Where did you live before you went there?

Mr. MORNING. I lived in Kansas.

Mr. TAYLER. What is your business?

Mr. MORNING. I am a teacher.

Mr. TAYLER. How long have you been teaching?

Mr. MORNING. I have been teaching about seven years.

Mr. TAYLER. And at Collinston you have been teaching the last sixteen months?

Mr. MORNING. This makes my third year in Collinston.

Mr. TAYLER. Oh, your third year in Collinston?

Mr. MORNING. Oh, yes; but I have lived there about sixteen months.

Mr. TAYLER. How large a school have you?

Mr. MORNING. I have a school of about 25 students.

Mr. TAYLER. You have a single school?

Mr. MORNING. Yes, sir.

Mr. TAYLER. There are no other teachers there?

Mr. MORNING. No, sir.

Mr. TAYLER. How large is the settlement?

Mr. MORNING. There are about 150 to 200 people living in Collinston district.

Mr. TAYLER. So that the school you teach is the only school there, is it?

Mr. MORNING. Yes, sir.

Mr. TAYLER. It is a public school, is it?

Mr. MORNING. Yes, sir.

Mr. TAYLER. That is, a school supported by State taxation?

Mr. MORNING. Yes, sir; a district school.

Mr. TAYLER. Do you know who is the stake president of that stake?

Mr. MORNING. I believe Fred J. Holton, Nels Madsen, and George W. Watkins.

Mr. TAYLER. Do you know them?

Mr. MORNING. No, sir.

Mr. TAYLER. You do not know them?

Mr. MORNING. I do not.

Mr. TAYLER. Have you been called upon to conduct what are called "religion classes" in your school?

Mr. MORNING. Yes, sir.

Mr. TAYLER. When were you first called upon to do so?

Mr. MORNING. A year ago this fall.

Mr. TAYLER. And how did that request or direction come to you?

Mr. MORNING. It came by letter.

Mr. TAYLER. Have you with you the letter that came to you in 1903?

Mr. MORNING. I have not the first letter. I have one that came with the course of study.

Mr. TAYLER. I wish you would produce that letter.

(The witness produces a paper.)

Mr. TAYLER. Will you read that letter?

Mr. WORTHINGTON. I suppose this is admissible under the rulings

heretofore made, Mr. Chairman. I do not think it is necessary to repeat our objection.

The CHAIRMAN. The witness will read the letter.

Mr. MORNING. This letter is written to me, but the name has been misspelled. It is to "Mr. Arthur Moring" instead of "Morning," "Collinston, Utah. Dear Brother: "—

Mr. TAYLER. Is there a heading on it?

Mr. MORNING. Yes, sir.

Mr. TAYLER. Read the heading and all.

Mr. MORNING (reading):

OFFICE OF THE STAKE BOARD OF
RELIGION CLASS WORK IN BOX ELDER STAKE,
Brigham City, Utah, Oct. 1, 1903.

Mr. ARTHUR MORING, *Collinston P. O.*

DEAR BROTHER: Herewith inclosed we have great pleasure in presenting you with a copy of the Outlines of the Religion Class Work for the School Year of 1903-4. You will find the same a great help to you in the arrangement of the programme in all the grades. You will see by the outlines that the material must be prepared by the teacher, and in a short time you will be able to gather materials for your lessons.

All the steps will be as usual, and as used in the religion classes previously, so that the programme takes up the third and fourth steps with suggestions for subjects.

Material for the biographical sketches of the leaders of the church will be found in the little work entitled "Prophets and Patriarchs," by Apostle Cowley, which is published at 50 cts. You will find this little work a great assistance.

In regard to the roll book, simply keep the attendance of each pupil, and arrange it so you can get the average attendance. The Sunday school roll book is a simple book for keeping rolls.

We shall be glad to answer any questions concerning the Religion Class Work you may be pleased to send us.

Trusting that you may be blessed in the labor of love, and meet with the success you desire, we remain,

Your brethren in the truth,

FRED J. HOLTON,
NELS MADSEN,
GEORGE W. WATKINS,
Stake Presidency.

Mr. TAYLER. Have you with you the book showing the outlines of Religion Class Work referred to there?

Mr. MORNING. No; not that one referred to. I have the one I received this year. That was last year.

Mr. TAYLER. Let me hand you a pamphlet and ask you if that is the pamphlet, or a duplicate of the pamphlet, which you received accompanying that letter that you have just read?

Mr. MORNING. I believe that is a copy of it.

Mr. TAYLER. It was a pamphlet entitled "Outlines of Religion Class Work for the School Year 1903-4?"

Mr. MORNING. Yes, sir.

Mr. TAYLER. And contained a series of lessons that were to be the topics of instruction to your pupils during that year?

Mr. MORNING. Yes, sir.

Mr. TAYLER. And this you believe to be the identical series?

Mr. MORNING. As far as I can remember, that is the identical book.

Mr. WORTHINGTON. I notice there is some writing in that. He does not identify that as a part of it?

Mr. MORNING. No, sir.

Mr. TAYLER. No; it is unimportant. It need not go in. It is simply somebody's memorandum about somebody's life. We do not, of course, care to have it. It would not hurt it one way or the other.

Mr. WORTHINGTON. Do you offer this book?

Mr. TAYLER. Yes, I am going to have this identified. It is the same thing.

Now, in 1904, you have stated you received a similar letter?

Mr. MORNING. Yes, sir.

Senator McCOMAS. Are you going to offer extracts from that book?

Mr. TAYLER. Yes; I am going to read them in a moment, but I wanted to get this letter in here for the following year.

Senator McCOMAS. I thought I had not heard you. That is why I asked.

Mr. TAYLER. No, I had not. I do not offer the letter, because I think it simplifies the record so much to have the witness read it and incorporate it directly in his testimony.

Look at the letter I hand you and tell me if that is the letter which was received in 1904 in that connection?

Mr. MORNING. Yes, sir.

Mr. TAYLER. Will you read it?

Mr. MORNING (reading) :

OFFICE OF THE STAKE BOARD
OF RELIGION CLASS WORK,
Brigham City, Utah, Sept. 17, 1904.

Mr. ARTHUR MORNING, *Collinston, Utah.*

DEAR BROTHER: As the Stake Board of Religion Class Work, we earnestly request that you take hold of the work in your school that you have been engaged to teach. As you know, dear brother, the call to work comes from the Presidency of the Church, and the call comes to every day school teacher of our common faith, for the reason that by education they are the most eminently fitted to take hold of this work. The work, dear brother, is not ours personally. It is work of the Great Master who calls His servants for the last time to labor in His vineyard; and your special calling is to sow faith of the Gospel seed in the hearts of your pupils, and in after years they will rise up and call you *blessed* for your efforts.

Enclosed please find copy of the Outlines for this year.

The General Board advise us that it is not necessary for the teacher to receive a certificate from the General Board, as formerly.

Praying the Lord to bless you in your efforts, we remain,

Your brethren,

FRED J. HOLTON,
NELS MADSEN,
GEORGE W. WATKINS,
Stake Presidency of Religion Class Work.

Mr. TAYLER. Have you with you the Outlines of Religion Class Work referred to in that letter?

Mr. MORNING. Yes, sir.

Mr. TAYLER. Will you produce that, please?

(The witness produces a paper.)

Mr. WORTHINGTON. It is the same thing as this other, I suppose.

Mr. TAYLER. No; it is not.

I desire to offer both of these in evidence.

Senator McCOMAS. Mr. Tayler, is it material to incorporate the whole of those papers in the record?

Mr. TAYLER. No; I think not.

Senator McCOMAS. Can you not select the extracts you desire?

Mr. TAYLER. Yes, sir.

The CHAIRMAN. I think that is a good suggestion.

Mr. WORTHINGTON. Suppose you mark the passages you would like to have go in, and give them to us, and we will see what we want.

Mr. TAYLER. Then you will go over them and mark those you want put out, I suppose?

Mr. WORTHINGTON. No, sir; we do not want any of them put out. We are here to get out the truth.

The CHAIRMAN. You may do that, and submit it to counsel.

Mr. TAYLER. There is a reference in this latter letter to a certificate from the general board.

Mr. MORNING. Yes, sir.

Mr. TAYLER. Have you or had you such a certificate from the general board?

Mr. MORNING. I had last year.

Mr. TAYLER. Have you that with you?

Mr. MORNING. Yes, sir.

Mr. TAYLER. Will you produce that, please?

(The witness produces a paper.)

Mr. MORNING. That became torn. I thought it was some advertisement and just tore the wrapper off, and I did not know what it was until I got it out.

Mr. TAYLER. While counsel are looking at that I will ask you another question or two. Did you carry out this religion class work?

Mr. MORNING. I did not.

Mr. TAYLER. You are not a Mormon?

Mr. MORNING. No, sir.

Mr. TAYLER. Do you know what official position in the county Fred J. Holton, the first signer to these letters, holds and held at that time?

Mr. MORNING. I don't know what political position he held at that time. Since then he has been elected to the office of either county attorney or district attorney. I don't remember which.

Mr. TAYLER. We offer in evidence the license to Arthur Morning, referred to in that letter. I will read it:

"Holiness to the Lord. The General Board of Education of the Church of Jesus Christ of Latter-Day Saints hereby licenses Arthur Moring to act as Instructor of Religion Classes in Collinston, Beaver Ward, Box Elder Stake of the Church of Jesus Christ of Latter-Day Saints, where he has been engaged, under the authority of the constituted Stake Board of Education. This license to be valid until June 30, 1904.

"In witness whereof we have hereunto attached our signatures and the seal of the Board at Salt Lake City, Utah, this 20th day of November, 1903.

"In behalf of the General Board of Education.

"ANTHON H. LUND,

"RUDGER CLAWSON,

"JOSEPH M. TANNER.

General Superintendency of Religion Classes."

There is attached the seal "Holiness to the Lord. General Board of Education of the Church of Jesus Christ of Latter-Day Saints, 1888."

We will agree upon what shall be taken from this pamphlet, but I think that the continuity of the narrative will be aided if I read a little from it now.

First is an introduction, headed "Religion Class Outlines."

"We herewith present to the Religion Class Workers the following Outlines for the year 1903-4. The teacher will therefore be able during this year to know the end of his work from the beginning, and more satisfactory results may be expected from his labors. It is the intention, when religion class work shall have passed the experimental stage and the field been more clearly defined, to publish plans for three years in advance."

Then follows a rather lengthy statement signed by the general superintendency, all of which ought to be printed—that is, it is nothing like as much as there is in the body of this book. Then follow the lessons—that is, the topics of the several lessons for the primary grade, for the intermediate grade, and for the advanced grade, each of them containing 36 lessons.

In the primary grade, for instance, the third lesson is Biographical Sketch of President Joseph F. Smith.

In the seventh lesson, Biographical Sketch of Elder Francis M. Lyman.

In the eighth, Biographical Sketch of Elder John Henry Smith.

Ninth, Sketch of Elder George Teasdale's Life.

Tenth, Sketch of Elder Heber J. Grant's Life.

Twelfth, Sketch of Elder John W. Taylor's Life.

Thirteenth, Sketch of Elder M. W. Merrill's Life.

Fourteenth, Sketch of Elder Matthias F. Cowley's Life.

Eighteenth, Sketch of Elder Rudger Clawson's Life.

Nineteenth, Sketch of Elder Reed Smoot's Life.

Then follows about the Book of Mormon—sketch of George Cannon, Brigham Young, Lorenzo Snow.

Thirty-second, sketch of Elder George Reynold's life.

Lesson 33, sketch of Elder B. H. Robert's life, including his writings.

Lesson 34, sketch of Supt. Joseph M. Tanner's life.

In the intermediate grade, several lessons on the Book of Mormon.

Then sketch of Orson Pratt's and Parley Pratt's lives.

Mr. WORTHINGTON. You might just as well put it all in.

Mr. TAYLER. Lesson 20, sketch of Daniel H. Wells's life.

Twenty-second, sketch of President George A. Smith's life.

And so on.

Senator HOPKINS. Mr. Tayler, what is the object of putting that in evidence? What do you expect to prove by it?

Mr. TAYLER. Why, we are proving by that that the church is educating, at the expense of the public, the children who are in the public schools in the duties and lives of all of these saints, educating them in the Mormon religion, doing those things which occur nowhere else, and could occur only in that which has the nature of a theocratic dynasty. That is the general purpose of it.

Mr. WORTHINGTON. And I suppose the result is that no member of the Mormon Church should be admitted to the Senate.

Senator McCOMAS. To what extent have those saints been polygamous?

Mr. TAYLER. Practically all of them. When I say practically, of course I mean that, not that there are not exceptions, but I suppose that nine-tenths of all the persons whose lives and works and writings are to be taught to these children are notorious polygamists. I use the word "notorious" not in an offensive but in the actual meaning of the word, what everybody knows.

I believe that is all I had to ask Mr. Morning.

The CHAIRMAN. I want to ask the witness a question. I understand you are not an adherent of the Mormon Church?

Mr. MORNING. No, sir.

The CHAIRMAN. By whom were you employed to teach that school?

Mr. MORNING. By the district board of education.

The CHAIRMAN. Do you know how this district board is selected?

Mr. MORNING. Yes, sir.

The CHAIRMAN. How?

Mr. MORNING. By the vote of the people.

The CHAIRMAN. By an election?

Mr. MORNING. Yes, sir.

The CHAIRMAN. What reply did you make to these instructions you received?

Mr. MORNING. To these letters?

The CHAIRMAN. Yes, sir.

Mr. MORNING. I made no reply to them at all.

The CHAIRMAN. But you did not follow the instructions therein contained?

Mr. MORNING. No, sir.

The CHAIRMAN. You paid no attention to them?

Mr. MORNING. I paid no attention to them at all.

Senator HOPKINS. You taught as good a school as you knew how?

Mr. MORNING. I tried to.

Mr. WORTHINGTON. Are you still a teacher?

Mr. MORNING. Yes, sir.

Mr. WORTHINGTON. In the same place?

Mr. MORNING. Yes, sir.

Mr. WORTHINGTON. Are the school trustees Mormons or Gentiles?

Mr. MORNING. There are two Gentiles and one Mormon.

Mr. WORTHINGTON. Which one of them is the Gentile? You say two of them are Mormons and one of them is a Gentile?

Mr. MORNING. Let me change it the other way—two Gentiles and one Mormon. If I said it that way, I meant two Gentiles and one Mormon.

Mr. WORTHINGTON. I misunderstood you, then. Which one of them is the Mormon?

Mr. MORNING. Hiram Jensen is the Mormon.

Mr. WORTHINGTON. You spoke of these men whose names are signed to these papers as the stake presidents. Did you mean that?

Mr. MORNING. Not to that paper.

Mr. WORTHINGTON. In this certificate that is put in evidence they sign their names as general superintendency of religion classes.

Mr. MORNING. That is all there is to that; but in those letters it is "stake board of religion class work," I believe.

Mr. TAYLER. These people who sign are not the board of education?

Mr. WORTHINGTON. No. I ask him whether they are the stake presidency or whether they are simply the presidency of the religion classes?

Mr. MORNING. They sign themselves in the first letter I received as the stake presidency and in the second as the stake presidency of religion class work.

Mr. WORTHINGTON. Do you know whether there is any distinction between the stake presidency and the stake presidency of religion

Mr. MORNING. I do not.

Mr. WORTHINGTON. You do not mean to say they are the stake presidency, as distinguished from the stake presidency of religion class work?

Mr. MORNING. I do not. The first letter I received is signed "Stake Presidency."

Mr. WORTHINGTON. Do any of their children come to your school?

Mr. MORNING. The Mormons, do you mean?

Mr. WORTHINGTON. No; the people who signed those papers?

Mr. MORNING. No, sir.

Mr. WORTHINGTON. I see at the head of one of these letters to which the names of these people are signed as the stake presidency the words "Office of the stake board of religion class work in Box-elder stake."

Mr. MORNING. Yes, sir.

Mr. WORTHINGTON. It is practically the same designation, take it altogether, as in the other letter, where they sign as stake presidency of religion class work?

Mr. MORNING. Yes, sir.

Mr. VAN COTT. They are the same names.

The pamphlets above referred to are as follows:

Outlines of religion class work for the school year 1903-4, published by the general board of religion classes.

RELIGION CLASS OUTLINES.

INTRODUCTION.

We herewith present to the religion class workers the following Outlines for the year 1903-4. The teacher will therefore be able during this year to know the end of his work from the beginning, and more satisfactory results may be expected from his labors. It is the intention, when religion class work shall have passed the experimental stage and the field been more clearly defined, to publish plans for three years in advance.

These Outlines, it will be noticed, give only the third and fourth steps. The reason for this is that all the other steps are permanent and well known, so that space need not be taken up with putting them in the Outlines lesson by lesson. The instructors will therefore go through each step as formerly, inserting these—the third and the fourth—where they belong, but for the benefit of those to whom this work may be new we give them here in their order. First step, singing; second step, prayer; third and fourth steps, the matter given in these Outlines; fifth step, testimony bearing; sixth step, singing and prayer. We take this opportunity of saying that these steps are to be divided nor combined, nor should any others be added.

Heretofore songs have always been published with each lesson. In these Outlines, however, it has been deemed best not to give the songs; but the matter of choosing them has been left to the instructors. Care should of course be taken to make appropriate selections, for much good may result from harmonizing the spirit of the words and music with the subject-matter of the lessons. Thus, for instance, where the lesson deals with prayer, perhaps no better selection of a song could be made than "Did you think to pray?" The following songs should, however, be memorized by all the grades during the year, and as many more as the teacher may deem proper: O My Father, S. S. Song Book, without music, p. 209; O Say What Is Truth, p. 213; The Spirit of God, p. 214; Do What Is Right, p. 203; Did You Think to Pray? p. 82; Nay, Speak No Ill, p. 66; In Our Lovely Deseret, p. 196.

Abundant material for the biographical sketches of the present and many of the past leaders of the church may be found in the little work entitled "Prophets and Patriarchs," from the pen of Elder Matthias F. Cowley, which can be obtained for fifty cents by addressing him at No. 123 North, West Temple St. For material used in the advanced grade, the teacher may find reference to all he needs in the "Sunday School Outlines," No. 4.

The "Juvenile Instructor," as in the past, will be used by the General Board for notes and suggestions in relation to religion class work. In addition to these, there will appear, either in the regular columns or in other parts of this magazine, biographical material which the teacher may not be able to obtain elsewhere.

The instructor should be careful not to go outside of these Outlines for subject-matter to teach in his classes. By this we mean that he should not go to the plans of the other associations in the church for material, unless the same subjects happen to be also in the Outlines. There is little need, if the various organizations keep to their respective fields, of trespassing on one another's work.

Be prompt in opening and closing your classes. Don't waste time nor tire the children with long and tedious discourses. Thirty minutes for the primary grade and forty minutes each for the other grades will be found sufficient for the entire recitation. Moreover, put additional enthusiasm into your class in the spring if you find indications that the interest of the children is going to die out. If you find the interest likely to keep up longer than the close of the day school in the spring, it will not be out of order for you to continue the class later. This is more likely to be the case with those in the primary grade.

A word about prayer. The intention is that the children, not the

teacher, should do the praying. If, however, the teacher has to set the example in this respect, let him be short and to the point. Else he will find the children backward about praying, for they will see their inability to make long prayers. If the teacher will notice the length and wording of the prayers which the Lord has given us—such, for example, as the Lord's prayer, the blessing on the sacrament, and the words used in baptism—he will find them models of compactness and brevity. For the benefit of those who are new to this work we give here an example: Our Father which art in heaven, we thank Thee for every blessing we enjoy. Bless us this day with Thy Holy Spirit that we may learn well our lessons. Bless the authorities of Thy Church, and our parents and teachers. We ask all in the name of Thy Son Jesus Christ. Amen. It must be remembered, however, that it is necessary to impress the minds of the class with the fact that the prayers should be of their own wording, as much as possible, and also that the children should be sincere. No trouble will be experienced here if the teacher sets out right.

Some teachers find difficulty in the fifth step—testimony bearing. The children are sometimes diffident in this respect, imagining that, since nothing of an extraordinary nature has occurred in their lives, they have nothing to say. Then, too, it is often thought by grown-up people that nothing is a testimony which does not include the ministry of angels, the speaking of tongues, the healing of the sick, or some such manifestation. Others think that children of the ages found in the religion classes can have no testimonies.

But children do have testimonies, and that, too, as real and sensible to them as ours are to us. Nor is it necessary for them to have seen angels or been themselves healed in order to have a testimony. Have their prayers been answered? Do they feel better when they do right than when they do wrong? Do they love to look at the good and the beautiful in the lives of men and women and in nature? Are their hearts filled with gratitude for their food, clothing, health, and life? The answer to one or all of these questions, and to many others that could be asked, given in the simple and sincere way of childhood, is as pleasing to the Lord as any we may give to them. Moreover, the teacher should not work on the child's emotions, otherwise it will say what it does not really mean, simply to please.

In order to make testimonials interesting a suggestion might be given by the teacher to the effect that such and such will be the subject of the next recitation, and that the children might think about something connected with this lesson. Say, for example, that it is prayer. Very likely they have had prayers answered; or they might relate striking instances where others they know or have heard of have received answers to their prayers. Encourage them to tell what they feel about the lesson or about what good they can see in others and in the world. In such a way the testimony bearing may be made a source of strength to our children and may teach them to open their eyes to the goodness of God, which is manifest everywhere, if we could only see and acknowledge it.

Your brethren in Christ,

ANTHON H. LUND,
RUDGER CLAWSON,
JOSEPH M. TANNER,
General Superintendency.

PRIMARY GRADE.

Lesson I.

Third step. Why children should pray.

Fourth step. Biographical sketch of the ward bishop.

Lesson II.

Third step. Why we should learn to sing the songs of Zion.

Fourth step. Biographical sketch of the stake president.

Lesson III.

Third and fourth steps. Biographical sketch of President Joseph F. Smith.

Lesson IV.

Third step. How children should conduct themselves at places of worship.

Fourth step. Biographical sketch of President John R. Winder.

Lesson V.

Third step. How children should act on the streets and at places of public amusements.

Fourth step. Biographical sketch of President Anthon H. Lund.

Lesson VI.

Third step. How children should speak to their companions at play.

Fourth step. Biographical sketch of some person whom the children have seen.

Lesson VII.

Third step. How children should speak to and treat their brothers and sisters.

Fourth step. Biographical sketch of Elder Francis M. Lyman.

Lesson VIII.

Third step. How children should treat their parents.

Fourth step. Biographical sketch of Elder John Henry Smith.

Lesson IX.

Third step. How children should treat strangers.

Fourth step. Sketch of Elder George Teasdale's life.

Lesson X.

Third step. How children should sympathize with those who may be hurt.

Fourth step. Sketch of Elder Heber J. Grant's life.

Lesson XI.

Third step. Kindness to animals.

Fourth step. Biographical sketch of some person known to the children.

Lesson XII.

Third step. How children should be grateful for food and clothing.

Fourth step. Sketch of Elder John W. Taylor's life.

Lesson XIII.

Third step. How children should be grateful to parents for giving birth to and rearing them.

Fourth step. Sketch of Elder M. W. Merrill's life.

Lesson XIV.

Third step. How and why children should respect those who are older.

- Fourth step. Sketch of Elder Matthias F. Cowley's life.
- Lesson XV.**
- Third step. How children should always pay attention when spoken to.
- Fourth step. Sketch of some person known to the children.
- Lesson XVI.**
- Third step. The habit of crying.
- Fourth step. Sketch of Elder Abram O. Woodruff's life.
- Lesson XVII.**
- Third step. How children should live after they are baptized.
- Fourth step. An interesting missionary experience from the life of some person, known or unknown to the children.
- Lesson XVIII.**
- Third step. What children should be thinking about while partaking of the sacrament.
- Fourth step. Sketch of Elder Rudger Clawson's life.
- Lesson XIX.**
- Third step. How children should act when they are sick.
- Fourth step. Sketch of Elder Reed Smoot's life.
- Lesson XX.**
- Third step. The quarrels of children—how to avoid them and how to adjust them.
- Fourth step. Sketch of Elder Hyrum M. Smith's life.
- Lesson XXI.**
- Third and fourth steps. Instances where boys have received testimonies—as, for example, the prophets Samuel and Joseph Smith.
- Lesson XXII.**
- Third step. Why children should never steal.
- Fourth step. Sketch of Patriarch John Smith's life.
- Lesson XXIII.**
- Third step. How children should act at the table.
- Fourth step. Incident from the life of some character known to the children.
- Lesson XXIV.**
- Third and fourth steps. How we got the Book of Mormon.
- Lesson XXV.**
- Third step. Why children are baptized when they are 8 years old.
- Fourth step. Some instances of baptism (such as that of Jesus).
- Lesson XXVI.**
- Third step. How to make friends.
- Fourth step. Sketch of the late President George Q. Cannon's life.
- Lesson XXVII.**
- Third step. Why children should never lie.
- Fourth step. Sketch of the late Elder Brigham Young's life.
- Lesson XXVIII.**
- Third and fourth steps. Sketch of the late President Lorenzo Snow's life.
- Lesson XXIX.**
- Third and fourth steps. Sketch of the late Karl G. Maeser's life.

Lesson XXX.

Third step. Why children should go to school.

Fourth step. Sketch of the late Elder Franklin D. Richards's life.

Lesson XXXI.

Third step. Something about the Sunday school.

Fourth step. Sketch of the late Elder George Goddard's life.

Lesson XXXII.

Third step. Why children should never sulk.

Fourth step. Sketch of Elder George Reynold's life, including his writings.

Lesson XXXIII.

Third step. Why children should not be vain.

Fourth step. Sketch of Elder B. H. Roberts' life, including his writings.

Lesson XXXIV.

Third step. Why children should avoid giving way to anger.

Fourth step. Sketch of Supt. Joseph M. Tanner's life.

Lesson XXXV.

Third step. Why children should not be selfish.

Fourth step. Sketch of Mrs. Zina D. Young's life.

Lesson XXXVI.

Third step. How children should obey parents and teachers.

Fourth step. Sketch of Mrs. Elmina S. Taylor's life.

INTERMEDIATE GRADE.

Lesson I.

Third step. Why the Lord organized the church in the last days.

Fourth step. Life of Joseph the Prophet: Up to and including the first vision.

Lesson II.

Third step. Why the Saints have been persecuted and driven.

Fourth step. Life of Joseph the Prophet: The Book of Mormon revealed.

Lesson III.

Third step. What the Book of Mormon is about.

Fourth step. Life of Joseph the Prophet: Organization of the church.

Lesson IV.

Third step. What the Book of Doctrine and Covenants is about.

Fourth step. Life of the Prophet: Persecution at Hiram, Ohio.

Lesson V.

Third step. A beautiful relation. (The teacher is to choose one suitable for the children.)

Fourth step. Life of Joseph the Prophet: Incarcerated in Independence jail.

Lesson VI.

Third step. How the Book of Mormon was translated.

Fourth step. Life of Joseph the Prophet: The martyrdom.

Lesson VII.

Third step. The three witnesses to the Book of Mormon.

Fourth step. Life of Joseph the Prophet: Something about his character.

Lesson VIII.

Third step. Love and devotion of friends. (See David and Jonathan and Joseph and Hyrum.)

Fourth step. Sketch of Hyrum Smith's life.

Lesson IX.

Third and fourth steps. Life of President Brigham Young: Up to and including his baptism.

Lesson X.

Third and fourth steps. Life of President Brigham Young: As an apostle preaching the Gospel.

Lesson XI.

Third and fourth steps. Life of President Brigham Young: Leading the Saints westward.

Lesson XII.

Third and fourth steps. Life of President Brigham Young: Something about his character.

Lesson XIII.

Third and fourth steps. An incident from the life of some person, selected by the teacher.

Lesson XIV.

Third and fourth steps. Sketch of President John Taylor's life.

Lesson XV.

Third and fourth steps. Sketch of President Wilford Woodruff's life.

Lesson XVI.

Third and fourth steps. Sketch of Parley P. Pratt's life.

Lesson XVII.

Third and fourth steps. Sketch of Orson Pratt's life, including his writings.

Lesson XVIII.

Third and fourth steps. An incident from the life of some person, selected by the teacher.

Lesson XIX.

Third step. Why young people should be cleanly in their habits.

Fourth step. Sketch of Heber C. Kimball's life.

Lesson XX.

Third step. The spirit of fairness in boys and girls.

Fourth step. Sketch of Daniel H. Wells's life.

Lesson XXI.

Third step. Personal appearance.

Fourth step. Sketch of Willard Richards.

Lesson XXII.

Third step. Why young people should be sociable.

Fourth step. Sketch of President George A. Smith's life.

Lesson XXIII.

Third and fourth steps. An incident from the life of some person, selected by the teacher.

Lesson XXIV.

Third step. How we can be helpful to others.

Fourth step. Sketch of Erastus Snow's life.

Lesson XXV.

Third step. Why a love of poetry should be cultivated.

Fourth step. Sketch of Eliza R. Snow Smith's life.

Lesson XXVI.

Third step. Why boys should prepare for missions.

Fourth step. Sketch of John Morgan's life.

Lesson XXVII.

Third step. Why young people should get patriarchal blessings.

Fourth step. The first patriarch in the church. Sketch of Father Joseph Smith's life.

Lesson XXVIII.

Third step. How children may qualify themselves to become good parents.

Fourth step. Sketch of Mother Lucy Smith's life.

Lesson XXIX.

Third and fourth steps. An incident from the life of some person, selected by the teacher.

Lesson XXX.

Third step. Why young people should keep their thoughts pure.

Fourth step. The first bishop in the church—Edward Partridge.

Lesson XXXI.

Third step. How children may remember the poor.

Fourth step. Sketch of Edward Hunter's life.

Lesson XXXII.

Third step. Why young people should be faithful.

Fourth step. The first martyr-apostle in the church—David W. Patten.

Lesson XXXIII.

Third step. Why boys should always be polite to women.

Fourth step. Sketch of Bathsheba W. Smith's life.

Lesson XXXIV.

Third step. Why young people should always do with enthusiasm what falls to their lot.

Fourth step. Sketch of Jedediah M. Grant's life.

Lesson XXXV.

Third step. Why young people should be sincere in all they say and do.

Fourth step. Sketch of Elder John Nicholson's life.

Lesson XXXVI.

Third step. The gathering of the Jews.

Fourth step. Sketch of Orson Hyde's life.

ADVANCED GRADE.

Lesson I.

Third step. Some of the benefits to be derived from prayer.

Fourth step. The personality of God.

Lesson II.

Third step. How it helps us to think of Christ.

Fourth step. The effect of Christ's life on the world.

Lesson III.

Third and fourth steps. Some important lessons taught by the life of Christ.

Lesson IV.

Third and fourth steps. The fall of man and the redemption wrought out by our Savior. (See Junior Manual, ch. 1.)

Lesson V.

Third and fourth steps. Angels—what they are and some of the missions they have performed.

Lesson VI.

Third and fourth steps. Our primeval childhood.

Lesson VII.

Third and fourth steps. Repentance. How people should always strive to make right their wrongs.

Lesson VIII.

Third step. Funerals and the spirit in which they should be attended.

Fourth step. Salvation for the dead.

Lesson IX.

Third and fourth steps. Baptism—necessity and mode.

Lesson X.

Third step. Why young people should specially honor those who bear the priesthood.

Fourth step. The priesthood.

Lesson XI.

Third step. Personal habits to be cultivated.

Fourth step. Prophets—why they are necessary.

Lesson XII.

Third step. Personal habits to be avoided.

Fourth step. Prayer.

Lesson XIII.

Third step. Cleanliness and personal appearance.

Fourth step. The sacrament.

Lesson XIV.

Third step. The duty of preserving our bodies.

Fourth step. The word of wisdom.

Lesson XV.

Third step. What generosity has to do with forming the character of men and women.

Fourth step. Tithing.

Lesson XVI.

Third step. Why we should never use either obscene language or slang.

Fourth step. Purity.

Lesson XVII.

Third and fourth steps. Temples—the great temples that have been built and their uses.

Lesson XVIII.

Third and fourth steps. Apostasy—apostasy from the ancient church. Individual apostasy—how people feel and act when they leave the church—why they manifest such a spirit.

Lesson XIX.

Third and fourth steps. How young men may prepare themselves for missions—personal habits.

Lesson XX.

Third step. Why young people should read good books.

Fourth step. Education—physical, intellectual, and spiritual.

Lesson XXI.

Third and fourth steps. The associations of youth—why young people should not be too familiar.

Lesson XXII.

Third and fourth steps. A character sketch of some person known to the teacher.

Lesson XXIII.

Third and fourth steps. A sketch of the life of Nephi. (See Junior Manual, Ch. XVIII.)

Lesson XXIV.

Third and fourth steps. Sketch of the life of Apostle Paul.

Lesson XXV.

Third and fourth steps. A sketch of some character, selected by the teacher.

Lesson XXVI.

Third and fourth steps. Sketch of King David's life. (See Junior Manual, Chs. XV and XVI.)

Lesson XXVII.

Third and fourth steps. A sketch of some noteworthy character in the church, selected by the teacher.

Lesson XXVIII.

Third and fourth steps. Benefits to be derived from reading the Book of Mormon.

Lesson XXIX.

Third and fourth steps. Sketch of Mormon's life.

Lesson XXX.

Third and fourth steps. A sketch of some worthy person's life—man or woman—chosen by the teacher.

Lesson XXXI.

Third and fourth steps. Sketch of King Benjamin's life (in the Book of Mormon).

Lesson XXXII.

Third and fourth steps. Why we should be polite.

Lesson XXXIII.

Third and fourth steps. Some striking missionary experience, chosen by the teacher.

Lesson XXXIV.

Third and fourth steps. Why our home surroundings should be cleanly, peaceful, and beautiful.

Lesson XXXV.

Third and fourth steps. A sketch of some person's life—man or woman—selected by the teacher.

Lesson XXXVI.

Third step. How religion may improve one's citizenship.

Fourth step. Why we should be loyal to our country.

Outlines of religion class work for the school year 1904-5, published by the general board of religion classes.

PREFACE.

The following outlines for the school year 1904-5 is herewith presented to religion class workers, in the hope that it may prove satisfactory. In addition to the usual plan of lessons, there will be found also instructions to officers and teachers, a few notes and suggestions on the lessons, and a list of memory gems for the use of those who,

for any reason, may be unable to provide a suitable one for themselves. It needs only to be added here that no teacher is expected to follow these plans so closely as to interfere with the spontaneous progress of the class or with his own individuality. Some lessons no doubt will be found to contain too much material, others too little. The instructors will therefore use their judgment in adapting the subject-matter to the needs of the class.

RELIGION CLASS OUTLINES.

PRELIMINARY INSTRUCTIONS.

So eager are the officers and teachers of religion classes for every word which will aid them in performing duties that lie in an essentially new field that we find it necessary each year to increase the body of instructions accompanying plans of lessons. We give, therefore, in this place an explanation of some of the more important points and methods to be followed in this work.

1. *Subject-matter of these outlines.*—It will be noticed that the material for the lessons in all the grades is taken entirely from the Bible—the subjects for the primary grade from the Old Testament, those for the intermediate grade from the gospels, and those for the advanced department from the Acts of the Apostles. Only thirty lessons, however, in each of the first two of these grades and twenty-six in the last have been planned, and these lessons cover only the first part of the divisions of the Scriptures from which they are respectively made, it being the intention to continue these subjects during the ensuing two years. The reason for making only twenty-six lessons for the advanced department is that seventh and eighth grade pupils in most schools usually begin later in the fall and discontinue earlier in the spring than the others. If, however, this is not the case in any particular school, and additional lessons are needed, the teacher may either review previous lessons or enlarge upon those which may have been given less attention than others at the time they were discussed.

2. *Making early preparation for opening.*—Stake and ward superintendents should see to it that, if possible, the organizations are complete some time before school opens in the fall, and that copies of this pamphlet are in the hands of all instructors at an early date, in order that there may be no delay in beginning class work. Wherever it can be done, the services of the district school-teachers should be obtained, though it is not the intention that the teaching corps for religion classes be confined to them. In fact, it is desirable that other good and capable brethren and sisters be asked to aid in the work, so that, where all or most of the district school-teachers leave in the spring, there may be some one in the ward to look after the interests of religion classes. Where there are frequent changes in the day-school teachers, it would preserve the interests of religion class work if the ward superintendent be a person whose permanent home is in the ward. We may add here that steps should be taken to make the teaching force in this work permanent, for the reason that changes are always more or less detrimental to the progress of the

children. The superintendent will take notice that no licenses are to be issued from now on.

3. *Time for holding classes.*—The religion class should be held on some one of the school days, either before school opens in the morning or after it closes in the afternoon, as may suit the convenience of those concerned. It should not be held on any other day, nor in the evening, if it is possible to hold it at the proper time, since the primary object of the movement would be frustrated very largely and interfere with the other auxiliary organizations if any other time were chosen. Any of the five school days may be selected, though it would be advantageous if, in any given stake, a uniform day and time were adopted. In all cases a brief interval should occur between the dismissal of the district school and the taking up of religion class. Another fact should not be lost sight of, namely, that one recitation period a week is not the ultimate end in religion class work, but five or as many days as the district school is held. It would therefore be a good thing where possible for classes to be held oftener than once a week.

4. *Memory and practice work.*—Notwithstanding the fullness of these lessons, it should not be supposed that no further attention is to be given to the learning of the Lord's Prayer, the blessing on the food, and those other exercises that were so prominent in the earlier stages of religion class work. In this movement the preeminent characteristic is practice in religious duties. Hence the teacher ought constantly to drill the class in the practical part of our faith and question them often respecting their application of what they learn. And we may note further that such should be the general method in other steps of the work also, especially in the third and fourth steps. Whenever, therefore, any practical truth is taught the children, the instructor should endeavor to get them to apply this in their daily lives. Every now and then, as the year's work progresses, they should be questioned respecting their constant practice of the important things learned, and when it appears that they are neglecting to apply what they have been taught special attention ought to be paid to the particular things that they are forgetting. The children should, if possible, be got into the *habit* of conducting themselves properly and of performing their religious duties. It is these phases of religion class work, it should be remembered, that have impressed others with the need for this class of work and that furnish a means of doing the most good.

5. *Punctuality.*—The teachers should be prompt in opening and closing the exercises. If the head teacher is not present the next one should go on with the class. There should be no waiting one for another. The same punctuality should be observed in everything else connected with the work. Children soon grow weary if they find it necessary to wait for the class to begin, and they are likely in the end to lose interest and to discontinue their attendance. The ward superintendent should endeavor to have the teachers prepare the work so well beforehand that there will be no waiting on the part of the instructors to find out what to do. Towards the close of the year, the teacher, if he finds it necessary, should put additional enthusiasm into his work, so as to keep up the interest of the class so well that they will be anxious for religion class to open again in the fall, and if he finds that the interest of the pupils would con-

tinue longer than the usual time for closing he may extend the time into the summer. This latter, however, will no doubt be more likely to be the case with those in the primary grade. It would be well if there could be some public closing exercises.

6. *The six steps.*—There are six steps in all religion class exercises: (1) singing; (2) prayer; (3) memory exercises and a lesson on some principle of the gospel; (4) a lesson on manners, morals, or general conduct; (5) testimony bearing, and (6) singing and the benediction. These should be kept distinct, no one of them divided, nor any two combined, and all should be included in every recitation. Thirty minutes for the primary grade and forty minutes for each of the other departments will be found sufficient for the entire session. Of this time the third and the fourth step should occupy about ten minutes each, and the fifth step about five minutes—enough, that is to say, for three or four children to bear their testimonies—leaving the rest of the time to be divided among the other three steps. The teacher should not trespass upon these time limits so seriously as to interfere with the interest or the good of the class. The children, and the parents, too, will like the work better if the exercises are short. The work outlined in this pamphlet constitutes the third and fourth steps, which are to be inserted in their proper place in the recitation. If any time is needed for singing practice it should be taken out of the sixth step rather than from any of the others, because it here detracts less from the general purpose of the recitation than if given in connection with the first step.

7. *The third step.*—Special attention is called to the manner in which the third step should be presented. Numerous questions have been asked respecting the amount of outside preparation that should be required of the class. The character of the religion class movement and the aim that it endeavors constantly to impress would indicate that the pupils should take as much time as might be needed for outside preparation, for in this way only can this organization accomplish the good which it was intended to do. In other words, the class should do as much, and the teacher as little, as possible in the recitation. This should be the general thought in all that is done in religion class work. The necessary consequence of this idea, however, would require that the pupils, not the teacher, give the third step. Hitherto it has been the uniform practice, so far as we know, for the teacher to give this part of the lesson. But for many reasons, which will be perfectly obvious to any one who will consider the central motive in religion class work, it is desirable that a change be made in this respect. In the future, therefore, let the teachers endeavor to get the children to do this part of the work.

The practical application of this plan will probably give some little difficulty at first. Hence we make the following suggestions to those who have any trouble in getting the necessary preparation from the pupils:

Let the teacher appoint some one in the class, whom he can depend upon, both as to his ability and willingness, to give the third step, making sure that the child understands just what is required, what time he may have, and precisely where he may obtain the required information. Next, let the instructor make it a point, sometime during the week, to find out what progress the pupil is making in his work of preparation. In case the student is unable to get the lesson

by himself he should be urged to obtain the assistance of the parents or brothers and sisters; and if no aid can be obtained from these, the teacher should be ready to help him in getting the lesson. At all events, no child should be permitted to fail from lack of assistance. In the actual presentation of the step before the class the pupil may be left to tell the story in his own way. For the following recitation another child should be chosen, or, better still, should be asked to volunteer, to give the third step, the teacher taking the same pains as in the first, and so on till each one in the class has had an opportunity to give this step. As each student completes the assigned task, it would not be a difficult matter to get him to prepare the next lesson as if he were to be asked to recite; and after a while, no doubt, all the members of the class could be induced to prepare every lesson. Then the teacher would not need any longer to make appointments, but merely call upon the children indiscriminately to present the work.

Very probably the work would not be done so well as if the teacher did it himself. The children doubtless would be hesitating and oftentimes inaccurate and incomplete, tempting the teacher's patience. But they will get more good from the recitation in this way, and will, in consequence, take a greater interest in the class. The instructor can easily add anything which the pupil has omitted and which is deemed important, questioning the class upon all that has been given. It is hoped that a strong and persistent effort will be made by the teachers to carry out this suggestion with credit to the religion class.

8. *The fourth step.*—Essentially the same principle should be observed in this step. Let the teacher, instead of telling the class what is or is not good manners or morals, draw out from them, by a series of well-directed and well-arranged questions, what the children already know, for none can be found who do not have some information concerning points of conduct involving the relationship of one person to another.

9. *The fifth step.*—This step, as already remarked, should occupy no more than five minutes—sufficient for three or four testimonies to be borne. The children should be given to understand that they are not expected to testify from personal knowledge to the truth of the Gospel or to the divine authority of the Prophet Joseph, though even children may bear such a testimony under the influence of the Holy Spirit. But generally speaking, they will not be able to do this. And yet they are expected to say something voluntarily under this step. They should therefore be told that an expression of their own thoughts and feelings may be a testimony. They may, for instance, say they believe the Gospel to be true, the prophets to be inspired of the Lord; or they may even say they would like to have a testimony. They may feel delight in the pleasant sunshine, in the flowers, in the sky and trees and animals; they may feel stronger after doing right when they might have done wrong; they may have seen some good act performed by some one. All these, uttered in the simplicity of childhood, should be encouraged as testimonies. But anything that savors of insincerity should be discountenanced. The class ought not to go beyond their depth or be permitted to outdo one another in this matter of testimony bearing. It may be added here that the subject just discussed in the third or fourth step will frequently furnish many suggestions for proper testimonies, though in all classes the recitation here will be the better if the teacher leads

out with a feeling and proper testimony and the testimonies of the class will no doubt follow the teacher's lead. This step, when conducted under the spirit of the Lord, will accomplish inestimable good to the children by impressing their hearts with the good in the world.

10. *Preparation of the lesson.*—We take this opportunity of urging upon the teachers the necessity of thoroughly preparing every lesson. It is not sufficient merely to glance over the work, depending upon what is already known about it. To conduct a recitation successfully, the teacher must come to the class with *fresh* information, so that the children will drink from a running stream instead of a stagnant pool. There are three points that a teacher may well keep in mind as he prepares his lesson, for which the recitation will be the better.

In the first place, the instructor should select his aim—the point which he wishes to impress upon the class. This should be as definite as he can make it, and would better be written, in order to make the stronger impression on the teacher himself. There should, moreover, be only one aim, and it should be so clear and simple that the class may easily grasp it. No doubt from any given lesson several aims could be chosen, but only one of these—the best, in the teacher's opinion—should be used in the class. Such an aim would have the obvious advantage of keeping the recitation, in this particular step, from straying into irrelevant details and also fixing on the minds of the class some definite idea. As an example of what we mean, we may take Lesson XVIII in the primary grade, "Pharaoh and the plagues." Several aims might be selected in the preparation and the teaching of this lesson; but the instructor, in view of the fact that this is a primary class and that the subject presents some difficulties, will probably select such an aim as this: The Lord, notwithstanding appearances, does not forsake his people. Such an aim will suggest at once the details that should be included. The children may need to know something of the severe hardships endured by the children of Israel (which they could do by reviewing briefly the previous lesson), as well as something concerning the prophecies that had been uttered respecting this event; and then the details of the deliverance might be given. Where possible, the aim should be positive, not negative.

In the next place, there is the development of this aim. This part of the work would require an outline of the lesson, including only those points that contribute to the bringing out of the aim previously selected. So far as the teacher is concerned, such an outline would be of advantage in compelling him to think to some purpose at every point of the lesson. He would then be above his subject and could make what disposition of it he would. Not only should he consider what points he must bring before the class, but also how they are to be presented, what illustrations he is to use, and how to use them. This is of very great importance, and any weakness in the preparation will show itself here.

Frequently the development of the lesson takes the form of questioning, and this, in fact, would be the method in use here, since the teacher himself is not to present the third step. But he must know where he is going, so to speak, else he can not direct the attention of the class; and therefore a careful outline of the work should be made beforehand. It may be well to repeat here what was said in another place regarding the adaptation of these lessons to the needs of the

class. The outlines are merely suggestive, and the teacher may take the whole lesson or any part of it as he sees fit.

After this comes the application and enforcement of the aim. In other words, the teacher needs to make clear the relation between the lesson and the conduct of the children. Herein lies the distinctive field of religion class work—to make the conduct of the class reflect the teachings they have received. Special emphasis should therefore be given to this part of the work. Whenever any principle is developed in the lesson, it should be made to touch the experience of the class at as many different points as possible, and also in as many varying ways; and an effort should, moreover, be made to have them think of some way by which their own conduct may be improved. Thus, to illustrate our meaning, after the lesson we have already referred to has been presented in the third step, the class might successively be asked for instances similar to this, where the people of God have been delivered from some impending danger, for cases where individuals have been similarly delivered, and finally for instances in their own lives where it might be necessary for the Holy Spirit to whisper to them a way of escape from temptation or sin.

It may be further added that these three points in the preparation and the presentation of the lesson—the aim, the development, the application and enforcement—may, in many of these lessons, be carried through three steps. That is to say, the third step may contain the spiritual truth, the fourth step its development in terms of our own conduct, and the fifth the enforcement of the truth in the testimonies that are born. Thus the seventeenth lesson in the primary grade—“The bondage of the Israelites”—contains a principle in the third step, its application in the fourth, and the testimonies in the fifth step may enforce this idea.

In conclusion, we may say that religion class work is growing, and each year gives evidence not only of the need there is among us for the kind of work it was organized to do, but also of the great amount of good it is actually doing among our boys and girls. Everywhere we hear good reports of the benefit our young people are receiving in religion classes. These reports may not come to the ears of the teachers, but they may be assured that their efforts for the benefit of the youth in the church are appreciated. The children attending the religion classes behave better in the general assemblies of the saints, conduct themselves perceptibly better towards their elders, have improved manners in their homes, and use better language on the street by reason of their having belonged to the religion class. The instructors may therefore be encouraged in the noble work they are doing among the children of the saints, and justly take pride in the fact that their labors, toilsome and unavailing as they may often appear, have nevertheless no little influence in shaping the lives and moulding the character of the young people of the church.

PRIMARY DEPARTMENT.

Lesson I.

Third step. The Bible: What it teaches—how it has improved the world.

Fourth step. Our memories: Given us by the Lord—our duty to cultivate them—learning to quote Scripture—its use to us throughout life.

Lesson II.

Third step. The creation: The things created—the light, the heavens, the water, the earth, the herbs, animals, man. (Gen., chs. 1:1-2; 2:1-4.)

Fourth step. What there is to admire in the things the Lord has created—recognizing the Lord in his works—our appreciation of nature.

Lesson III.

Third step. The garden of Eden. (Gen., 2:7-24.)

Fourth step. Temptation brought into the world—the duty of self-denial—fall through disobedience, salvation through obedience.

Lesson IV.

Third step. The two brothers, Cain and Abel. (Gen., 4:2-15.)

Fourth step. Jealousy: How it harms us, how it harms others.

Lesson V.

Third step. Noah and the Ark. (Gen., chs. 8, 9.)

Fourth step. How wickedness hinders our belief in God—why the Lord punishes the wicked for their own good, for the good of others.

Lesson VI.

Third step. The Tower of Babel. (Gen., ch. 11.)

Fourth step. A will higher than our own—we never succeed when we oppose it—how we may know that higher will: (a) by prayer, (b) by obedience, (c) by living pure lives.

Lesson VII.

Third step. Abraham and Lot. (Gen., ch. 13.)

Fourth step. Selfishness—(a) not necessary to our prosperity, (b) how it may destroy our happiness.

Lesson VIII.

Third step. Abram and the angels—personality of God and angels. (Gen., ch. 18.)

Fourth step. Hospitality: Welcome in the home—efforts to please others.

Lesson IX.

Third step. Abram's family: The father of different races: for example, the Jews and the Arabs. (Gen., ch. 25.)

Fourth step. Our indebtedness to our parents—privileges of birth, such as the blessings pronounced upon our fathers.

Lesson X.

Third step. Isaac and Rebecca. (Gen., ch. 24.)

Fourth step. Manners at the table.

Lesson XI.

Third step. Jacob's vision and vow. (Gen., ch. 28.)

Fourth step. Generosity: How it helps us to give, by making us love others—we are made to think of God by helping His children.

Lesson XII.

Third step. Story of Joseph.

Fourth step. Dreams: Sometimes they are sent by the Lord.

Lesson XIII.

Third step. The story of Joseph (continued).

Fourth step. Why children should never be revengeful.

Lesson XIV.

Third step. The story of Joseph (continued).

Fourth step. How children may be helpful to their parents (1) by making them little trouble in the home, (2) by helping them in childhood, (3) by kind words, (4) by providing for them in later years, when they are in want.

Lesson XV.

Third step. The story of Joseph (concluded).

Fourth step. Gaining the confidence of others; our duty to have the confidence of others—confidence a sacred thing—how we are injured by abusing it.

Lesson XVI.

Third step. The birth of Moses. (Ex., chs. 1, 2.)

Fourth step. Troubles: Our need of them and our deliverance. We should never be discouraged when we are doing right.

Lesson XVII.

Third step. Pharaoh and the plagues. (Ex., chs. 7, 8, 9, 10.)

Fourth step. What patience teaches us—charity for others—depending on the Lord.

Lesson XVIII.

Third step. Pharaoh and the plagues. (Ex., chs. 7, 8, 9, 10.)

Fourth step. Punishment: Children should leave it (1) to their parents, (2) to the Lord.

Lesson XIX.

Third step. The burning bush. (Ex., ch. 3.)

Fourth step. The schooling the Lord sometimes gives—(1) by separating us from home and family, (2) by giving us opportunities to mediate, and (3) by teaching us patience.

Lesson XX.

Third step. The passover. (Ex., ch. 12.)

Fourth step. The destroying angel—how we may escape him (1) keeping the word of wisdom, (2) by otherwise serving the Lord.

Lesson XXI.

Third step. Departure of the Israelites. (Ex., chs. 13, 14.)

Fourth step. Threats: Why children should never make them—(1) because they are likely to be fulfilled on those who make them, (2) because they tempt us to injure others.

Lesson XXII.

Third step. Manna and quails sent. (Ex., ch. 16.)

Fourth step. Confidence (1) in our parents, (b) in our leaders, (c) in our God.

Lesson XXIII.

Third step. God's message from Sinai. (Ex., ch. 19.)

Fourth step. Sacred places: Meeting houses, temples, incident of the "burning bush."

Lesson XXIV.

Third step. The ten commandments. (Ex., ch. 20.)

Fourth step. The Sabbath Day: How children should keep it, (1) by observing cleanliness, (2) by going to Sunday school, (3) by abstaining from games and amusements.

Lesson XXV.

Third step. Aaron and his sons made priests. (Ex., ch. 28.)

Fourth step. A signet: "Holiness to the Lord"—our conduct the signet of our lives; (1) it should be fit to be known by our parents, (2) by our friends and neighbors, and (3) by our heavenly Father.

Lesson XXVI.

Third step. God speaks to Moses face to face. (Ex., ch. 33.)

Fourth step. Memorize the following in verse 11: "And the Lord spake unto Moses face to face as a man speaketh to his friend."

Lesson XXVII.

Third step. Balak and Balaam. (Num., ch. 23, 24.)

Fourth step. Blessings: Blessing others, (1) by asking the Lord to bless them, (2) by doing them good.

Lesson XXVIII.

Third step. Delegates sent to search the Land of Promise. (Num., ch. 13.)

Fourth step. Why we should never be discouraged.

Lesson XXIX.

Third step. Joshua crossing the Jordan. (Josh., ch. 3.)

Fourth step. How the Lord magnifies the leaders of his people, (1) by making them men of great integrity, (2) by giving the people confidence in them.

Lesson XXX.

Third step. Jericho besieged and taken. (Josh., ch. 6.)

Fourth step. Prophecies fulfilled with respect to Jericho. Have the class relate to the class other prophecies that have been fulfilled.

INTERMEDIATE DEPARTMENT.**Lesson I.**

Third step. The angel appears to Zacharias and Mary. (Luke 1:38.)

Fourth step. Have the class relate other circumstances under which angels have visited the earth.

Lesson II.

Third step. The angel appears to Elizabeth—the birth of John the Baptist. (Luke 1:39–80.)

Fourth step. Our preexistence. (Jer., 1:5; Heb., 12:9; Eccles., 12:7.)

Lesson III.

Third step. An angel appears to Joseph. Birth of Jesus. (Matt., 1:18–25; Luke, 2:1–7.)

Fourth step. Preexistence of Jesus. (Jno., 16:28; Jno., 17:5; Jno., 17:5.)

Lesson IV.

Third step. An angel appears to the shepherds. (Luke 2:7–20.)

Fourth step. Memorize verse 14 of this chapter.

Lesson V.

Third step. Presentation of Jesus in the temple. (Luke 2:21–38.)

Fourth step. How children are blessed—Jesus himself blessed children. (Mark 10:13–16.)

Lesson VI.

Third step. The wise men come to Bethlehem. (Matt. 2:1-12.)

Fourth step. Obedience.

Lesson VII.

Third step. Flight into Egypt and return. (Matt. 2:13-23; Luke 2:39-40.)

Fourth step. Conduct of children toward one another on the playground.

Lesson VIII.

Third step. Jesus at twelve years of age. (Luke 2:41-52.)

Fourth step. Conduct of children toward their superiors and the aged; speaking to them—boys lifting their hats—rendering assistance.

Lesson IX.

Third step. Ministry of John the Baptist. (Matt. 2:1-12; Mark 1:1-8; Luke 3:1-18.)

Fourth step. Greetings—on rising, on retiring, on the streets, on entering and leaving school.

Lesson X.

Third step. Baptism. (Matt. 3:3-17; Mark 1:9-11; Luke 3:21-24.)

Fourth step. Baptism—time, mode, purpose.

Lesson XI.

Third step. The temptation. (Matt. 4:1-11; Mark 1:12, 13; Luke 4:1-13.)

Fourth step. Temptation that follows us and temptation that we put ourselves in the way of.

Lesson XII.

Third step. Testimony of John the Baptist to Jesus. (John 1:19-34.)

Fourth step. Choice of language in the conversation of boys and girls.

Lesson XIII.

Third step. Jesus gains disciples. (John 1:35-51.)

Fourth step. Evil thoughts—how they come to us: in a spirit of anger, jealousy, and through improper desires—the importance of overcoming them.

Lesson XIV.

Third step. The marriage at Cana of Galilee. (John 2:1-12.)

Fourth step. Miracles: follow believers—purpose of them—why we should not base our faith exclusively on them.

Lesson XV.

Third step. At the Passover Jesus drives the money changers from the temple. (John 2:13-35.)

Fourth step. Why the Passover was observed—the word of wisdom and the destroying angel. (See note.)

Lesson XVI.

Third step. Our Lord's discourse with Nicodemus. (John 3:1-21.)

Fourth step. Why children should never be ashamed of their religion.

Lesson XVII.

Third step. Jesus leaves Jerusalem, but remains in Judea and baptizes. Further testimony of John the Baptist. (John 3:22-36.)

Fourth step. Ridicule—its danger (1) to those who use it; (2) to those against whom it is used—why young people should not be influenced by it.

Lesson XVIII.

Third step. Jesus departs into Galilee after John's imprisonment. (Matt. 4:12; Matt. 15:3-5; Mark 1:14; Mark 6:17-20; Luke 4:14; Luke 3:19-20; John 5:1-3.)

Fourth step. Conduct of brothers and sisters toward one another—love of one another a divine duty—how love among brothers and sisters beautifies their lives in later years.

Lesson XIX.

Third step. Our Lord's discourse with the Samaritan woman. (John 4:4-12.)

Fourth step. Who the Samaritans were—we should always be respectful to those who do not believe as we do.

Lesson XX.

Third step. Jesus teaches publicly in Galilee. (Matt. 4:17; Mark 1:14-15; Luke 4:14, 15; John 4:35-45.)

Fourth step. Attentions to the poor—the duty of giving—the value of kind words.

Lesson XXI.

Third step. Jesus again at Cana—he heals the son of a nobleman at Capernum. (John 4:46-54.)

Fourth step. Attentions to the sick—thoughtfulness and sympathy for them—helpfulness and prayer.

Lesson XXII.

Third step. Jesus at Nazareth; he is rejected there and fixes his abode at Capernum. (Matt. 4:13-16; Luke 4:16-31.)

Fourth step. Revengeful spirit—how it harms us, how it hurts others.

Lesson XXIII.

Third step. The call of Peter, Andrew, James, and John, with miraculous draught of fishes. (Matt. 4:18-22; Mark 1:16-20; Luke 5:1-11.)

Fourth step. Obedience—to parents, to teachers, to authority.

Lesson XXIV.

Third step. Healing of a demoniac in the synagogue. (Mark 1:21-28; Luke 4:21-7.)

Fourth step. Courtesy to strangers—politeness, helpfulness, hospitality.

Lesson XXV.

Third step. Healing of Peter's wife's mother and many others. (Matt. 8:14-17; Mark 1:29:43; Luke 4:38-41.)

Fourth step. Prayer—in the home, in public, and in secret—those whom we should remember in our prayers.

Lesson XXVI.

Third step. Jesus with his disciples goes from Capernum throughout Galilee. (Matt. 4:2-4; Mark 1:35-39; Luke 4:42-44.)

Fourth step. Fidelity—to schoolmates, to teachers, to parents, to God.

Lesson XXVII.

Third step. The healing of a leper. (Matt. 7:2-4; Mark 1:40-45; Luke 5:12-15.)

Fourth step. Administering to the sick—helping them when in need, by the prayer of the elders, and by kind words and a cheerful spirit.

Lesson XXVIII.

Third step. The healing of the paralytic. (Matt. 9:2; Mark 2:1-12; Luke 5:17-26.)

Fourth step. On having a fault-finding disposition: Finding fault about our own conditions, adverse criticism of others.

Lesson XXIX.

Third step. The call of Matthew. (Matt. 9:9; Mark 2:13, 14; Luke 5:27, 28.)

Fourth step. Going on a mission. Boys should expect one—how to prepare for one—what it will do for them.

Lesson XXX.

Third and fourth steps. Have the pupils tell what most pleased them in that part of the life of Christ which they have studied.

ADVANCED DEPARTMENT.

Lesson I.

Third step. Matthias chosen. (Acts, ch. 1.)

Fourth step. Reading good books, the Bible, church works, choice literature in general.

Lesson II.

Third step. Peter's sermon. (Acts, ch. 2.)

Fourth step. Attending church—its value as a habit, cultivation of our religious nature, its influence on our daily lives.

Lesson III.

Third step. The lame healed. (Acts, ch. 3.)

Fourth step. Prayer: Gives moral courage, aids us in resisting temptation, gives integrity.

Lesson IV.

Third step. Peter and John imprisoned. (Acts, ch. 4.)

Fourth step. Using choice language: Language an index to our thoughts—how it reveals one's character—how it helps to refine one's nature.

Lesson V.

Third step. Ananias and Saphira. (Acts, ch. 5.)

Fourth step. Truthfulness: Gives self-confidence—gives others confidence in us—gives accuracy to both our statements and our judgments.

Lesson VI.

Third step. Seven deacons chosen. (Acts, ch. 6.)

Fourth step. Keeping the word of wisdom: Importance of beginning to observe it early in life—gives power of self-control—produces physical comfort and well-being—enriches our moral nature.

Lesson VII.

Third step. Stephen stoned. (Acts, ch. 7.)

Fourth step. How boys persecute one another—how careful boys should be to respect the personal rights of one another—why young people should champion the rights of the weak.

Lesson VIII.

Third step. Philip plants a church in Samaria. (Acts, ch. 8.)

Fourth step. How young people may value money too highly—physical pleasures of no value without a good conscience—honor of more value than riches—a legitimate ambition to gain money.

Lesson IX.

Third step. Saul's conversion. (Acts, ch. 9.)

Fourth step. Repentance: Manly to reform when we are convinced that we are wrong—constant danger of wrongdoing—repentance makes the pathway of duty clearer.

Lesson X.

Third step. Peter's vision. (Acts, ch. 10.)

Fourth step. Obedience—defects in the judgment of youth—how they are cured by obedience—a divine command.

Lesson XI.

Third step. Peter's defense. (Acts, ch. 11.)

Fourth step. "Driving stakes:" The necessity of recognizing a will higher than our own—divine purposes that men do not foresee.

Lesson XII.

Third step. Herod kills James. (Acts, ch. 12.)

Fourth step. How an evil life leads us to harm others.

Lesson XIII.

Third step. Paul preaches at Antioch. (Acts, ch. 13.)

Fourth step. Courage: To stand by one's convictions—to resist evil.

Lesson XIV.

Third step. Paul stoned. (Acts, ch. 14.)

Fourth step. Retribution: Our troubles often measured by the troubles we make others—punishment the natural consequence of wrongdoing.

Lesson XV.

Third step. Paul persecuted. (Acts, ch. 17.)

Fourth step. How one may be polite: Politeness should always be sincere—should be made a habit.

Lesson XVI.

Third step. Paul preaches at Corinth. (Acts, ch. 18.)

Fourth step. Punctuality: A duty we owe to others—it promotes regularity and industry—saves time.

Lesson XVII.

Third step. Usurpers of authority. (Acts, ch. 19.)

Fourth step. Honesty: The practice of cheating—how it hurts those who cheat as well as those who are cheated—honesty begets confidence in others as well as in ourselves.

Lesson XVIII.

Third step. Eutychus raised to life. (Acts, ch. 20.)

Fourth step. Personal appearance: How it begets self-respect—the respect of others for us.

Lesson XIX.

Third step. Paul goes to Jerusalem. (Acts, ch. 21.)

Fourth step. Exercise, recreation, rest: Kind of exercise and rest—dangers of exercise and recreation—duty of rest—cheerfulness the effect of exuberant health.

Lesson XX.

Third step. Paul's defense. (Acts, ch. 22.)

Fourth step. Our companions: A person known by the company he keeps.

Lesson XXI.

Third step. Paul smitten. (Acts, ch. 23.)

Fourth step. Reverence: For home and parents—for the priesthood—for sacred places.

Lesson XXII.

Third step. Paul accused before Felix. (Acts, ch. 24.)

Fourth step. The habit of industry—no real happiness without work—an aid to morality.

Lesson XXIII.

Third step. Paul appeals to Cæsar. (Acts, ch. 25.)

Fourth step. Humane instincts—kindness to animals—gentle manners.

Lesson XXIV.

Third step. Paul's defense before Agrippa. (Acts, ch. 26.)

Fourth step. Conduct in the home—at the table—treatment of brothers and sisters—respect for parents.

Lesson XXV.

Third step. Paul shipwrecked. (Acts, ch. 27.)

Fourth step. In society: Modesty—affability—cheerfulness—proper topics of conversation.

Lesson XXVI.

Third step. A viper fastens on Paul's hand. (Acts, ch. 28.)

Fourth step. Ambition: Proper ambition for boys and girls—should always be ennobling—ambition to gain an education—to be serviceable to one's country.

NOTES ON THE LESSONS.

THE PRIMARY GRADE.

Lesson I.—It is intended that under the third step here such points as this should be brought out: All the civilized world accepts the Bible as a great book, and have done so for hundreds of years; it comes to us from the Jews; it tells us of God's dealings with his chosen people; we should now be without most of those things which constitute the blessings and refinements of civilized life were it not for the Bible, since nearly all the peoples that accept it to-day were once in the same condition as the Indians of America were when they were discovered by Europeans.

Lesson II.—Care should be taken with the scriptural part of this lesson not to indulge the curiosity of the mind. Better keep to things as they were created than enter into explanations as to how they came to be. The fourth step should reinforce the work of the third.

Lesson IV.—At first it would seem difficult to teach a lesson from the first murder; but the minds of the children should be centered upon the motives of Cain and Abel, respectively, the resultant differences in the conduct of the two brothers, and the treatment which God accorded each.

Lesson VIII.—The evident purposes here is to teach that God is a personage, and angels also. It should be impressed upon the minds

of the children that angels are something more than "kind thoughts," and that they do not have wings, notwithstanding pictures of them.

Lessons XII-XV.—No divisions have been made in this beautiful story of Joseph, for the reason that the teachers can make these with better results to their classes; but some fixed points should be chosen at which each of the four lessons might logically stop.

Lesson XVIII.—Comment has already been made on this lesson in the first note to teachers. The central point here is, of course, the manifest care the Lord has over his people or the strange means he adopts to deliver them from bondage. Otherwise there would be no good results derived from some of the very gruesome details of the plagues.

Lesson XX.—The reference here to the word of wisdom is to the promise that the destroying angel shall pass by them who keep this commandment of the Lord, as he did the children of Israel, and not slay them. This opportunity should not be neglected to give the class an understanding of the significance of this allusion.

Lesson XXIII.—Special efforts should be made to impress the children with the importance of respecting sacred places and how they should conduct themselves therein. The actions of some of our young people in this respect are in many instances reprehensible.

INTERMEDIATE GRADE.

Lessons II and III.—Great care should be taken here not to attempt to answer questions on points which the word of the Lord does not make clear. It will be sufficient if you can impress upon the children the fact of our own preexistence and that of our Savior.

Lesson XV.—See note under Lesson XX in the primary grade.

Lesson XI.—We may take this opportunity of pointing out a method of teaching such passages as we have here in the Lord's discourse with the Samaritan woman. The children should be encouraged to *see* as well as to hear. Do they see the well, the woman, Christ? How does each look? How does the country appear to them? And so on. The teacher may here introduce something concerning the customs of the ancient Jews in dress and manners, such, for instance, as may be found in the back of almost any Bible.

ADVANCED DEPARTMENT.

NOTE.—This is probably the most difficult grade to handle, not only because the children here are in a critical stage of their lives, but also because in a great many instances they do not continue long enough in school to get the full benefits of religion class work. The teacher will therefore need to be the more on his guard as to his relations with the class. Here especially should he endeavor by every means possible to win their confidence and love and to induce them to prepare their lessons. It will be noticed that the subjects in this grade are worded in a different way from the wording of those in the other grades—the subjects themselves, especially in the fourth step, appeal more to the judgment of the class. The instructor may in this department make a special effort to awaken and cultivate in the pupils the power of discrimination and comparison, that faculty which is so much neglected and which is more prominent here than at any previous age.

Lesson XXII.—See note on Lesson XIX in the intermediate department.

Lesson XXVI.—Only twenty-six lessons are given here, for the reason that the seventh and eighth grades in so many places do not remain at school the full year. If, however, any further lessons are needed the teacher may turn back to some of the lessons that are large and that he may have gone over hurriedly, or he may review the class.

MEMORY GEMS.

1. Manners maketh the man.
2. True politeness consists in making everyone happy about us.
3. Manners are the shadows of virtues.
4. Love doth not behave itself unseemly.
5. For seldom yet did living creature see
That courtesy and manhood ever disagree.
6. We should not only consider the courtesy we owe to others, but the respect we owe to ourselves.
7. The gift without the giver is bare.
8. The gentleman is always the gentle man.
9. Civility costs nothing and buys everything.
10. A handful of good life is worth a bushel of learning.
11. Where there is no cleanliness there can be no godliness.
12. Make it a point to look as well as you can, even if you know no one will see you.
13. To possess health is to make one feel prepared for any emergency.
14. Industry is the golden key that unlocks the gates of fortune.
15. Resolve to do every day some work that is useful.
16. Economy is the daughter of Prudence, the sister of Temperance, and the mother of Liberty.
17. Wouldst thou shut up the avenues of ill,
Pay every debt as if God wrote the bill.
18. If there were no honesty, it would be invented as a means of getting wealth.
19. Who ever knew Truth put to the worse in a free and open encounter?
20. Time and tide wait for no man.
21. Obedience is the first law of heaven.
22. Not all the names of heroes are to be found in history.
23. Love is the common air of heaven and earth.
24. True charity never opens the heart without at the same time opening the mind.
25. Forgive others often, yourself never.
26. Humanity is never so beautiful as when praying for forgiveness, or else forgiving another.
27. Kind hearts are more than coronets,
And simple faith than Norman blood.
28. I would not enter on my list of friends the man who needlessly sets foot upon a worm.
29. A man that hath friends must show himself friendly.
30. Home is the sacred refuge of our life.

31. Not my country right or wrong, but, if I can help it, she shall never be wrong.

32. Everywhere in life the true question is, not what we say, but what we do.

33. In making others happy, we become happy ourselves.

34. Anyone can pick up courage enough to be heroic for an hour, but to be heroic daily is the test of character.

The CHAIRMAN. Is there anything further, gentlemen?

Mr. TAYLER. Mr. Chairman, we are not able to proceed further this afternoon. A number of witnesses are on the way, and one or two we are not ready to examine; and we have thought that the further examination of Mr. Reynolds was to go on. He was told to return at 2 o'clock, I believe.

The CHAIRMAN. Is Mr. Reynolds in the room?

Mr. VAN COTT. We concluded we had no further cross-examination of him, Mr. Tayler.

Mr. TAYLER. I suggest, then, that we might adjourn for the day, Mr. Chairman.

Mr. WORTHINGTON. He was directed to return, because I had to leave yesterday, Mr. Chairman, and I thought we would have him come back at 2 o'clock to-day, so that if I wanted to cross-examine him any further I might do it. I do not want to cross-examine him any further.

The CHAIRMAN. Do you gentlemen know whether the witness who was ill is able to come over this afternoon?

Mr. RICHARDS. Mr. Chairman, I have not ascertained that fact because during the recess I asked Mr. Tayler if it would inconvenience him to go on with other witnesses this afternoon, and allow me to make that inquiry to-night. He thought he would have plenty of witnesses to occupy the afternoon, and I did not make any more effort in that direction.

The CHAIRMAN. Very well. Counsel will have the witnesses here promptly in the morning so that we can go right on at 10 o'clock.

Mr. TAYLER. We will, of course, if they are here. We have been disappointed in many of the witnesses not reaching here.

The CHAIRMAN. You can not be expected to produce them if they are not here.

The committee will adjourn until to-morrow morning at 10 o'clock.

The committee (at 3 o'clock and 15 minutes p. m.) adjourned until Wednesday, December 14, 1904, at 10 o'clock a. m.

WASHINGTON, D. C., *December 14, 1904.*

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

Present: Senators Burrows (chairman) and Dubois; also Senator Smoot; also Robert W. Tayler, counsel for the protestants; A. S. Worthington and Waldemar Van Cott, counsel for the respondent; and Franklin S. Richards, counsel for certain witnesses.

TESTIMONY OF GEORGE REYNOLDS—Recalled.

The CHAIRMAN. Mr. Tayler, proceed.

Mr. TAYLER. I believe it is desired to recall Mr. Reynolds for a moment.

The CHAIRMAN. Mr. Reynolds will take the stand.

GEORGE REYNOLDS, having been previously sworn, was examined and testified as follows:

Mr. VAN COTT. Mr. Reynolds, do you desire to correct in any particular the testimony that was given by you the other day?

Mr. REYNOLDS. In one place.

Mr. VAN COTT. I call your attention to the stenographer's transcript, and ask you to indicate the page, and to state in what particular you desire to make a correction.

Mr. REYNOLDS. On page 118 of the typewritten copy, in the third line, as it is reported, and which I believe is entirely correct, it reads:

"Under certain circumstances, which I can not explain, the person can even appeal from the presidency of the church to the whole church in conference assembled."

I wish the words "whole church" changed to the words "united quorums of the priesthood."

Mr. VAN COTT. Will you indicate the significance of the change you desire, so far as the meaning is concerned?

Mr. REYNOLDS. The change will be simply that the members of the church will not be present, but the various quorums of the priesthood, from the first presidency.

Mr. VAN COTT. That is all.

Mr. TAYLER. The appeal to which you were referring in your testimony was the appeal that a member of the church had from the finding of the first presidency on some civil action between him and another member of the church?

Mr. REYNOLDS. From any action that came up to the first presidency from the high councils of any stake of Zion. I made no limitation. I know of none.

Mr. TAYLER. Then, of course, it would cover the judgment of the first presidency in respect to any civil action.

Mr. REYNOLDS. What do you mean by civil action, sir?

Mr. TAYLER. That kind of an action or proceeding or contest or controversy to which you referred in your testimony.

Mr. REYNOLDS. Yes, sir; it would—

Mr. TAYLER. Where one member of the church, claiming to have some grievance against another growing out of a debt or other controversy, presents his claim to a bishops' court, and by order of that court the other party is called in and a hearing had?

Mr. REYNOLDS. Yes, sir.

Mr. TAYLER. And the judgment in that case could be appealed from one to another jurisdiction until it reaches the first presidency; and your statement now is that instead of an appeal from the first presidency to the general assembly of the people of the church it is an appeal to the quorums of the priesthood?

Mr. REYNOLDS. To the united quorums of the priesthood.

Mr. TAYLER. What would constitute the united quorum of the priesthood?

Mr. REYNOLDS. I used the word in the plural.

Mr. TAYLER. Well, the united quorums?

Mr. REYNOLDS. That is to say, the first presidency, the twelve apostles, and all the rest of the various quorums, to the deacons.

Mr. TAYLER. Would you be a member of a quorum?

Mr. REYNOLDS. I should be a member of the united quorums.

Mr. TAYLER. By reason of what?

Mr. REYNOLDS. Of my holding the priesthood.

Mr. TAYLER. Your holding the priesthood is not due to the fact that you are secretary—

Mr. REYNOLDS. No, sir.

Mr. TAYLER. Or assistant secretary—

Mr. REYNOLDS. No, sir.

Mr. TAYLER. Of any particular body, but is due to the fact that you have taken or gone into the order of what?

Mr. REYNOLDS. It arises from the fact that I have been ordained to the priesthood and hold in that priesthood the position of one of the first seven presidents of the seventy.

Mr. TAYLER. Exactly. Now, then, all the first presidents of the seventies would be members—

Mr. REYNOLDS. Yes, sir.

Mr. TAYLER. Or a part of these quorums?

Mr. REYNOLDS. The whole of the first seven presidents of the seventy and all the seventy would have a right to be present at that meeting.

Mr. TAYLER. Who else?

Mr. REYNOLDS. Do you wish me to name them all?

Mr. TAYLER. Yes; that is to say, the officers.

Mr. REYNOLDS. The members who would have a right to be present would be all those who had been ordained to any quorum or order in the priesthood; the first presidency, the twelve apostles, the first seven presidents of the seventy, the presiding bishopric, the presiding patriarch, and also all the various members of these quorums—patriarchs, high priests, seventies, elders, priests, teachers, and deacons.

Mr. TAYLER. I think we now understand you, Mr. Reynolds.

Mr. REYNOLDS. Am I excused for the day?

Senator DUBOIS. Are there many of these church trials to settle differences between church members?

Mr. REYNOLDS. No, sir; they are not numerous. As a general thing the teachers in the wards amicably arrange any differences that exist between neighbors.

Senator DUBOIS. The differences are arranged. There are a great many differences which arise between Mormons which are settled by Mormons outside of the courts?

Mr. REYNOLDS. Yes, sir.

Senator DUBOIS. If the teachers in the wards do not settle a difference then it goes higher?

Mr. REYNOLDS. That is correct.

Senator DUBOIS. There is an appeal from one body to another? Is an appeal often taken to the president of the church?

Mr. REYNOLDS. Not very often. It is generally settled by the lower courts.

Senator DUBOIS. It is settled before it gets to the president?

Mr. REYNOLDS. Before it gets to the presidency of the church.

Senator DUBOIS. Will you tell me one single instance where an appeal has ever been taken from the president of the church to the united quorums of the priesthood.

Mr. REYNOLDS. None has taken place since I have been in Utah, to my knowledge.

Senator DUBOIS. Is the fact that an appeal can be taken to the united quorums of the priesthood embraced in a written regulation of your organization?

Mr. REYNOLDS. My understanding is it is so provided for in the standard works of the church.

Senator DUBOIS. Will you kindly, if not now, before you leave, indicate where that can be found—in what work, giving the page, etc.?

Mr. REYNOLDS. I will look it up.

Senator DUBOIS. If you please.

Mr. VAN COTT. Have you had any practical experience in ever serving in any of these courts?

Mr. REYNOLDS. No, sir.

Mr. VAN COTT. From what do you speak in the answers you have given regarding these trials?

Mr. REYNOLDS. I speak from general knowledge.

Mr. VAN COTT. That is, from reading the works of the church?

Mr. REYNOLDS. From reading the works of the church.

Mr. VAN COTT. That is all.

TESTIMONY OF MRS. WILHELMINA C. ELLIS.

Mrs. WILHELMINA C. ELLIS, being duly sworn, was examined and testified as follows:

Mr. TAYLER. You live in Salt Lake City, Mrs. Ellis?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. Were you born there?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. Are you a daughter of Angus Cannon?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. Very early in your life you were married to your cousin, Abraham Cannon, were you not?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. And since his death you have married Mr. Ellis?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. And still live in Salt Lake City where you have always lived?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. How old were you when you married Abraham Cannon?

Mrs. ELLIS. Nineteen.

Mr. TAYLER. You were a plural wife?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. And, I believe, his first plural wife?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. He lived for twenty years or more after he married you. [A pause.] When were you married to him?

Mrs. ELLIS. October 15, 1879.

Mr. TAYLER. 1879?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. And he died in July, 1896?

Mrs. ELLIS. July 19, 1896.

Mr. TAYLER. When did he marry Lillian Hamlin?

Mrs. ELLIS. I do not know the date.

Mr. TAYLER. I do not care about the exact date.

Mrs. ELLIS. After June 12 and before July 2.

Mr. TAYLER. Of what year?

Mrs. ELLIS. 1896.

Mr. TAYLER. He was at that time an apostle?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. One of the twelve?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. About how long had he been an apostle?

Mrs. ELLIS. I do not know exactly; four or five years.

Mr. TAYLER. Did he, before he married Lillian Hamlin, talk to you about it?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. Did he tell you that he was going to marry her?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. How long before the 12th of June did he first talk with you about his marrying Lillian Hamlin?

Mrs. ELLIS. Oh, several weeks.

Mr. TAYLER. At that time he had how many wives?

Mrs. ELLIS. Three.

Mr. TAYLER. He married another after marrying you?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. Did he give any reason why he wished to marry her particularly? [A pause.] Did you understand that Lillian Hamlin had been engaged to be married to Abraham Cannon's brother?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. Who some time before that had died?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. And was that a reason why she felt a desire to marry Abraham Cannon, and he was willing to marry her?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. You learned that from whom—from Mr Cannon?

Mrs. ELLIS. Yes, sir; from him.

Mr. TAYLER. Now, when did you learn that Abraham Cannon had determined to marry Lillian Hamlin—when, with reference to the 12th day of June, 1896? Was it that day?

Mrs. ELLIS. I do not remember. No; it was not that day. That was my daughter's birthday, and he was there, I remember that, on account of her birthday.

Mr. TAYLER. Was it prior to that time?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. A short time only before that?

Mrs. ELLIS. Only a few days.

Mr. TAYLER. Only a few days before that?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. Did you say anything to him in reply to his statement that he was going to marry her?

Mrs. ELLIS. Yes, sir; I told him I did not think he could marry her.

Mr. TAYLER. What did he say to that?

Mrs. ELLIS. He said he could marry her out of the State—out of the United States.

Mr. TAYLER. Did he state with any more particularity where he could marry her, whether in Mexico or Canada or on the high seas?

Mrs. ELLIS. I do not remember that he did. He said they were going—he was going to California on this trip.

Mr. TAYLER. And that he was going to marry her while on that trip?

Mrs. ELLIS. No; I do not think he said that then.

Mr. TAYLER. Not then. Later! Did you see him before he went away?

Mrs. ELLIS. Yes, sir; I saw him the evening he left.

Mr. TAYLER. What conversation did you have with him then about his going away and about his getting married again? What did he say first about going?

Mrs. ELLIS. He told me he was going to marry her for time, and that she would be David's wife for eternity.

Mr. TAYLER. What did you say?

Mrs. ELLIS. I told him if he married her, there being a law against marriages at that time, that I could not, my conscience would not allow me to, live with him when her marriage would not be acknowledged by the church or the land.

Mr. TAYLER. What did he say to that?

Mrs. ELLIS. I do not remember that he made any reply.

Mr. TAYLER. Have you given us, as nearly as you can, the conversation that took place at that time?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. Did he say he was going away that day, or that evening, to California?

Mrs. ELLIS. He told me to pack his grip or his satchel and told me he was going on this trip.

Mr. TAYLER. What did he say about Miss Hamlin?

Mrs. ELLIS. Of course I understood, in fact he said she was going with him and President Smith.

Mr. TAYLER. And President Smith?

Mr. ELLIS. Yes, sir.

Mr. TAYLER. And that they were going to be married?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. When did he come back?

Mrs. ELLIS. As nearly as I can remember, on July 2.

Mr. TAYLER. And when he returned he was very ill?

Mrs. ELLIS. Yes, sir; very.

Mr. TAYLER. And as a result of the illness, died within the next two or three weeks. Is that correct?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. Was he brought to your house?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. When did you first learn, Mrs. Ellis, that he had in fact married Miss Hamlin? Was it immediately after he got back?

Mrs. ELLIS. I think within two weeks.

Mr. TAYLER. Was Miss Hamlin there during his sickness?

Mrs. ELLIS. The last few days. She did not stay—not in my home.

Mr. TAYLER. Did she come with him to the house?

Mrs. ELLIS. No, sir.

Mr. TAYLER. He was brought to your house, and later she came and went, from time to time—

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. Until he died? What did Mr. Cannon say to you shortly before his death about his having married Miss Hamlin?

Mrs. ELLIS. He told me he had married her and asked my forgiveness.

Mr. TAYLER. What else did he say about it?

Mrs. ELLIS. He said he had never had a well day since he had married her. I think it killed him.

Mr. TAYLER. You have stated, have you not, Mrs. Ellis, to several of your relatives and acquaintances in Salt Lake that he also told you that Joseph F. Smith married him?

Mrs. ELLIS. No, sir; I have never said that.

Mr. TAYLER. You have never said that?

Mrs. ELLIS. No, sir; not that he told me.

Mr. TAYLER. You have stated frequently that Joseph F. Smith did marry them?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. But you have not stated that Mr. Cannon——

Mrs. ELLIS. No, sir.

Mr. TAYLER. Stated that he had married them?

Mrs. ELLIS. No, sir.

Mr. TAYLER. Have you any knowledge of the fact that Joseph F. Smith had married them?

Mrs. ELLIS. No, sir.

Mr. TAYLER. That was based solely upon the fact that your husband was an apostle; that he had gone to California for the purpose, among other things, perhaps, of marrying Miss Hamlin; that he was going to marry her on the high seas——

Mr. WORTHINGTON. The witness has not said that Abraham Cannon was going to marry her on the high seas.

Mr. TAYLER. And that Mr. Joseph F. Smith was with them. Is that the only basis of your conclusion?

Mr. WORTHINGTON. I object to that question, because the witness has not said that her husband told her he was going to marry Miss Hamlin on the high seas. The question assumes that he told her so.

The CHAIRMAN. I do not think the witness said that.

Mr. WORTHINGTON. She has not stated that her husband told her that he was going to marry Miss Hamlin on the high seas.

Mr. TAYLER (to the witness). Did your husband tell you where he was married?

Mrs. ELLIS. No, sir.

Mr. TAYLER. Did you not know they were married on the high seas?

Mrs. ELLIS. Only from reports.

Mr. TAYLER. That is not an essential part of the inquiry. [To the witness.] It was an inference from the fact that your husband said he was going to marry her, and went away to California for that purpose, and that Joseph F. Smith went along with them. From that you inferred that Joseph F. Smith had married them?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. I was not seeking to put any unfair question.

The CHAIRMAN. Did your husband tell you who did perform the ceremony?

Mrs. ELLIS. No, sir.

Senator DUBOIS. Have you ever heard it rumored that anybody else than Joseph F. Smith married them?

Mrs. ELLIS. I thought he had married them until he was here last year, or at the last term of Congress.

Mr. TAYLER. Until he testified here in the committee?

Mrs. ELLIS. Yes, sir.

The CHAIRMAN. Excuse me, Mr. Tayler, for interrupting your train of inquiry.

Mr. TAYLER. Certainly. [To the witness.] Did you have any talk with Lillian Hamlin about it?

Mrs. ELLIS. No, sir.

Mr. TAYLER. Do you know who is now the husband of Lillian Hamlin?

Mrs. ELLIS. No, sir; I do not.

Mr. TAYLER. I do not mean to ask you whether you were present at her marriage, if she has been married since the death of Abraham Cannon. But have you not learned, as a family matter, that she has been married since then?

Mrs. ELLIS. No, sir; they never mention her to me.

Mr. TAYLER. Who is George M. Cannon?

Mrs. ELLIS. My brother.

Mr. TAYLER. Where does he live?

Mrs. ELLIS. Forestdale.

Mr. TAYLER. Where is that?

Mrs. ELLIS. It is a suburb of Salt Lake City, three or four miles out.

Mr. TAYLER. You are on pleasant terms with him?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. How many wives has he?

Mrs. ELLIS. One.

Mr. TAYLER. Only one?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. What is his wife's name?

Mrs. ELLIS. Addie Morris Cannon.

Mr. TAYLER. Do you know her sister, Kate?

Mrs. ELLIS. Yes, sir.

Mr. TAYLER. Where does she live?

Mrs. ELLIS. In the Fifteenth ward.

Mr. TAYLER. Is she a married woman?

Mrs. ELLIS. No, sir.

Mr. TAYLER. Has she children?

Mrs. ELLIS. No, sir.

Mr. TAYLER. Who is John M. Cannon?

Mrs. ELLIS. My brother.

Mr. TAYLER. How many wives has he?

Mrs. ELLIS. One.

Mr. TAYLER. What is her name?

Mrs. ELLIS. Zina Bennion Cannon.

Mr. TAYLER. Who is Louis Cannon?

Mrs. ELLIS. My brother.

Mr. TAYLER. Do you know who his wife is?

Mrs. ELLIS. Mary Alice Cannon. He married his cousin.

Mr. TAYLER. Where does he live?

Mrs. ELLIS. In Cannon ward, a suburb of Salt Lake City.

Mr. TAYLER. I think that is all.

Mr. VAN COTT. Mrs. Ellis, did you oppose the marriage of Mr Cannon to Lillian Hamlin?

Mrs. ELLIS. Yes, sir.

Mr. VAN COTT. And would you mind stating the reason why you opposed it?

Mrs. ELLIS. Because I considered that such a marriage could not be since the manifesto.

Mr. VAN COTT. Then when you made your objection Mr. Cannon made the answer that you have given.

Mrs. ELLIS. Yes, sir.

Mr. VAN COTT. When was it that he left to go west?

Mrs. ELLIS. I do not remember the date. It was after the 12th, I said.

Mr. VAN COTT. Of June?

Mrs. ELLIS. Yes, sir.

Mr. VAN COTT. Before he went away, did you push your objections any further?

Mrs. ELLIS. No, sir.

Mr. VAN COTT. Did you make any inquiry as to whether the manifesto really prohibited that kind of a marriage?

Mrs. ELLIS. Yes, sir; I went to President Smith.

Mr. WORTHINGTON. To whom?

Mrs. ELLIS. To President Smith and asked him, not naming the parties, if such a marriage could be, explaining the case, but withholding names.

Mr. VAN COTT. What was his answer?

Mrs. ELLIS. He said it could not be.

Mr. VAN COTT. Now, when you say President Smith, whom do you mean?

Mrs. ELLIS. He was at that time, I believe, Counselor Joseph F. Smith.

Mr. VAN COTT. He was not president of the church at that time?

Mrs. ELLIS. No, sir.

Mr. VAN COTT. Now, Mr. Cannon went away, and you say that on his return he came home ill?

Mrs. ELLIS. Yes, sir.

Mr. VAN COTT. You stated also that you thought that it killed him. What did you mean by that?

Mrs. ELLIS. Well, he said he never had a well day after that. The pain was in his head; in his brain. He was a very conscientious person, and I think it worried him.

Mr. VAN COTT. When you say, Mrs. Ellis, that you think it worried him, I should like you to explain just what you mean by that.

The CHAIRMAN. I should like to have the reporter read the question. The reporter read the question.

Mrs. ELLIS. I only think—of course I do not know his feelings, but I think that he thought that he had broken the law.

Mr. VAN COTT. When you say the law do you mean the statutes of the State, or of the Congress, or do you mean the manifesto?

Mrs. ELLIS. I think the manifesto and law, both.

Mr. VAN COTT. Was this belief of yours confined simply to yourself, or was it general in the family and among his friends?

Mrs. ELLIS. General.

Mr. TAYLER. I think that is about as remote as anything possibly could be.

The CHAIRMAN. The answer is in.

Mr. WORTHINGTON. If we are going to be confined to legal evidence, I do not see how anything that Abraham Cannon said could be evidence against Senator Smoot.

The CHAIRMAN. Proceed. Is there anything further?

Mr. VAN COTT. Yes, one question please. [To the witness:] Did you ever know anything definite at all, more than mere rumor or gossip, to the effect that Joseph F. Smith performed that ceremony?

Mrs. ELLIS. No, sir.

Mr. VAN COTT. You answered Mr. Tayler that you believed up to the time President Smith testified here that he had performed the ceremony. What is the state of your belief since he testified as to whether he performed it?

Mrs. ELLIS. I do not believe he did.

Mr. VAN COTT. You still live in Salt Lake City?

Mrs. ELLIS. Yes, sir.

Mr. VAN COTT. That is all, Mr. Chairman.

The CHAIRMAN. That is all, Mrs. Ellis. Will you gentlemen want this witness any more?

Mr. TAYLER. I would rather she be not excused to-day.

The CHAIRMAN. All right.

PROPOSED RECESS.

Mr. TAYLER. Mr. Chairman, we have a number of very important witnesses who ought to be here by this time, but are not. I do not mean that they ought to be here and have not been found, but I mean witnesses who we supposed would have arrived by this time. They have been summoned. They are not here yet. I think we had better take an adjournment until 2 o'clock or until to-morrow morning. The witnesses are on the way.

The CHAIRMAN. I have had communications from witnesses who have been subpoenaed, saying that they have been delayed by the storm. If you have no other witnesses—

Mr. TAYLER. I have not.

Mr. WORTHINGTON. I want to ask Mr. Wallis a question or two, and perhaps we might take up a little time in that way.

The CHAIRMAN. Proceed, Mr. Worthington.

Mr. WORTHINGTON. Not that I can finish with him now, but I can proceed.

The CHAIRMAN. Let Mr. Wallis take the stand.

TESTIMONY OF J. H. WALLIS, SR.—Recalled.

J. H. WALLIS, Sr., having been previously sworn, was examined and testified as follows:

Mr. WORTHINGTON. Did you reduce to writing at any time the obligations which you have testified here you took on the numerous occasions when you say you went through the endowment ceremony?

Mr. WALLIS. Not the obligations, sir. I did amuse myself in coming here in writing part of the ceremony, but the obligations I did not.

Mr. WORTHINGTON. That part of it you never reduced to writing at all?

Mr. WALLIS. No, sir.

Mr. WORTHINGTON. Did you communicate the substance of it to any person before you took the stand?

Mr. WALLIS. Oh, yes, sir. I have frequently in conversation alluded to that.

Mr. WORTHINGTON. To whom have you communicated it?

Mr. WALLIS. Well, in general conversation; I could not say how many.

Mr. WORTHINGTON. You have told it to lots of people, gentiles and Mormons?

Mr. WALLIS. Yes, sir.

Mr. WORTHINGTON. Out where you live?

Mr. WALLIS. Yes, sir.

Mr. WORTHINGTON. How long ago did you begin telling about this?

Mr. WALLIS. Well, I could not say that, but almost any time the subject of Mormonism came up.

Mr. WORTHINGTON. Have you been telling about this out there for several years?

Mr. WALLIS. Well, no; not for several years.

Mr. WORTHINGTON. Several months?

Mr. WALLIS. Several months.

Mr. WORTHINGTON. A year?

Mr. WALLIS. I dare say; say about the time of the last meeting of this committee.

Mr. WORTHINGTON. You told about it generally to people around there to whom you talked?

Mr. WALLIS. Yes, sir.

Mr. WORTHINGTON. Mormons and gentiles?

Mr. WALLIS. Yes, sir.

Mr. WORTHINGTON. Just what you told here?

Mr. WALLIS. Yes, sir; or words to that effect. I made one slight mistake yesterday.

Mr. WORTHINGTON. I suppose any witness has a right to correct mistakes.

The CHAIRMAN. You can correct it if you desire.

Mr. WALLIS. In repeating the obligation of vengeance I found that I was wrong.

The CHAIRMAN. I can not hear what you say. Please stand up.

Mr. WALLIS. In repeating the obligation of vengeance I find I made a mistake; I was wrong. It should have been "upon this nation." I had it "upon the inhabitants of the earth." It was a mistake on my part.

Mr. WORTHINGTON. When you told it to all of these other people in the last year did you always make that mistake or did you tell it as you have now told it here?

Mr. WALLIS. As I have told it to-day.

Mr. WORTHINGTON. To whom did you tell it out there in that way?

Mr. WALLIS. I should not be so confused in private conversation as I might be here to-day.

Mr. WORTHINGTON. Let the reporter read the answer.

The reporter read the answer.

Mr. WORTHINGTON. My question is to whom did you tell it?

Mr. WALLIS. Do you wish me to identify some one by name?

Mr. WORTHINGTON. Not some one, but everyone you can remember to whom you told it out there, Mormons or gentiles.

Mr. WALLIS. I have spoken to Mr. Owen on the subject.

Mr. WORTHINGTON. Yes, I suppose so. Anybody else?

Mr. WALLIS. I could not call another one by name at the present time. But of course it is rather recent in that case.

Mr. WORTHINGTON. Although you have been telling it for a year, you say, out there to a great many people, you can not give us the name of a single person to whom you told it except that of Mr. Owen?

Mr. WALLIS. No, sir; I do not know that I could. I am not very good at remembering names.

Mr. WORTHINGTON. Did Mr. Owen reduce what you said to writing in your presence?

Mr. WALLIS. Not that I know of.

Mr. WORTHINGTON. How is that?

Mr. WALLIS. I do not remember him having done it.

Mr. WORTHINGTON. Have you signed any statement—

Mr. WALLIS. No, sir.

Mr. WORTHINGTON. Of what you were to testify to?

Mr. WALLIS. No, sir.

Mr. WORTHINGTON. Has any written memorandum of it been shown to you at any time?

Mr. WALLIS. No, sir.

Mr. WORTHINGTON. When did you find out you had made this mistake which you are now correcting?

Mr. WALLIS. On thinking it over last night. I read the paper, and I saw what I had said, and I knew then I was wrong.

Mr. WORTHINGTON. Have you talked with anybody about it since you were on the stand?

Mr. WALLIS. I mentioned it to Mr. Owen when I came in.

Mr. WORTHINGTON. To Mr. Owen. You have not mentioned it to anybody else?

Mr. WALLIS. No, sir.

Mr. WORTHINGTON. That is all we can go on with now, Mr. Chairman.

The CHAIRMAN. I wish to ask a question. You mentioned to Mr. Owen this morning the fact that you had made a mistake?

Mr. WALLIS. Yes, sir.

The CHAIRMAN. Will you repeat now the obligation as you remember it.

Mr. WALLIS. "That you and each of you will never cease to importune High Heaven for vengeance upon this nation for the blood of the prophets who have been slain." That is as near as I can get at it; that is the substance of it.

The CHAIRMAN. Do you gentlemen want this witness any further?

Mr. WORTHINGTON. We may want him. I hope he will not be discharged. Let the stenographer read the obligation.

The reporter read the obligation.

Mr. WORTHINGTON. Was there anything in that obligation about inhabitants?

Mr. TAYLER. That was not all of the answer. Let the entire answer be read.

The reporter read as follows:

"Mr. WALLIS. 'That you and each of you will never cease to importune High Heaven for vengeance upon this nation for the blood of the prophets who have been slain.' That is as near as I can get at it; that is the substance of it."

Mr. WORTHINGTON. Was there anything in that obligation about inhabitants?

Mr. WALLIS. Nothing about inhabitants. I found I was wrong about that?

Mr. WORTHINGTON. Where did you see your testimony?

Mr. WALLIS. In the Star last evening.

Mr. WORTHINGTON. I wish you would think about this a little, and we may ask you later to give us the names of persons in your vicinage to whom you have repeated this obligation, besides Mr. Owen.

Mr. WALLIS. All right; I will see if I can remember them, or some of them.

Mr. WORTHINGTON. Very well. That is all for the present, Mr. Chairman. We do not want this witness discharged.

The CHAIRMAN. You will remain in the city, Mr. Wallis, until you are discharged; and the committee will now take a recess until 2 o'clock, hoping that the witnesses will have arrived by that time.

Thereupon (at 11 o'clock a. m.) the committee took a recess until 2 o'clock p. m.

The committee reassembled at the expiration of the recess.

The CHAIRMAN. Mr. Tayler, who is your next witness?

Mr. TAYLER. August W. Lundstrom.

TESTIMONY OF AUGUST W. LUNDSTROM.

AUGUST W. LUNDSTROM, having been duly sworn, was examined and testified as follows:

Mr. TAYLER. Where do you live?

Mr. LUNDSTROM. Salt Lake City.

Mr. TAYLER. How long have you lived in this country?

Mr. LUNDSTROM. Nearly sixteen years.

Mr. TAYLER. Where were you born?

Mr. LUNDSTROM. In Sweden.

Mr. TAYLER. Were you a Mormon before you came to this country?

Mr. LUNDSTROM. Yes, sir.

Mr. TAYLER. How long a time were you a Mormon in Sweden?

Mr. LUNDSTROM. Six years.

Mr. TAYLER. And when you came to this country did you go directly to Utah?

Mr. LUNDSTROM. Yes, sir.

Mr. TAYLER. And to Salt Lake City?

Mr. LUNDSTROM. No; to Ogden.

Mr. TAYLER. Have you lived anywhere else than in Utah?

Mr. LUNDSTROM. I lived in Idaho six years.

Mr. TAYLER. What part of Idaho?

Mr. LUNDSTROM. Bannock County, at a settlement by the name of Lund.

Mr. TAYLER. How far is that from the Colorado line?

Mr. LUNDSTROM. I beg your pardon, the Utah line?

Mr. TAYLER. I mean the Utah line.

Mr. LUNDSTROM. Sixty miles north.

Mr. TAYLER. What position did you hold in the church at any time?

Mr. LUNDSTROM. I was a missionary before I came to this country, and as such I was an elder. After I came here I had different positions. Among others I was a high priest, acting as bishop's councilor.

Mr. TAYLER. Where were you bishop's councilor?

Mr. LUNDSTROM. In Lund, Idaho.

Mr. TAYLER. Did you have any such position in Utah?

Mr. LUNDSTROM. No, sir; not as bishop's councilor. I had inferior positions there.

Mr. TAYLER. What inferior positions did you have and hold there?

Mr. LUNDSTROM. I was ward teacher and Sunday-school teacher.

Mr. TAYLER. Did you go through the temple?

Mr. LUNDSTROM. Yes, sir.

Mr. TAYLER. Where?

Mr. LUNDSTROM. In Salt Lake City; also in Logan.

Mr. TAYLER. How many times, in all, did you go through that temple, as that process is called?

Mr. LUNDSTROM. Six days, except the one day each time used for baptism. That would be eight days altogether.

Mr. TAYLER. Where did you first go through the temple, at Salt Lake City or at Logan?

Mr. LUNDSTROM. At Salt Lake City.

Mr. TAYLER. How many times in those six days did you go through the separate ceremony called the ceremony of the endowment house, or the endowment ceremony?

Mr. LUNDSTROM. I didn't understand your question.

Mr. TAYLER. Let me direct your attention, say, to the obligations. There are certain obligations taken in these ceremonies, are there not?

Mr. LUNDSTROM. Yes.

Mr. TAYLER. Oaths or obligations?

Mr. LUNDSTROM. Yes.

Mr. TAYLER. There is an obligation of sacrifice, is there?

Mr. WORTHINGTON. I suggest, Mr. Chairman, that the witness should be asked what the ceremony is and should not be told.

Mr. TAYLER. I am not leading the witness at all.

Mr. WORTHINGTON. I think that is very leading, Mr. Tayler.

Mr. TAYLER. I am not trying to do that. I am only desiring to get along as rapidly as possible.

Mr. WORTHINGTON. I object to getting along rapidly by telling the witness the answer that is desired.

The CHAIRMAN. I did not understand Mr. Tayler to state what the answer was.

Mr. TAYLER. I did not, Mr. Chairman, but I would not offend anybody's sensibilities in this respect.

The CHAIRMAN. I understood him to be calling the witness' attention to one obligation if there was any such obligation.

Mr. WORTHINGTON. He did not ask him if there was any such obligation, but said there was.

Mr. TAYLER. Nobody denies that there was such an obligation.

Mr. WORTHINGTON. This witness has not said so.

The CHAIRMAN. You may proceed, Mr. Tayler.

Mr. TAYLER. Do you take an obligation in this ceremony?

Mr. LUNDSTROM. Yes, sir.

Mr. TAYLER. How many times in your presence were these obligations taken?

Mr. LUNDSTROM. Six times.

Mr. TAYLER. Is there an obligation called the obligation of sacrifice?

Mr. LUNDSTROM. Yes, sir.

Mr. TAYLER. Is there an obligation called the obligation of vengeance?

Mr. LUNDSTROM. It is called retribution.

Mr. TAYLER. How many times did you take or hear taken the obligation of sacrifice and the obligation of retribution?

Mr. LUNDSTROM. Six times.

Mr. TAYLER. How long is required for the entire ceremony?

Mr. LUNDSTROM. From six to seven hours, generally. It all depends on the crowd.

Mr. TAYLER. It depends on the number who take it at once?

Mr. LUNDSTROM. Yes.

Mr. TAYLER. How many have you seen going through the ceremony at once; how large a number?

Mr. LUNDSTROM. I couldn't give the number for certain.

Mr. TAYLER. I mean was it large or small? Was it two or twenty or more?

Mr. LUNDSTROM. Between thirty and forty generally in a day.

Mr. TAYLER. When did you go through this ceremony?

Mr. LUNDSTROM. The first time in 1894, in August, and the second time I believe it was in 1898, in Logan.

Mr. TAYLER. And you stated that you went through the ceremony altogether six times. How many times did you go through in Salt Lake in 1894?

Mr. LUNDSTROM. I went through four days, but one day was baptizing.

Mr. TAYLER. But the other ceremony?

Mr. LUNDSTROM. Three days; that is all.

Mr. TAYLER. And at Logan?

Mr. LUNDSTROM. The same.

Mr. TAYLER. At that time did you consider yourself a devout Mormon?

Mr. LUNDSTROM. Yes, sir.

Mr. TAYLER. And this ceremony, to you, was solemn?

Mr. LUNDSTROM. Yes, sir.

Mr. TAYLER. It was so felt by you to be during the entire time that it was carried on?

Mr. LUNDSTROM. Yes, sir.

Mr. TAYLER. At what stage of the ceremony—as to time, I mean—how near an approach to the end of the ceremony did you reach the obligation? When was the first obligation taken?

Mr. LUNDSTROM. The whole proceeding is a series of obligations.

Mr. TAYLER. How many different obligations are taken during the ceremony?

Mr. LUNDSTROM. I can't give you the number now.

Mr. TAYLER. Can you recall what other obligations are taken—I mean by some descriptive word—besides the obligation of sacrifice and of retribution?

Mr. LUNDSTROM. Yes; the law of chastity, and others which I could not recollect just now. I can't remember them all.

Mr. TAYLER. Which came first, the obligation of sacrifice or of retribution; do you remember?

Mr. LUNDSTROM. The law of sacrifice came first.

Mr. TAYLER. Was the obligation of retribution the last of the obligations that you took?

Mr. LUNDSTROM. It was one among the last.

Mr. TAYLER. Can you state verbatim or in substance the obligation of sacrifice?

Mr. LUNDSTROM. Yes, sir.

Mr. TAYLER. You may state what it was as you took it and heard it taken.

Mr. LUNDSTROM. "We and each of us solemnly covenant and promise that we shall sacrifice our time, means, and talents to the upbuilding of the Church of Jesus Christ of Latter Day Saints."

Mr. TAYLER. That is all of it?

Mr. LUNDSTROM. That is all that I can remember verbatim.

Mr. TAYLER. Was there anything more in substance to it?

Mr. LUNDSTROM. Nothing essential.

Mr. TAYLER. Was the obligation of sacrifice, as you have given it to us, taken in the same words in all of the ceremonies that you passed through?

Mr. LUNDSTROM. All the different times, you mean?

Mr. TAYLER. Yes.

Mr. LUNDSTROM. Yes, sir.

Mr. TAYLER. The same in both temples.

Mr. LUNDSTROM. Yes, sir.

Mr. TAYLER. On the different days?

Mr. LUNDSTROM. Yes, sir.

Mr. TAYLER. Can you give us the obligation of retribution?

Mr. LUNDSTROM. I can.

Mr. TAYLER. You may give that.

Mr. LUNDSTROM. "We and each of us solemnly covenant and promise that we shall ask God to avenge the blood of Joseph Smith upon this nation." There is something more added, but that is all I can remember verbatim. That is the essential part.

Mr. TAYLER. What was there left of it? What else?

Mr. LUNDSTROM. It was in regard to teaching our children and children's children to the last generation to the same effect.

Mr. TAYLER. Teach that obligation?

Mr. LUNDSTROM. Teach that obligation.

Mr. TAYLER. Was the obligation taken in both temples in the same words and on all of these days?

Mr. LUNDSTROM. Yes, sir.

Mr. TAYLER. You were, you have stated, at one time a priest and councilor to what—to the stake president?

Mr. LUNDSTROM. No, sir; councilor to the bishop.

Mr. TAYLER. What were your duties and what did you do in the performance of them in your relation as the councilor to the bishop, with the people under him?

Mr. LUNDSTROM. My duty was to preach the gospel, or Mormonism, we meant by the gospel, attend meetings and uphold the priesthood, go to priesthood meetings and take the instructions to the people.

Mr. TAYLER. What else?

Mr. LUNDSTROM. Well, to be assisting the bishop in his office; to be his councilor.

Mr. TAYLER. What did you have to do with the people in respect to temporal affairs as distinguished from spiritual matters?

Mr. LUNDSTROM. Well, of course, to assist the bishop, whose duty it is to receive the tithings, and such other temporal work which is pertaining to the bishop, of course, because the councilor is his assistant.

Mr. TAYLER. What temporal work was associated with the bishop's office besides receiving the tithings?

Mr. LUNDSTROM. Oh, building meetinghouses or anything pertaining to the welfare of the church or of the ward, which occasionally will come up.

Mr. TAYLER. What would you have to do with the personal temporal affairs of your people?

Mr. LUNDSTROM. The personal temporal affairs we had to leave to each individual.

Mr. TAYLER. What is that?

Mr. LUNDSTROM. The personal affairs was left to each individual.

Mr. TAYLER. Did you have any trouble with the church authorities?

Mr. LUNDSTROM. Not exactly any trouble.

Mr. TAYLER. Well, any difference?

Mr. LUNDSTROM. The difference, of course, was because of myself.

Mr. TAYLER. Describe that and tell us all about it.

Mr. LUNDSTROM. I found inconsistencies in the doctrine—changes being made. I had become a Mormon because I thought it was the only true religion. I was sincere as long as I believed it to be the true church and being revealed from God; but when I found changes creeping in—later revelations, as they were called, being open contradictions to former revelations—I began to study a little closer, and in fact I found a weak point in the wall, and when I touched it it became a large enough hole so that I could crawl through. The foundation was not solid, so I left it. My conviction that I had before fell through. Believing sincerely that it was the truth previously, I became just as well convinced after that it was not the truth.

Mr. TAYLER. Did you have any discussion of this subject with any of the authorities of the church?

Mr. LUNDSTROM. Yes.

Mr. TAYLER. With whom?

Mr. LUNDSTROM. Matthias Cowley and Louis S. Pond, especially.

Mr. TAYLER. Matthias Cowley is an apostle, is he?

Mr. LUNDSTROM. He is one of the apostles.

Mr. TAYLER. Will you state what occurred between you and Cowley in this relation?

Mr. WORTHINGTON. One moment. Are we to go into the discussion between a member of the church who is about to leave it and one of the apostles, as affecting Mr. Smoot?

The ACTING CHAIRMAN (Senator Overman). We have been rather liberal here in going into everything.

Mr. WORTHINGTON. It is the rule of the committee, then, that everything may go in?

Mr. TAYLER. I do not want to proceed upon that theory.

Mr. WORTHINGTON. I asked the question in order to know what may be done when our time comes.

Mr. TAYLER. That is all right. We propose to prove by this man the controversy with Apostle Cowley, who for the time being is not

discoverable and the importance of whose position is minimized as a mere apostle; but the discussion which this witness had with Apostle Cowley went to the very heart of this whole business of subordination, absolute control of the church over the mind and the deeds of its members. That was the subject.

Mr. WORTHINGTON. Is it intended to bring the conversation to the knowledge of Senator Smoot?

Mr. TAYLER. No, no. We are proving what it is this church stands for and what it actually does, and if Senator Smoot does not know it let him go on the witness stand and say so.

The ACTING CHAIRMAN. I think it is competent on that line.

Mr. TAYLER. Tell us what occurred between you and Apostle Cowley. What was the nature of the discussion? What was the point of difference? What did he claim was your duty as a Mormon respecting especially the subject of obedience, if he claimed anything or talked anything in that connection?

Mr. LUNDSTROM. Well, at the time the controversy occurred, if a controversy it should be called, it was in regard to certain changes in regard to baptizing—rebaptizing—and at the time we could not agree on the argument. So Cowley, he asked me if I did not believe in the living oracles, and I said “I used to.” He says, “Well, that is the word of God. That is inspiration. That is revelation.” Of course I could not be satisfied with that unless it corresponded with things previously taught. That is the substance of the conversation.

Mr. TAYLER. What did he describe to you by the term “living oracles?”

Mr. LUNDSTROM. Why, he meant the leaders of the church, the president and the apostles.

Mr. TAYLER. What did he say respecting their authority over you?

Mr. LUNDSTROM. How is that?

Mr. TAYLER. What did he say respecting the authority of these living oracles upon you?

Mr. WORTHINGTON. What, if anything.

Mr. TAYLER. I will let you amend the question to that effect. What, if anything, did Apostle Cowley say?

Mr. LUNDSTROM. He said, as I stated, that their word is revelation.

Mr. TAYLER. What revelation?

Mr. LUNDSTROM. The word of the living oracles is revelation; is the same as if God has spoken Himself, or has sent angels. The question was whether God had given any direct revelation since the days of Joseph Smith, and that was the answer I got; and the answer was similar from Louis S. Pond. Of course I was supposed to have taken his word, but I couldn't do that.

Mr. TAYLER. His word about what?

Mr. LUNDSTROM. About the doctrines in question that we were having the controversy over.

Mr. TAYLER. Doctrines that he did not claim were in the written revelations, but were supposed to be new revelations to the oracles of the church. Is that what you mean?

Mr. WORTHINGTON. One moment, Mr. Tayler.

Mr. TAYLER. I am asking if that is what he means.

Mr. WORTHINGTON. You ought to ask him if that is what the man said, not what he means. I object to the question, Mr. Chairman.

Mr. Tayler knows very well that no court of justice would allow that question to be asked. He should inquire what this man said, not whether he did not say so and so.

The CHAIRMAN. Mr. Tayler, I did not understand the question. Did you ask what Mr. Cowley meant?

Mr. VAN COTT. Let us have it read.

The stenographer read as follows:

"Doctrines that he did not claim were in the written revelations, but were supposed to be new revelations to the oracles of the church. Is that what you mean?"

Mr. TAYLER. I think that is a proper question, considering what immediately preceded it.

Mr. WORTHINGTON. Let us have read what preceded it. This witness has not shown the slightest disposition to be unwilling to state the conversation. Sometimes when a witness is unwilling to tell, you may lead him. This witness has not shown any disposition to keep back anything.

Mr. TAYLER. No; this is not a willing witness, Mr. Worthington.

Mr. WORTHINGTON. If he is unwilling he has not shown it.

The CHAIRMAN. If he states what Mr. Cowley said, why is not that sufficient?

Mr. TAYLER. We will see what it is he said before that.

The stenographer read as follows:

"Mr. TAYLER. What, if anything, did Apostle Cowley say?"

"Mr. LUNDSTROM. Well, he said, as I stated, that their word is revelation.

"Mr. TAYLER. What revelation?"

"Mr. LUNDSTROM. The word of the living oracles is revelation, is the same as if God has spoken himself or has sent angels. The question was whether God had given any direct revelation since the days of Joseph Smith, and that was the answer I got; and the answer was similar from Louis S. Pond. Of course I was supposed to have taken his word, but I couldn't do that.

"Mr. TAYLER. His word about what?"

"Mr. LUNDSTROM. About the doctrines in question that we were having the controversy over.

"Mr. TAYLER. Doctrines that he did not claim were in the written revelations, but were supposed to be new revelations to the oracles of the church? Is that what you mean?"

Mr. TAYLER. The Chair will understand that it was the purpose to ascertain whether the discussion arose out of the binding force of the written revelations of the church or out of something that Apostle Cowley claimed were revelations made to him or others who claimed to be the oracles of the church. The question is proper.

Mr. WORTHINGTON. I understand that; but instead of asking the witness what was said, and letting the committee determine whether what he intended was one thing or the other, he put in the question exactly the phraseology he expects the witness to use.

The CHAIRMAN. Your objection is that it is leading?

Mr. WORTHINGTON. It is leading. Let him first ask the witness to state in his own way everything that occurred.

Mr. TAYLER. Were the revelations, whose binding force on you you questioned, revelations appearing in the written works, or revelations which the apostles claimed to have been made to them?

Mr. WORTHINGTON. I make the same objection to that question, and ask that the counsel be confined to asking the witness in the first place, at least, to state the substance of the entire conversation as he recollects it.

The ACTING CHAIRMAN (Senator Overman). The Chair understands he has given the conversation. The witness can not state what Mr. Cowley or anybody else meant; but I think the last question asked is competent.

Mr. TAYLER. Read the question, Mr. Stenographer.

The stenographer read as follows:

"Were the revelations whose binding force on you you questioned revelations appearing in the written works or revelations which the apostles claimed to have been made to them?"

Mr. LUNDSTROM. The standard books of the church are to be followed, but the dead letter is sometimes misleading. Hence the living oracles are supposed to explain and bring the spirit into the word. Hence their word is of greater importance than the written word.

Mr. TAYLER. I think I understand you.

Mr. LUNDSTROM. That is the way I understood it.

Mr. TAYLER. And that is what you were discussing with Apostle Cowley, was it?

Mr. LUNDSTROM. No; the real subject of our conversation pertained to the ordinance of baptism; but of course that was from a scriptural standpoint and from the standard books, and this is the answer he gave me. When I brought up the question how things could be changed, then he drew my attention to the fact that there were living oracles in the church to explain, and their word was the same as if God had spoken.

Mr. TAYLER. I think that is all.

The CHAIRMAN. Do you desire to ask any questions, gentlemen?

Mr. WORTHINGTON. Mr. Chairman, it is manifest in this case, as in the case of Mr. Wallis, that an intelligent cross-examination is impossible without having some time to ascertain a matter as to which we know nothing now, and I would like to defer his cross-examination until to-morrow.

The CHAIRMAN. The cross-examination of some other witness was deferred?

Mr. WORTHINGTON. Yes; Mr. Wallis. We will be ready to go on with his cross-examination in the morning.

The CHAIRMAN. Have you any other witnesses here, Mr. Tayler?

Mr. TAYLER. No, Mr. Chairman; I believe we have nobody here ready to go on with.

The CHAIRMAN. Mr. Lundstrom, I heard your statement as to the obligation taken in the endowment house. Do you understand me?

Mr. LUNDSTROM. No; I don't hear exactly.

The CHAIRMAN. I heard your statement in regard to the obligation taken in the endowment house?

Mr. LUNDSTROM. Yes.

The CHAIRMAN. And you gave that obligation as you now remember it?

Mr. LUNDSTROM. Yes, sir.

The CHAIRMAN. Did you take it more than once?

Mr. LUNDSTROM. Yes, sir; I took it six times.

The CHAIRMAN. Did you hear it administered to others.

Mr. LUNDSTROM. At the same time it was administered to me it was administered to about thirty or forty.

The CHAIRMAN. Thirty or forty each time?

Mr. LUNDSTROM. Each time.

The CHAIRMAN. On six different occasions?

Mr. LUNDSTROM. Yes.

The CHAIRMAN. That is all. You have no other witness, Mr. Tayler?

Mr. TAYLER. No, sir; we have no other here. They were subpoenaed, as the chairman knows, between two and three weeks ago—that is, subpoenas were sent for them. It is possible a witness has just arrived, but I could not examine him without having some conversation with him.

The CHAIRMAN. Mr. Worthington, how is it in regard to the witness who was ill?

Mr. WORTHINGTON. Mr. Richards has seen him and has had some conversation with Mr. Tayler about him, the purport of which was that it might be possible for him to be here to-morrow.

Mr. RICHARDS. His physical condition seems to be considerably improved this morning over what it was when I saw him on Sunday, and I reported that fact to Mr. Tayler.

The CHAIRMAN. It is impossible for him to be here to-day?

Mr. RICHARDS. Yes, sir; and he desires to have the matter go over until to-morrow, to see what his condition is.

The CHAIRMAN. These delays seem unavoidable. The committee is very anxious to get along with the case. We will adjourn until to-morrow morning at 10 o'clock. I hope witnesses will be here so that we can proceed.

The committee (at 3 o'clock p. m.) adjourned until Thursday, December 15, 1904, at 10 o'clock a. m.

WASHINGTON, D. C., *December 15, 1904.*

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

Present: Senators Burrows (chairman), McComas, Dubois and Overman; also Senator Smoot; also R. W. Tayler, counsel for protestants; A. S. Worthington and Waldemar Van Cott, counsel for the respondent; and Franklin S. Richards, counsel for certain witnesses.

The CHAIRMAN. Mr. Worthington, do you wish to cross-examine any of the witnesses?

Mr. WORTHINGTON. Mr. Van Cott wishes to ask a few questions of the witness who was on the stand yesterday afternoon.

The CHAIRMAN. Mr. Lundstrom, will you please take the stand.

TESTIMONY OF AUGUST W. LUNDSTROM—Recalled.

AUGUST W. LUNDSTROM, having been previously sworn, was examined and testified as follows:

Mr. VAN COTT. What age were you when you joined the Mormon Church in Sweden?

Mr. LUNDSTROM. I was 15 years old.

Mr. VAN COTT. Were you a missionary in Sweden?

Mr. LUNDSTROM. Yes, sir.

Mr. VAN COTT. You did some preaching there?

Mr. LUNDSTROM. Yes, sir.

Mr. VAN COTT. What year was it that you joined the church?

Mr. LUNDSTROM. 1888.

Mr. VAN COTT. When did you go to Utah?

Mr. LUNDSTROM. 1889.

Mr. VAN COTT. How long did you stay in Ogden?

Mr. LUNDSTROM. Six months.

Mr. VAN COTT. And then went to Idaho?

Mr. LUNDSTROM. To Salt Lake.

Mr. VAN COTT. How long did you stay there?

Mr. LUNDSTROM. I stayed there until 1895 and went to Idaho.

Mr. VAN COTT. And while you were in Ogden did you hold any ecclesiastical office?

Mr. LUNDSTROM. None of any importance—teacher.

Mr. VAN COTT. Did you in Salt Lake City?

Mr. LUNDSTROM. Yes, sir.

Mr. VAN COTT. What office?

Mr. LUNDSTROM. As a teacher and Sunday school teacher.

Mr. VAN COTT. Up to this time you were quite well versed in the Mormon doctrines, were you?

Mr. LUNDSTROM. Yes, sir.

Mr. VAN COTT. When did you go to Lund, Bannock County, Idaho?

Mr. LUNDSTROM. In 1895.

Mr. VAN COTT. Did you soon become a counselor to the bishop?

Mr. LUNDSTROM. Yes, sir. About five months after I came there the ward was reorganized and I became counselor.

Mr. VAN COTT. How long did you remain?

Mr. LUNDSTROM. Four years.

Mr. VAN COTT. That would be about 1899.

Mr. LUNDSTROM. I was a counselor till 1899.

Mr. VAN COTT. Was there any dissatisfaction on your part with the doctrines of the Mormon Church up to that time?

Mr. LUNDSTROM. Yes, sir; there was.

Mr. VAN COTT. When did it commence?

Mr. LUNDSTROM. In 1898.

Mr. VAN COTT. That was when it first commenced?

Mr. LUNDSTROM. Yes, sir.

Mr. VAN COTT. Just what was your point with Apostle Cowley about that ordinance of rebaptism?

Mr. LUNDSTROM. It was in regard to the discontinuance of rebaptizing, which previously had been customary, when cases came up and rebaptizing was requested by parties; and at that time we received instructions not to rebaptize any more. Hence, that was the first cause for my investigation in the direction which I followed after that.

Mr. VAN COTT. Was that the hole in the wall that you referred to yesterday?

Mr. LUNDSTROM. Yes; the changes taking place in the church, that being one of the changes, and I considered it a weak place in the wall.

Mr. VAN COTT. What was the later revelation that you referred to that was creeping in and was contradictory to former revelations?

Mr. LUNDSTROM. First of all was the manifesto. I considered that a revelation or a word spoken by the living oracle which was in contradiction to the first revelation supposed to have been given to Joseph Smith commanding polygamy.

Mr. VAN COTT. And these differences continued from 1898 until 1899?

Mr. LUNDSTROM. Yes, sir. And it was about two years after I began my investigation, after the doubt had crept into my mind—it took about two years before I left the church.

Mr. VAN COTT. When did you leave it?

Mr. LUNDSTROM. In 1901.

Mr. VAN COTT. Did you then go to Salt Lake?

Mr. LUNDSTROM. Yes, sir.

Mr. VAN COTT. Did you formally leave the church?

Mr. LUNDSTROM. I did.

Mr. VAN COTT. In 1901?

Mr. LUNDSTROM. Yes, sir.

Mr. VAN COTT. In going through the temple at Salt Lake and at Ogden, did you regard it as a huge joke or a vaudeville performance?

Mr. LUNDSTROM. No, sir; I took it very seriously.

Mr. VAN COTT. All the time?

Mr. LUNDSTROM. All the time.

Mr. VAN COTT. Did you ever go through and take endowments for women?

Mr. LUNDSTROM. No, sir.

Mr. VAN COTT. Can a man do that?

Mr. LUNDSTROM. No, sir.

Mr. VAN COTT. I understood you to say that the obligation to which you referred was an obligation of retribution. Is that correct?

Mr. LUNDSTROM. It is termed the law of retribution.

Mr. VAN COTT. Is that obligation that you repeated to Mr. Tayler yesterday more than what is found in Revelations, chapter 6, verse 9?

Mr. LUNDSTROM. Yes; it seems to be more definite.

Mr. VAN COTT. Is the name of Joseph Smith specifically mentioned?

Mr. LUNDSTROM. That is as it appears to my memory.

Mr. VAN COTT. Is it your understanding—

Mr. LUNDSTROM. Yes.

Mr. VAN COTT. Is it your understanding that Joseph Smith was meant, or was his name mentioned in the obligation?

Mr. LUNDSTROM. I believe the name was mentioned.

Mr. VAN COTT. Are you certain?

Mr. LUNDSTROM. Yes; I am.

Mr. VAN COTT. That is all.

Senator DUBOIS. When you were a Mormon in good standing, were you taught obedience to the leaders in temporal affairs as well as spiritual affairs?

Mr. LUNDSTROM. Yes, sir.

Senator DUBOIS. Could you have remained a good Mormon, or a Mormon in thorough fellowship, unless you had accepted the counsel of your superiors in regard to temporal—political—affairs as well as spiritual?

Mr. LUNDSTROM. While I believed in the creed I always consulted the authorities in everything, temporal as well as spiritual; and if I disregarded their counsel I would be considered as weak in the faith, not having the proper confidence in the authorities.

Senator DUBOIS. What impression would it have had upon you—what impression would it have upon Mormons in good standing, for instance—if an apostle of the church who was a Democrat should

address the Mormons on a political proposition from a Democratic standpoint?

Mr. LUNDSTROM. If I was a Republican I would still hold my views, but I should consider it proper to support him just the same, notwithstanding the fact that he had different political views.

Senator DUBOIS. That is all.

Mr. VAN COTT. While you were a member of the Mormon Church did you obey the laws of the land?

Mr. LUNDSTROM. Yes, sir.

Mr. TAYLER. You yesterday, and again to-day, referred to what you call the "law of retribution." It was a vow or obligation taken respecting it at a certain point in the ceremony.

Mr. LUNDSTROM. Yes, sir.

Mr. TAYLER. I want to inquire if at any time afterwards in the ceremony any reference was again made to this law?

Mr. LUNDSTROM. It was; toward the close of the ceremony, in what is called the "order of prayer."

Mr. TAYLER. What was said then?

Mr. LUNDSTROM. The prayer was recited to us and we all repeated it as it was dictated to us, and among other things there was this clause:

"We ask God, the Eternal Father, to avenge the blood of Joseph Smith upon this nation."

Mr. TAYLER. If you can give us all of the prayer that relates to the obligation you had taken—it is brief—I wish you would give it to us.

Mr. LUNDSTROM. I can not give it verbatim, but I can give the substance of it.

Mr. TAYLER. Give the substance.

Mr. LUNDSTROM. "Oh, God! the Eternal Father, we ask Thee to bless Thy church, to bless Thy holy priesthood, and to bless us, and help us that we may be able to keep these covenants which we have made and the obligations which we have entered into this day. We ask Thee to bless all those who help to promote Thy work here upon the earth and that all who raise their hands against Thy church will be accursed. And we ask Thee, God, the Eternal Father, to avenge the blood of Joseph Smith upon this nation."

That is about the substance of it.

The CHAIRMAN. May I ask you who conducted the services of which you speak?

Mr. LUNDSTROM. Men called from time to time to officiate, like on a mission in the Temple, for some period of time.

The CHAIRMAN. Can you name any of them?

Mr. LUNDSTROM. Yes; I can. At the time I went through it was Bishop Romney and Solomon.

The CHAIRMAN. Do you remember anybody else?

Mr. LUNDSTROM. Lorenzo Snow at the time was president of Salt Lake Temple. At the time I went through Logan, Marion Merrill was presiding there and conducted the sealing.

The CHAIRMAN. He was an apostle?

Mr. LUNDSTROM. Yes, sir.

The CHAIRMAN. Did I understand you to say that Mr. Snow conducted the services?

Mr. LUNDSTROM. He was president of the temple, and generally performed the sealing.

The CHAIRMAN. What was his position at that time; was he president?

Mr. LUNDSTROM. He was an apostle then.

The CHAIRMAN. Were the obligations or the covenants which you took attended with any ceremonies?

Mr. LUNDSTROM. The which?

The CHAIRMAN. The obligations to which you have referred. Were they attended with any ceremonies or any special forms?

Mr. LUNDSTROM. I do not quite understand the question.

The CHAIRMAN. I will ask you the direct question. Was the violation of these ordinances or covenants to be followed with any penalty; and if so, what?

Mr. LUNDSTROM. Yes, sir. There are penalties for revealing or violating the covenants entered to.

The CHAIRMAN. State what they are.

Mr. LUNDSTROM. The penalty for revealing the tokens and violating any of the covenants are as follows: The first one is to have the throat cut from ear to ear. That is, we make the request there. I, August, ask that if I ever violate the covenant I entered into this day or reveal these tokens, that my throat be cut from ear to ear.

The CHAIRMAN. Go on. Give the others.

Mr. LUNDSTROM. Another is that I make the request that if I violate the covenant or reveal the tokens that I have my breast cut asunder and my vitals torn out. And the third is that my body be cut asunder and my entrails gushed out, making the same request every time. They are given at intervals, at different times.

The CHAIRMAN. This request was in the first person? [A pause.] State the exact form in which the request was made.

Mr. LUNDSTROM. The oath is dictated by the party officiating and all present. The whole congregation follow and repeat his words and execute the signs as one man.

The CHAIRMAN. And repeating the words, do you use the first person, "I promise?"

Mr. LUNDSTROM. "I;" each for himself.

The CHAIRMAN. What was the date of the last ceremony of that character which you attended?

Mr. LUNDSTROM. That was in 1898, in Logan.

The CHAIRMAN. In 1898?

Mr. LUNDSTROM. Yes, sir.

The CHAIRMAN. In the temple at Logan?

Mr. LUNDSTROM. Yes, sir.

The CHAIRMAN. Who officiated at that time?

Mr. LUNDSTROM. Apostle Merrill; that is, he was president of the temple. I do not know the parties who were assisting him.

The CHAIRMAN. Apostle Merrill?

Mr. LUNDSTROM. Yes, sir,

The CHAIRMAN. Do you know where he is?

Mr. LUNDSTROM. I do not know any more than he used to live in Cache Valley, in Richmond.

The CHAIRMAN. Is he living?

Mr. LUNDSTROM. For all I know. I had not heard of his death before I started on this trip. I heard he was sick.

Mr. WORTHINGTON. He was subpoenaed, and it was reported that he was too ill to come.

The CHAIRMAN. Yes. [To the witness.] Have you stated all the reasons why you withdrew from this organization in 1901?

Mr. LUNDSTROM. I have not; but the main reason, of course, was that I became in doubt of the truthfulness of the doctrine, and I considered that a sufficient reason. Of course, I had many foundations for my doubts.

The CHAIRMAN. But that was the controlling reason? You spoke of the tokens. What do you mean by that—revealing tokens?

Mr. LUNDSTROM. Well, those are certain signs which are customary among secret societies.

The CHAIRMAN. Was this ceremony of such a character as to impress you with the solemnity of it, or was it a joke, as it has been characterized?

Mr. LUNDSTROM. For my part, I took it seriously. I considered it sacred as long as I believed the doctrine to be true.

The CHAIRMAN. That is all.

Mr. VAN COTT. Did you tell any one in Utah about these penalties?

Mr. LUNDSTROM. No, except to refer to them in my lectures occasionally; that is, to refer to some of them in order to illustrate my views on the subject.

Mr. VAN COTT. Lectures against the Mormon Church?

Mr. LUNDSTROM. Yes, sir.

Mr. VAN COTT. And about how many of those lectures did you deliver?

Mr. LUNDSTROM. I delivered four different lectures in Salt Lake, giving the reasons why I left the church. I considered it my duty.

Mr. VAN COTT. Where were they delivered?

Mr. LUNDSTROM. In the Swedish Lutheran Church.

Mr. VAN COTT. In Salt Lake City?

Mr. LUNDSTROM. In Salt Lake City.

Mr. VAN COTT. Those lectures were public, I suppose?

Mr. LUNDSTROM. Yes, sir.

Mr. VAN COTT. Did you refer to these penalties in those lectures?

Mr. LUNDSTROM. I referred to them some.

Mr. VAN COTT. So that people generally who attended the meeting would know about them?

Mr. LUNDSTROM. Yes, sir.

Mr. VAN COTT. About when were those lectures delivered?

Mr. LUNDSTROM. It was in the winter of 1901 and 1902. The first meeting was the 6th of October, 1901.

Mr. VAN COTT. That is all.

Mr. TAYLER. Did you publish in the Swedish tongue an account of these observances and ceremonies?

Mr. LUNDSTROM. Yes.

Mr. TAYLER. About the same time—about 1901 or 1902?

Mr. LUNDSTROM. No; later; a couple of years later.

Senator DUBOIS. Did any Mormon ever protest to you with respect to the accuracy of your description?

Mr. LUNDSTROM. Not the officials, but individuals not knowing the exact condition of the church, not being familiar with them. They used to call me a liar. That was true, in regard to the revelation proposition.

Senator DUBOIS. Did they point out to you any inaccuracy in your statement? Did any Mormon ever tell you where you were inaccurate?

Mr. LUNDSTROM. They have endeavored to.

Senator DUBOIS. And correct you?

Mr. LUNDSTROM. They have endeavored to.

Senator DUBOIS. In writing or in conversation?

Mr. LUNDSTROM. Both in writing and in lectures and in conversation.

Senator DUBOIS. Were those communications signed in their official capacity in any way by anyone connected with the ceremony? Did anyone who conducted the ceremonies object to the inaccuracy and point out to you the misstatements which you made?

Mr. LUNDSTROM. No, sir.

Mr. VAN COTT. About how often was it said to you that you were untruthful?

Mr. LUNDSTROM. I can not say.

Mr. VAN COTT. Many times?

Mr. LUNDSTROM. No; I do not think it has been very many times.

Mr. TAYLER. He did not say he was charged with being untruthful.

Mr. WORTHINGTON. He said he was called a liar.

Mr. TAYLER. I know.

Mr. VAN COTT. Where were the articles that were published circulated?

Mr. LUNDSTROM. In Sweden.

Mr. VAN COTT. Any place else?

Mr. LUNDSTROM. Oh, yes; a little in this country.

Mr. VAN COTT. In Utah?

Mr. LUNDSTROM. Yes, sir.

Mr. VAN COTT. So that they would reach Mormons?

Mr. LUNDSTROM. Yes, sir.

Mr. VAN COTT. Were these penalties indicated in your pamphlet?

Mr. LUNDSTROM. Yes, sir.

Mr. VAN COTT. That would be about 1903 that they were circulated?

Mr. LUNDSTROM. Yes, sir.

Mr. WORTHINGTON. Has your throat ever been cut?

Mr. LUNDSTROM. Not yet.

The CHAIRMAN. You said something about lack of faith in the manifesto. What do you mean by that? You gave that as one of the reasons for severing your connection with the church?

Mr. LUNDSTROM. The reason was this. In the first revelation commanding polygamy, it was stated that anyone to whom it is revealed must obey it or be damned, and now the manifesto doing away with it, I held that God had either changed His mind or else Wilford Woodruff had made a mistake or else the mistake was in the first place, and it made it just as bad one way as the other.

The CHAIRMAN. So that the two revelations got you mixed up somewhat?

Mr. LUNDSTROM. Yes, sir.

Mr. VAN COTT. Did you go into polygamy?

Mr. LUNDSTROM. Yes.

Mr. VAN COTT. Did you?

Mr. LUNDSTROM. Only to a certain extent. I had another wife sealed to me in the temple for eternity; but I only had one wife in this life, but she was sealed to me for life and all eternity, although she was dead when I married her.^a

Mr. VAN COTT. So that as a matter of fact you were never a practical polygamist?

^aSee proceedings at the afternoon session with respect to this answer.

Mr. LUNDSTROM. No, sir.

Mr. VAN COTT. You did not obey the first revelation?

Mr. LUNDSTROM. I did not.

Mr. VAN COTT. And you objected to the second?

Mr. LUNDSTROM. Yes, sir.

The CHAIRMAN. Is there anything further wanted of this witness?

Mr. WORTHINGTON. We should like to have this witness not discharged for the present.

The CHAIRMAN. All right. Mr. Lundstrom, you will remain.

Mr. LUNDSTROM. Very well.

Mr. WORTHINGTON. Mr. Chairman, something was said here, as you will remember, about Mr. Nicholson, who has been subpoenaed here to produce certain records, and there was some question about the state of his health. He is here. I have had some talk with Brother Tayler about it. Mr. Nicholson has produced a record. I have arranged with Mr. Tayler, if the chairman will concur, that the book shall remain in the custody either of Mr. Nicholson or of Mr. Reynolds, to be produced here whenever the counsel or the committee at any time want to have it. But it is to remain nominally in the custody of those parties.

Mr. TAYLER. That is entirely satisfactory, so far as I am concerned. We do not want to take possession of the book, except for the purpose of this examination. I want to put Mr. Nicholson on the stand.

TESTIMONY OF JOHN NICHOLSON.

JOHN NICHOLSON, being duly sworn, was examined, and testified as follows:

Mr. TAYLER. Mr. Nicholson, what official position do you hold in connection with the organization of the Church of Jesus Christ of Latter-Day Saints?

Mr. NICHOLSON. Do you mean what I am employed on?

Mr. TAYLER. Yes.

Mr. NICHOLSON. Chief recorder in the temple.

Mr. TAYLER. As chief recorder in the temple, in a general way, what are your duties?

Mr. NICHOLSON. My duties are to take my part in the recording, and to see that those with me do the same.

Mr. TAYLER. What things are recorded or what transactions are recorded in the books in the temple?

Mr. NICHOLSON. There is a record of all that is done; that is, so far as—

Mr. TAYLER. What is done in the temple? I mean what results are there accomplished?

Mr. NICHOLSON. Marriage is one.

Mr. TAYLER. What else?

Mr. NICHOLSON. There is a process they call the endowment.

Mr. TAYLER. Called endowment?

Mr. NICHOLSON. Yes. Baptism is done.

Mr. TAYLER. Marriages, endowments, and baptisms?

Mr. NICHOLSON. Baptism for the living and the dead; the same with the other.

Mr. TAYLER. What is the purpose of the endowment ceremony;

that is to say, what is its spiritual purpose? Define it. For instance, one ceremony results in marriage, and the baptism results in that which we understand by baptism.

Mr. NICHOLSON. Yes.

Mr. TAYLER. What is the endowment?

Mr. NICHOLSON. The endowment is the placing upon the individual of blessings that will be of benefit to him in this life and in the life of eternity.

Mr. TAYLER. The ceremony of endowment is not essential to membership, is it?

Mr. NICHOLSON. No, because it comes after membership.

Mr. TAYLER. Then it is a kind of a blessing or further sanctification of anybody who receives it?

Mr. NICHOLSON. Yes, sir; that is right.

Mr. TAYLER. That correctly describes it, does it?

Mr. NICHOLSON. Yes.

Mr. TAYLER. It has no special character, like marriage or baptism?

Mr. NICHOLSON. That is correct. There are details in it—

Mr. TAYLER. Of course, I do not care about them. So that one who has taken what we may call the ordinance of endowment, if you name it such, is more thoroughly devoted to the church.

Mr. NICHOLSON. And equipped.

Mr. TAYLER. And equipped. You mean equipped with the knowledge of obedience or by the spirit hand that is laid upon him in connection with it.

Mr. NICHOLSON. It is by the blessings that he receives.

Mr. TAYLER. Are there any other ceremonies that are performed in the temple of which record is kept, or ever was kept?

Mr. NICHOLSON. Any other ceremonies?

Mr. TAYLER. Yes.

Mr. NICHOLSON. Let us see. I will have to think a minute; my memory is not very good.

Mr. TAYLER. Marriage, baptism, and endowments?

Mr. NICHOLSON (after a pause). I can not think of anything else at the present time. If you call again on me, I may have it.

Mr. TAYLER. In the temple, therefore, a record is kept of all persons who are there married, of all persons who are there baptized, and of all persons who there receive their endowments?

Mr. NICHOLSON. Yes.

Mr. TAYLER. And of those records, you are the custodian?

Mr. NICHOLSON. No.

Mr. TAYLER. Who is the custodian of those records?

Mr. NICHOLSON. Well, I could not say. I am simply the chief recorder and look after the work of my assistants and my own.

Mr. TAYLER. You are the chief recorder?

Mr. NICHOLSON. Yes, sir.

Mr. TAYLER. That is to say you are the chief recorder having charge of making the record?

Mr. NICHOLSON. Making the record.

Mr. TAYLER. Of all these?

Mr. NICHOLSON. And, of course, we have the records.

Mr. TAYLER. The records are in your office?

Mr. NICHOLSON. Yes, that is—in the temple; not in the office we use at all, except there is a place for the records to be put.

Mr. TAYLER. If some official of the church for any purpose desired to know when a certain person took his endowments, you would know where to find it?

Mr. NICHOLSON. Yes, sir; that could be found. But unless it is clear that the individual is entitled to it, we do not give it to him.

Mr. TAYLER. I understand that. I say if some official of the church in some official way. You do not freely give out all the knowledge that those records contain?

Mr. NICHOLSON. No, we do not.

Mr. TAYLER. Are there in these books records of all the marriages and baptisms and endowments?

Mr. NICHOLSON. Speaking of my own labors and position, yes. I know nothing about what was before that. I am confining myself to the temple.

Mr. TAYLER. I understand.

The CHAIRMAN. I do not understand and I should like to know right here whether Mr. Nicholson is the keeper of all the records of the temples, or of some one temple?

Mr. TAYLER. I was about to ask him that question.

The CHAIRMAN. Very well.

Mr. TAYLER. Are the records of any other than the Salt Lake temple in your possession, or in that temple?

Mr. NICHOLSON. They are not in my possession, except—

Mr. TAYLER. Are they in that temple?

Mr. NICHOLSON. In the temple there are some, but very little; they are remote.

Mr. TAYLER. What is it?

Mr. NICHOLSON. They are remote; away back; that is, the records are.

Mr. TAYLER. Where are the records of the ceremonies or transactions prior to the opening of the temple?

Mr. NICHOLSON. I do not know where they are. I know where some of them are.

Mr. TAYLER. Where are some of them?

Mr. NICHOLSON. Some of them are in the temple.

Mr. TAYLER. What ones are in the temple?

Mr. NICHOLSON. There are some of various kinds; I could not tell all; but I know that there were some taken there that had been in the Endowment House.

Mr. TAYLER. Have you not had access from time to time to examine the records of marriages and baptisms and endowments covering a great period of years?

Mr. NICHOLSON. Well sometimes people would come who had received the blessings that I have told you of—

Mr. TAYLER. Yes.

Mr. NICHOLSON. Who had forgotten the date and wanted to keep a record of what had been done by themselves, or unto themselves, and I have had them locked up by one of my assistants or myself.

Mr. TAYLER. You find anything that is of record, do you not? If there had been a record made of it you find it?

Mr. NICHOLSON. Well, I do not know. I can not go beyond my position that I hold.

Mr. TAYLER. Who is there beyond you who has custody of the records?

Mr. NICHOLSON. I do not have custody of the records.

Mr. TAYLER. Who does?

Mr. NICHOLSON. Any more than I have to look after them, and see that they are not interfered with and that they are kept in order. That is all.

Mr. TAYLER. So that they are in your possession to that extent?

Mr. NICHOLSON. Yes, to that extent.

Mr. TAYLER. No one else has possession of them to any such extent?

Mr. NICHOLSON. Not any further; that is, that class I refer to; my associates.

Mr. TAYLER. You are responsible for their safekeeping, are you not?

Mr. NICHOLSON. I should say that would be required of me, but it has never been questioned.

Mr. TAYLER. There is not anybody else who is chargeable for their safekeeping?

Mr. NICHOLSON. No. It was never told me——

Mr. TAYLER. Oh, no.

Mr. NICHOLSON. But I was just simply put in the position of chief recorder, and they participate in what I——

Mr. TAYLER. Who participate?

Mr. NICHOLSON. They do what I want them to do.

Mr. TAYLER. Who; your assistants?

Mr. NICHOLSON. Yes; my assistants.

Mr. TAYLER. Of course your assistants do not pretend to do what you do not want them to do?

Mr. NICHOLSON. No.

Mr. TAYLER. You are the chief of that branch and office?

Mr. NICHOLSON. Yes, sir; that is what I am; that is my office.

The CHAIRMAN. These records, I understand, are kept permanently in the temple.

Mr. NICHOLSON. Yes; kept there; quite a number of them are not filled up. They have to be there when a record is to be placed on them.

The CHAIRMAN. They are not removed from the temple and put somewhere else?

Mr. NICHOLSON. Not that I know of. I know of nothing of that kind.

Mr. TAYLER. Do you mean to say that records might be abstracted from your office and you not know it?

Mr. NICHOLSON. No, I do not say that. I know they would not.

Mr. TAYLER. Are all the records there, or under your control there or here, that were ever in your control there?

Mr. NICHOLSON. That are there now?

Mr. TAYLER. Have you the same records now——

Mr. NICHOLSON. We have the records of the marriages, for instance, which are kept there, and others, endowments; we have them.

Mr. TAYLER. Have any of them been taken away from there, or have you all you ever had?

Mr. NICHOLSON. Yes, I have all; that is, from the beginning of the temple opening till I left.

Mr. TAYLER. You do not know where the records of transactions prior to the temple opening are?

Mr. NICHOLSON. I have reason to believe that they were in the endowment house; some of them.

Mr. TAYLER. The endowment house is not now in existence?

Mr. NICHOLSON. No.

Mr. TAYLER. Where are the records of the endowment house?

Mr. NICHOLSON. The records of the endowment house are—some of them, at least—I do not know anything about any more than a number of them that are in the temple.

Mr. TAYLER. Where in the temple?

Mr. NICHOLSON. On the shelves.

Mr. TAYLER. I mean they are not in any place that it is forbidden to you to go. They are along with the other records that you use?

Mr. NICHOLSON. No, not entirely; no.

Mr. TAYLER. Tell us about where they are?

Mr. NICHOLSON. They are not far away.

Mr. TAYLER. They are where you can reach them?

Mr. NICHOLSON. Yes, sir. I have really nothing to do with them except—

Mr. TAYLER. Who does have?

Mr. NICHOLSON. I do not know that there is anybody particularly. They were put there to be placed, because it was the handiest place to put them.

Mr. TAYLER. When you are in your office there is no physical barrier between you and these records of the endowment house?

Mr. NICHOLSON. No; there would be nobody come and kick me out.

The CHAIRMAN. As I understand, you have access to them?

Mr. NICHOLSON. Yes. I can not say otherwise, because I can go right to them. You understand what I mean.

Mr. TAYLER. You say that you give information respecting these records to all persons who are entitled to receive it?

Mr. NICHOLSON. Yes—that is, people whose work it is that has been done. That is the one class to get them.

Mr. TAYLER. Would you refuse to give to a person who had been married in the temple information respecting the date of that marriage as shown by your records?

Mr. NICHOLSON. No; I would not object at all. I have done it.

Mr. TAYLER. I wish you would look at that letter [handing witness letter] and tell me, Mr. Nicholson, if it is yours.

Mr. NICHOLSON (after examining letter). Yes, sir; that is my writing.

Mr. TAYLER. Do you know to what that refers?

Mr. NICHOLSON. No; I can not remember it at all.

Mr. WORTHINGTON. Let me look at the letter.

Mr. TAYLER. Yes [to the witness]. And this letter [handing witness a letter]?

Mr. NICHOLSON (after examining letter). Yes; that is my writing.

Mr. TAYLER. Do you recall anything about the subject of the letter?

Mr. NICHOLSON. I really can not. I do not have any recollection of it.

Mr. TAYLER. Do you remember a request made by a Mrs. Watson for a certificate of her marriage?

Mr. NICHOLSON. No; I do not remember it.

Mr. WORTHINGTON. Let me see the other letter.

Mr. NICHOLSON. I do not remember it, but these are my letters.

Mr. TAYLER. Do you remember that she called upon you?

Mr. NICHOLSON. I can not remember at all. I know one Mrs. Watson, but this is not the one.

Mr. TAYLER. I want to read these two letters, instead of going to

the trouble of having them printed separately, which Mr. Nicholson has identified as having been written by him.

The CHAIRMAN. Proceed.

Mr. WORTHINGTON. What is the pertinency of it?

Mr. TAYLER. I think they disclose their pertinency intrinsically. We may have some other proof to offer about it, and I am going to ask the witness one or two questions about it.

The CHAIRMAN. Go ahead.

Mr. TAYLER. The letter is as follows:

SALT LAKE TEMPLE,
Salt Lake City, Utah, August 31, 1903.

Sister HELEN WATSON.

DEAR SISTER: Before issuing the certificate for which you make application it will be necessary for you to call and see me personally. You can find me at the temple.

Yours, respectfully,

JOHN NICHOLSON.

The CHAIRMAN. What is the date of the letter?

Mr. TAYLER. August 31.

Mr. WORTHINGTON. 1903?

Mr. TAYLER. 1903. The next letter is as follows:

SALT LAKE CITY,
12th September, 1903.

Mrs. HELEN E. WATSON.

DEAR SISTER: After careful consideration of your request I deem it inadvisable to issue the document to which your communication refers.

Yours, respectfully,

JOHN NICHOLSON.

Have you any idea what certificate it was that she wrote about and what document it is that you thought inadvisable to issue?

Mr. NICHOLSON. I have not the slightest idea. I do not recollect.

Mr. TAYLER. Would you have refused to issue to Mrs. Helen E. Watson a certificate of her marriage?

Mr. NICHOLSON. Would I have refused it?

Mr. TAYLER. Yes.

Mr. NICHOLSON. It depends. Is it a marriage?

Mr. TAYLER. Yes.

Mr. NICHOLSON. Marriage? Would I have done it?

Mr. TAYLER. Yes.

Mr. NICHOLSON. I have no recollection of ever doing it.

Mr. TAYLER. I say would you refuse a woman a certificate of her marriage?

Mr. NICHOLSON. I might do it under some conditions, but I can not tell what they might be.

Mr. TAYLER. You can not now conceive of conditions under which you would refuse?

Mr. NICHOLSON. No; I can not.

Mr. TAYLER. You say you might refuse. Could you conceive of a situation that would make it improper or inadvisable for you to issue to a woman a certificate from your records showing that she was married, unless it was that she was crazy, or was persistently asking you for fresh certificates every day, or something of that sort?

Mr. NICHOLSON. I hardly think I would. But I have no conception of it at all.

Mr. TAYLER. You have no notion as to what was the reason which induced you to say to her that you deemed it inadvisable to issue it?

Mr. NICHOLSON. I have not any idea of it. I do not know why it was.

Mr. TAYLER. You were served with a subpoena duces tecum, calling upon you to bring with you—

Mr. WORTHINGTON. He has the subpoena. It had better speak for itself.

Mr. NICHOLSON. I have it in my pocket. I think it is here [producing subpoena].

Mr. TAYLER. Let me see it. [After examining subpoena.] It says:

"All of the temple records in your possession or under your control or of which you are in custody, or over which you have any authority, pertaining or in any manner relating to marriage ceremonies performed in the endowment house and in the temple of the Church of Jesus Christ of Latter Day Saints in the city of Salt Lake, Utah."

Did you bring those records with you?

Mr. NICHOLSON. No, sir; I can not.

Mr. TAYLER. Why not?

Mr. NICHOLSON. I have no authority to do so.

Mr. WORTHINGTON. He does not understand the question fully. He has one of the records right here.

Mr. TAYLER. I understand that. I think he understands the question. The subpoena calls for all the temple records, and he says he did not bring all of the temple records pertaining to that subject. [To the witness.] You did bring one record?

Mr. NICHOLSON. I did bring one record.

Mr. TAYLER. We will speak about that in a moment. But you did not bring all of the records.

Mr. NICHOLSON. I brought one that has one subject.

Mr. WORTHINGTON. The subpoena applies only to records of marriage ceremonies.

Mr. TAYLER. Precisely.

Mr. NICHOLSON. That is the only one I brought.

Mr. TAYLER. Did you bring all of the temple records that are there pertaining or relating in any manner to marriage ceremonies?

Mr. NICHOLSON. This comprehended every one that has been done in the temple.

Mr. TAYLER. Or in the endowment house?

Mr. NICHOLSON. No; I have no control over them whatever, to give any person the records.

Mr. TAYLER. They are there on the shelves, you said, near the place where the other books are?

Mr. NICHOLSON. Yes; but the authority has never been given me to take them out.

Mr. TAYLER. It is there with the others?

Mr. NICHOLSON. With the others?

Mr. TAYLER. Yes.

Mr. NICHOLSON. Well, it is in close proximity to them.

Mr. TAYLER. In whose custody are they?

Mr. NICHOLSON. I really could not say whose custody.

Mr. TAYLER. If I should walk into your office and pass back to the

place where these endowment house records are, of course you would not interfere with my taking them and carrying them away?

Mr. NICHOLSON. I would not?

Mr. TAYLER. Would you?

Mr. NICHOLSON. Certainly I would. I would let you know it pretty sharp, too.

Mr. TAYLER. I have no doubt at all about it. And yet you have not any authority over them or any custody of them.

Mr. NICHOLSON. I would take it. I am right in the temple, and when I see a thing that is not proper I intercede.

Mr. TAYLER. Exactly. I have no doubt at all about it.

Mr. WORTHINGTON. It is a man's duty to prevent the commission of an offense whether he is especially interested or not.

Mr. TAYLER. I think Mr. Nicholson's sense of duty would arise from a higher point of view than that.

Mr. NICHOLSON. Yes, certainly.

Mr. TAYLER. He would do what any of us would do under such circumstances.

Mr. NICHOLSON. That is it.

Mr. TAYLER. What is the book that you brought with you?

Mr. NICHOLSON. The book is the record of every marriage from the opening of the temple on May 23, 1893, to the present.

Mr. TAYLER. Marriages not solemnized in the temple are not recorded—or a record of them is not made—in that book?

Mr. NICHOLSON. Where it is done they have records, I presume. [A pause.] No, it goes into the temple.

Mr. TAYLER. How is it?

Mr. NICHOLSON. It comes into the temple. They have to come there to be married, to be placed on the records we have there.

Mr. TAYLER. To illustrate by a mere example, Mr. Brigham H. Roberts testified that he was married by Daniel H. Wells, at Mr. Wells's son's house, perhaps, some place in the city of Salt Lake. A marriage solemnized in such a place would not be recorded in the temple records?

Mr. NICHOLSON. I think not. I do not know anything about things of that kind.

Mr. TAYLER. What I mean, do you make a record in the temple records of marriages that are solemnized outside of the temple?

Mr. NICHOLSON. No.

Mr. TAYLER. It is only when persons——

Mr. NICHOLSON. That is, it has not come under my observation.

Mr. TAYLER. Your understanding of the record of marriages which is in the temple and in your charge, and of the particular one which you brought with you, is that it contains the record of marriages only of those people who were physically in the temple and there a marriage ceremony was performed between them?

Mr. NICHOLSON. Yes.

Mr. TAYLER. That is your understanding?

Mr. NICHOLSON. Yes. That is what we have in this book and nothing more, that I know of.

Mr. TAYLER. And everybody whose name appears in that book as having been married was married in the temple there?

Mr. NICHOLSON. In the temple, yes. There is no record of it except it is done there, so far as I know.

Mr. TAYLER. I think that is all.

Mr. WORTHINGTON. Mr. Nicholson——

Mr. TAYLER. This book is here for our examination?

Mr. WORTHINGTON. Under the arrangement that has been made and announced.

Mr. TAYLER. Very well.

Mr. WORTHINGTON. Mr. Nicholson, are you in a good state of health now?

Mr. NICHOLSON. No, sir; I have been ill to some extent for about five months.

Mr. WORTHINGTON. Without going into the details, has the illness from which you suffer affected your memory at times?

Mr. NICHOLSON. Yes, sir; particularly my memory. I used to remember everything, nearly.

Mr. WORTHINGTON. You have been asked about the particular case of Mrs. Watson. Do you remember anything about refusing to give a certificate of marriage, which was recorded in the temple, to one of the parties to the marriage on application?

Mr. NICHOLSON. No; I do not remember anything of the kind.

Mr. WORTHINGTON. During your time in the temple, when parties come there to be married, is there anything that you require of them before the ceremony is performed and a record made of it?

Mr. NICHOLSON. We ask them all the details of their situation, and if it is not what is necessary they are not married.

Mr. WORTHINGTON. Let me direct your mind particularly to what I want to get at. Do you have any requisite in reference to a license?

Mr. NICHOLSON. They all have to bring licenses.

Mr. WORTHINGTON. Just explain what you mean by a license.

Mr. NICHOLSON. A license is a legal certificate showing that the persons may be married.

Mr. WORTHINGTON. It is the form of license which, after having been issued and after the marriage has taken place and the certificate filled in, is recorded in the proper probate office?

Mr. NICHOLSON. Yes, sir. There is a duplicate of all that is done in this book.

Mr. WORTHINGTON. So far as you personally know, and so far as you believe, is there any marriage recorded in this book, or has any marriage been performed in the temple since it was opened, except where a license was issued under the law and exhibited to the officials of the temple at the time?

Mr. NICHOLSON. I am satisfied beyond any doubt whatever, because I have never seen it, I have never found it. Every one has had a license—every one.

Mr. WORTHINGTON. You speak of your subordinates. How many of them have to do with the recording of these marriage certificates?

Mr. NICHOLSON. Only one.

Mr. WORTHINGTON. Who is he?

Mr. NICHOLSON. Duncan M. McAllister.

Mr. WORTHINGTON. Has he been there as your assistant during all the time the temple has been in existence?

Mr. NICHOLSON. Yes, sir.

Mr. WORTHINGTON. And has he alone the duty of entering these certificates in the book you have produced?

Mr. NICHOLSON. Yes, sir.

Mr. WORTHINGTON. Is it in the same room you occupy, or is it in an adjoining room?

Mr. NICHOLSON. In the same room.

Mr. WORTHINGTON. Under your supervision?

Mr. NICHOLSON. Under my supervision.

Mr. WORTHINGTON. Are the marriage ceremonies which are performed in the temple for time or for time and eternity only?

Mr. NICHOLSON. Time and eternity.

Mr. WORTHINGTON. Is any marriage ceremony performed there which is for time only?

Mr. NICHOLSON. No; I have not come across anything of the kind at all.

Mr. WORTHINGTON. Have you known or heard of any case since the temple was opened in which there was a marriage ceremony for time and eternity which took place outside of the temple in Salt Lake City?

Mr. NICHOLSON. I do not know anything about matters of that kind.

Mr. WORTHINGTON. Have you known or heard of any such ceremony being performed except at one of the temples?

Mr. NICHOLSON. Only at the temple. I do not know about anything else. I center on that.

Mr. WORTHINGTON. In this book is any record kept of the marriage ceremony itself, what is said at the time of the ceremony?

Mr. NICHOLSON. No, sir.

Mr. WORTHINGTON. That is not a matter of record?

Mr. NICHOLSON. No, sir.

Mr. WORTHINGTON. It appears that the endowment house was taken down in 1890, I believe?

Mr. NICHOLSON. I think that was the time it was taken down.

Mr. WORTHINGTON. It was several years before the temple was opened?

Mr. NICHOLSON. Yes, sir; several years.

Mr. WORTHINGTON. Now, were there any marriages which took place in that jurisdiction for time and eternity during that interval when there was neither an endowment house nor a temple?

Mr. NICHOLSON. I do not know of anything. I had nothing to do with the endowment house whatever.

Mr. WORTHINGTON. I am speaking of the time after the endowment house was taken down and before the temple was opened.

Mr. NICHOLSON. I do not know of anything of that kind that was done. It might have been done, but I knew nothing about it.

Mr. WORTHINGTON. Suppose during those years, from the time the endowment house was taken down until the temple was opened, some of your members in Salt Lake City—a couple—desired to be married for time and eternity. During that time, do you know what was required of them; where they had to go? Do you know whether they had to go to one of the other temples to be married, during that time?

Mr. NICHOLSON. I do not know anything about that.

Mr. WORTHINGTON. You do not?

Mr. NICHOLSON. No.

Senator McCOMAS. Under the rule of your faith, if you could, would you decline to repeat the endowment oath?

Mr. NICHOLSON. Do what?

Senator McCOMAS. Would you decline to repeat the oath in the endowment ceremony?

Mr. NICHOLSON. It is a covenant; yes, sir; I should not repeat it. I would not do it.

Mr. WORTHINGTON. He has not been asked any question on that subject.

Senator McCOMAS. Could you, if you were at liberty, repeat it? I do not ask you to do it.

Mr. NICHOLSON. I could not.

Senator McCOMAS. You could not?

Mr. NICHOLSON. Not at present. I have not fixed it on my memory. It was not necessary.

Mr. WORTHINGTON. We should like to have this witness retire, and Mr. Reynolds, who is here, sort of taking care of him in his illness, will take care of the book.

Mr. TAYLER. Mr. Nicholson, where, for instance, would be the book containing the record of your own marriage?

Mr. NICHOLSON. My own marriage?

Mr. TAYLER. Yes.

Mr. NICHOLSON. That would be in the endowment house; yes.

Mr. TAYLER. Of course it would not be in the endowment house building. There is no such building now, is there?

Mr. NICHOLSON. No; but there was when I was married.

Mr. TAYLER. Yes; I understand. Where is the record now?

Mr. NICHOLSON. I do not know where it is.

Mr. TAYLER. Is it in your office there somewhere with these other records?

Mr. NICHOLSON. It may be, but I have never seen it.

Mr. TAYLER. You have had no occasion to look at it?

Mr. NICHOLSON. No, sir.

Mr. TAYLER. But you presume it is there with the others?

Mr. NICHOLSON. I should say so.

TESTIMONY OF J. H. WALLIS, SR.—Recalled.

J. H. WALLIS, Sr., having previously been sworn, was examined and testified as follows:

Mr. WORTHINGTON. Mr. Wallis, yesterday, when you were leaving the stand, I asked you to see if you could recall the names of any other persons than that of Mr. Owen to whom you had repeated the alleged covenant that you said was taken and the penalty that was prescribed.

Mr. WALLIS. Yes, sir.

Mr. WORTHINGTON. Can you tell me now of any person?

Mr. WALLIS. I had spoken to Doctor Paden, of the Presbyterian Church.

Mr. WORTHINGTON. The Presbyterian Church where?

Mr. WALLIS. Salt Lake City.

Mr. WORTHINGTON. When did you first tell him about it?

Mr. NICHOLSON. I could not inform you a few months back.

Mr. WORTHINGTON. As nearly as you can fix it?

Mr. WALLIS. Two or three months, possibly.

Mr. WORTHINGTON. Did you tell him in substance what you have told us?

Mr. WALLIS. Yes, sir.

Mr. WORTHINGTON. Did you or did he reduce your statement to writing?

Mr. WALLIS. I do not believe he did.

Mr. WORTHINGTON. You did not?

Mr. WALLIS. No, sir; I did not.

Mr. WORTHINGTON. And if he did, you did not see him do it?

Mr. WALLIS. No, sir. If he did, it was after I left him.

Mr. WORTHINGTON. Is that the only name you can recall of persons to whom you made this communication besides Mr. Owen?

Mr. WALLIS. Rev. A. G. Christianson.

Mr. WORTHINGTON. When did you communicate this alleged information to him?

Mr. WALLIS. Somewhere about the same time it would be; about the time that it was talked over last winter's session of this committee.

Mr. WORTHINGTON. Were the two gentlemen together when you made the communication, or did you give it to them at different times and places?

Mr. WALLIS. At different times, and separately.

Mr. WORTHINGTON. Was your statement to Mr. Christianson reduced to writing by you or by him in your presence?

Mr. WALLIS. Neither of us.

Mr. WORTHINGTON. Can you recall anybody else?

Mr. WALLIS. Rev. W. R. Holway.

Mr. WORTHINGTON. When did you make the communication to him?

Mr. WALLIS. All about the same time, sir.

Mr. WORTHINGTON. Can you recall anybody else?

Mr. WALLIS. Yes, sir. I can not, in this instance, give the initials. It was a gentleman by the name of Hedrick, of Salt Lake City.

Mr. WORTHINGTON. What is Mr. Hedrick's business, if he has any?

Mr. WALLIS. He is janitor of the Seventh Day Adventist Church.

Mr. WORTHINGTON. I merely wanted to identify him. When did you make the communication to him?

Mr. WALLIS. All about the same time.

Mr. WORTHINGTON. Can you recall anybody else to whom you gave this information?

Mr. WALLIS. There are one or two belonging to the same church.

Mr. WORTHINGTON. Give us their names.

Mr. WALLIS. I do not know that I can recall their names properly.

Mr. WORTHINGTON. Give us their names as well as you can.

Mr. WALLIS. There were, of course, a quantity more, but those are the only names I have been able to recall.

Mr. WORTHINGTON. As to these ministers to whom you made the communication; did you make to it them more than once?

Mr. WALLIS. Did I what?

Mr. WORTHINGTON. Did you make this revelation more than once?

Mr. WALLIS. I have spoken on the subject a number of times, but I do not know that I went through that ceremony more than once.

Mr. WORTHINGTON. I am asking you only about communications that you made to others with respect to this ceremony.

Mr. WALLIS. I think possibly once in each instance.

Mr. WORTHINGTON. Why was it that you could not remember yesterday the names of any of these gentlemen which you have given to-day?

Mr. WALLIS. I had not studied the matter at all. I did not know that I would be asked such a question.

Mr. WORTHINGTON. As to all of these men you have said that you made the communication a few months ago.

Mr. WALLIS. Yes, sir.

Mr. WORTHINGTON. Yesterday, or the day before, you said you had been telling a great many people about this for nearly a year. Can you remember any of the persons to whom you made the communication longer ago than two or three months?

Mr. WALLIS. No, sir; I can not remember them further back.

Mr. WORTHINGTON. I neglected to ask you the question which I put to another witness. Has your throat ever been cut?

Mr. WALLIS. Well, not yet. I have had one rib broken. I do not know whether that had anything to do with it.

Mr. WORTHINGTON. Had what?

Mr. WALLIS. One rib broken by being knocked down on the main street of Salt Lake City. I do not know whether it had anything to do with it.

Mr. WORTHINGTON. If you have any information on the subject we shall be glad to get it.

Mr. WALLIS. I should have gone into the matter if I had known who he was.

Mr. WORTHINGTON. Have you ever been arrested at any time?

Mr. WALLIS. Been what?

Mr. WORTHINGTON. Been arrested?

Mr. WALLIS. No, sir; not to my memory.

Mr. WORTHINGTON. Do you think you might have forgotten that?

Mr. WALLIS. Hardly.

Mr. WORTHINGTON. I wanted to know. Have you had any difficulty out there with reference to a charge of having set fire to your shop or some building?

Mr. WALLIS. No, sir; never.

Mr. WORTHINGTON. Have you had any difficulty of that kind growing out of a charge that you made against somebody else out there of setting his own place on fire?

Mr. WALLIS. There was a store set on fire in close proximity to me, about the distance of from here to the wall [indicating]. I made no charge.

Mr. WORTHINGTON. You made no charge?

Mr. WALLIS. None at all. My building escaped fire, and so I took no notice of it.

Mr. WORTHINGTON. Did you not charge a man with having set fire to it?

Mr. WALLIS. No, sir; I did not.

Mr. WORTHINGTON. When was the occasion when your rib was broken in Salt Lake City?

Mr. WALLIS. That would be as near twelve months ago as possible.

Mr. WORTHINGTON. You then lived in Salt Lake City?

Mr. WALLIS. Yes, sir; I have lived there since 1893—1892 or 1893.

Mr. WORTHINGTON. Was it daylight or darkness?

Mr. WALLIS. Daylight.

Mr. WORTHINGTON. On the main street?

Mr. WALLIS. On the main street.

Mr. WORTHINGTON. Was it the result of a fall?

Mr. WALLIS. No; it was a blow that I got that altered the shape of my physiognomy for some little time.

Senator McCOMAS. If you intend to refer to it again, I suggest that you give the name of the person against whom he made the charge and to whom, and the time and place, so far as you can and if you can.

Mr. WORTHINGTON. The Senator will perceive that a cross-examination of this kind here, at such distance from the scene, is attended with very great difficulty.

Senator McCOMAS. Certainly.

Mr. WORTHINGTON. I never heard of the man until he was put on the stand.

Senator McCOMAS. You have given all you know about it.

Mr. WORTHINGTON. Yes, sir. [To the witness]. Are you still connected with the Mormon Church?

Mr. WALLIS. Oh, no; at least so far as I know, I am not. I gave notice to the bishop of my withdrawal.

Mr. WORTHINGTON. You gave notice of your withdrawal?

Mr. WALLIS. Yes, sir. I have heard nothing further about it.

Mr. WORTHINGTON. When did you do that?

Mr. WALLIS. That will be over twelve months since. I did not keep any record of the date.

Mr. WORTHINGTON. Was it before or after you began making these revelations about this ceremony?

Mr. WALLIS. It was about the same time, I reckon, that I began talking a good bit about it.

Mr. WORTHINGTON. Was your withdrawal in writing?

Mr. WALLIS. No, sir.

Mr. WORTHINGTON. You just verbally informed the bishop?

Mr. WALLIS. Yes, sir. The bishop met me and asked me the question, and I told him yes, I had withdrawn from all connection with them.

Mr. WORTHINGTON. Is that what you call your withdrawal?

Mr. WALLIS. Yes, sir. He was the bishop and had command of the ward.

Mr. WORTHINGTON. Has the church ever taken any action against you, so far as you know?

Mr. WALLIS. No, sir; not so far as I am aware of.

Mr. WORTHINGTON. Unless that constitutes a withdrawal you are still a member of the church?

Mr. WALLIS. Yes; I suppose my name would still be on the books. I do not know.

Mr. TAYLER. Mr. Wallis, I do not think we understand the matter being brought out. What kind of an assault was it that was made upon you?

Mr. WALLIS. A man struck me with his clenched fist right on the forehead. I was taken home smothered with mud and blood, and knew nothing further about it.

Mr. TAYLER. You do not know who it was that hit you?

Mr. WALLIS. No, sir; I had a suspicion. The policeman said he chased him for about a block, but could not catch him.

Senator McCOMAS. Do you pay your tithes to the church now?

Mr. WALLIS. No, sir.

Senator McCOMAS. Have you any connection with the church?

Mr. WALLIS. No, sir. I have never paid them. That was my actual

withdrawal from the church. I went and paid \$2.75 to the bishop's wife, and I never could get any account of it. I said I would not pay any more.

The CHAIRMAN. My recollection is that you said you regarded this ceremony, which has been described, as a sort of a joke. What was there in it that made you think it was mere play?

Mr. WALLIS. That was hardly the expression I should have used, but I meant I regarded it lightly—that I did not take it during the latter part of the time as being anything rather sacred; and I had a reason for that which caused me first to stop going to the temple. If you do not mind me telling you, as it has not been brought out by the different counsel, I will do so.

I had a disagreement with my second son and I found that Mr. Nicholson had violated the secrecy of the temple by giving him information of all the work I had done, which is supposed to be sacred—all of the endowments, marriages, and everything I had done there. My son used it against me.

The CHAIRMAN. Then when you said you regarded it as a joke you meant by that that it was not sacred?

Mr. WALLIS. I did not regard it as at all sacred. That is my meaning.

Mr. WORTHINGTON. Why did you volunteer the statement that you looked upon it as a vaudeville performance?

Mr. WALLIS. Yes; something of that sort. It is a performance of a sort.

Mr. WORTHINGTON. When you go to see a vaudeville show do you regard it as sacred?

Mr. WALLIS. No, sir; but there is supposed to be something sacred in the covenants of the temple.

Mr. WORTHINGTON. That is what I thought until you spoke.

Mr. TAYLER. You regarded these ceremonies differently during the latter period of time that you were taking them from what you did before in the earlier periods?

Mr. WALLIS. Yes, sir.

Mr. WORTHINGTON. But you kept on taking them. You did not sever your relations with the church until Mr. Nicholson, as you thought, gave out something that you thought he should not have given out?

Mr. WALLIS. That is when I gave it up.

Mr. WORTHINGTON. If he had not, you would be at it still?

Mr. WALLIS. I do not fancy I would, because I had very nearly exhausted the list of parties I had to go through for.

The CHAIRMAN. Is that all?

Mr. TAYLER. I do not know whether the cross-examination of witnesses has been concluded. Is there anybody you want to cross-examine, Mr. Worthington?

Mr. WORTHINGTON. No; we are through.

The CHAIRMAN. Stand aside, Mr. Wallis.

Mr. TAYLER. We are not quite ready to go on now. We should like to look at the record which is here.

Thereupon (at 11 o'clock and 40 minutes a. m.) the committee took a recess until 1.30 o'clock p. m.

The committee reassembled at the expiration of the recess.

Mr. TAYLER. I will ask Mr. Lundstrom to take the stand again.

TESTIMONY OF AUGUST W. LUNDSTROM—Continued.

AUGUST W. LUNDSTROM, having been previously sworn, was examined and testified as follows:

Mr. TAYLER. I desire, Mr. Lundstrom, to have a correct understanding of what you meant to say this morning in connection with your statement that you had married a plural wife. I ask it because the interpretation put upon it by some person who heard it was different from mine. My understanding was that you had married a plural wife, a woman who was dead at the time, and married her for eternity only. Is that correct?

Mr. LUNDSTROM. Yes, sir.

Mr. TAYLER. It was an intelligent newspaper man—and he is not here, so I can not be charged with flattering him—who stated it so differently that I feared I might have misunderstood the statement of the witness.

Mr. LUNDSTROM. I wish to state it is not generally understood to be in marriage. It is not called marriage. It is called sealing.

Mr. TAYLER. Exactly.

Mr. LUNDSTROM. But then it is a wife just the same, and in the marriage formula they are pronounced husband and wife for all eternity.

Mr. TAYLER. Were you sealed to your legal wife in the temple?

Mr. LUNDSTROM. Yes, sir.

Mr. TAYLER. Was that your first marriage to her?

Mr. LUNDSTROM. No; I had been married five years previous to that.

Mr. TAYLER. In this country?

Mr. LUNDSTROM. In this country.

Mr. TAYLER. Where were you first married to her?

Mr. LUNDSTROM. In Salt Lake City.

Mr. TAYLER. And where in Salt Lake City?

Mr. LUNDSTROM. By Acting Bishop A. W. Carlson, of the Nineteenth ward.

Mr. TAYLER. And whereabouts were you married?

Mr. LUNDSTROM. In his residence.

Mr. TAYLER. And some time following that legal marriage you proceeded to be sealed to your wife in the temple?

Mr. LUNDSTROM. Yes, sir; for the next life. It was only a marriage in the first place for this life.

Mr. TAYLER. Were you sealed to her in the temple for time and eternity?

Mr. LUNDSTROM. Yes, sir.

Mr. TAYLER. And when were you sealed to her in the temple?

Mr. LUNDSTROM. It was the first week of August, 1894.

Mr. TAYLER. Did you receive any certificate or memorandum at the time you were sealed to your wife in the temple?

Mr. LUNDSTROM. No, sir; I did not. I had the marriage certificate before.

Mr. TAYLER. A marriage certificate from whom?

Mr. LUNDSTROM. From the county officials and A. W. Carlson, who married us.

Mr. TAYLER. Were there witnesses also whose names were appended to your marriage certificate?

Mr. LUNDSTROM. Yes, sir.

Mr. TAYLER. Who performed or was in charge of the ceremony by which you were sealed to your wife in the temple?

Mr. LUNDSTROM. John R. Winder.

Mr. TAYLER. Was he at that time, as now, a counselor to the president?

Mr. LUNDSTROM. He was at that time counselor to the presiding bishop of the church—Bishop Preston.

The CHAIRMAN. I want to ask one or two questions in reference to the obligations you have testified to. To how many persons, within your knowledge, have these obligations been administered?

Mr. LUNDSTROM. To how many?

The CHAIRMAN. Yes. You have been present on several occasions?

Mr. LUNDSTROM. I can not give the exact number. It would be impossible; but some days it will probably have been over fifty and other times it would be over thirty or forty; but it is all administered to them all at once, the same as to one.

The CHAIRMAN. On how many different occasions have you been present when this obligation was taken?

Mr. LUNDSTROM. Six different times.

The CHAIRMAN. And how many would you say, in your best judgment, this obligation was administered on the six different occasions?

Mr. LUNDSTROM. I judge it would be between 250 and 300 in all.

The CHAIRMAN. Must the endowment obligation be taken by any particular persons in the church? Is it obligatory upon certain persons?

Mr. LUNDSTROM. It is not obligatory, but it is a sign of weakness in the faith if a person neglects going to the temple.

The CHAIRMAN. Is this endowment obligation taken by the officials of the church?

Mr. LUNDSTROM. Yes, I suppose so; because they are supposed to be good in the faith?

The CHAIRMAN. Is it taken by the apostles?

Mr. LUNDSTROM. Yes, sir.

The CHAIRMAN. And the other officials of the church?

Mr. LUNDSTROM. Yes, sir.

The CHAIRMAN. Is the taking of this oath or obligation, which you have described, attended with any ceremonies?

Mr. LUNDSTROM. I did not quite understand.

The CHAIRMAN. Is the taking of this obligation attended with any ceremonies?

Mr. LUNDSTROM. Yes; it is.

The CHAIRMAN. What ceremonies?

Mr. LUNDSTROM. The whole proceeding is a series of ceremonies which I could not describe. It would take a long time to do it, and I do not feel disposed to do so.

The CHAIRMAN. Directing your attention to one portion of the ceremony, if it be a portion of it, can you tell whether any robes are used in the ceremony.

Mr. LUNDSTROM. Yes, sir.

The CHAIRMAN. Are there any marks on these robes, and if so, what?

Mr. LUNDSTROM. Not on the robes.

The CHAIRMAN. On what?

Mr. LUNDSTROM. There are no marks on the robes.

The CHAIRMAN. Are there marks on anything?

Mr. LUNDSTROM. Yes, sir.

The CHAIRMAN. On what?

Mr. LUNDSTROM. There are certain marks on the garment, as it is called—the garment of the holy priesthood.

The CHAIRMAN. What are those marks?

Mr. LUNDSTROM. There are the marks of the holy priesthood or the marks of the temple; supposed to be signs to remind the individual who wears the garment of the covenants he made.

The CHAIRMAN. Would you state about on what portion of the garment these marks appear?

Mr. LUNDSTROM. There is a mark on the right and on the left breast one in front of the navel, and one on the right knee.

The CHAIRMAN. What are the marks? What is the nature of them, as to whether they are rents in the garment?

Mr. LUNDSTROM. The knee mark and the mark in front of the navel is like an ordinary buttonhole; but the mark on the left breast is like a pair of compasses and on the right breast it is like a square.

The CHAIRMAN. Do you know what they signify?

Mr. LUNDSTROM. It was never explained any more than as the marks of the holy priesthood. The same marks are on the curtain in the temple, called the marks of the temple, but it was never explained to me. We were promised to have it explained, but it never was explained to me—any other meaning—but I understood it to be to remind us of the covenants we have made. It was not explained any further.

The CHAIRMAN. Are these garments worn by all who take the obligation?

Mr. LUNDSTROM. Yes, sir; they always wear it.

The CHAIRMAN. They always wear it?

Mr. LUNDSTROM. They shall always wear it.

The CHAIRMAN. What; after the ceremony is over?

Mr. LUNDSTROM. Yes, sir. It is supposed to be a shield against all danger, temporal and spiritual.

The CHAIRMAN. Was there anything in the marking of these garments, as you understood it, to remind you of the obligation you had taken or the penalty which would be inflicted if you violated it?

Mr. LUNDSTROM. Yes, sir.

The CHAIRMAN. What was that?

Mr. LUNDSTROM. The breast marks will naturally remind the person of the penalty for revealing or violating the covenants that he has made by the penalty inflicted on the breast; and the same in the middle of the body.

The CHAIRMAN. And that penalty was what?

Mr. LUNDSTROM. To have the breast cut asunder and the heart and vitals torn out.

The CHAIRMAN. And the significance of the mark over the navel is what? What does that signify?

Mr. LUNDSTROM. That signifies that I ask if I violate these covenants or reveal any of these tokens I shall have my body cut asunder and my entrails gushed out.

The CHAIRMAN. What is the significance of the mark on the knee?

Mr. LUNDSTROM. My intimation was that it was to signify that all knees shall bow.

Senator DUBOIS. You say you are enjoined always to wear these garments?

Mr. LUNDSTROM. Yes, sir.

Senator DUBOIS. Do you mean by that that you shall never take them off?

Mr. LUNDSTROM. Not any longer time than necessary to change and put on clean ones.

Mr. VAN COTT. Mr. Lundstrom, was it ever explained to you what the marks on these garments meant?

Mr. LUNDSTROM. It was not explained to me what they meant.

Mr. VAN COTT. And never has been explained to you?

Mr. LUNDSTROM. No, sir.

Mr. VAN COTT. Why did you answer Senator Burrows, then, and state to him what they do mean?

Mr. LUNDSTROM. Because from the conclusion I draw from other covenants made, which naturally would signify the same.

Mr. VAN COTT. That is, it is an inference of yours that that is what they mean?

Mr. LUNDSTROM. It is an inference to me.

Mr. VAN COTT. But nothing that you were ever told?

Mr. LUNDSTROM. It was not explained at the time.

ADJOURNMENT.

The CHAIRMAN. Have you anything further, Mr. Tayler?

Mr. TAYLER. Mr. Chairman, I would make a suggestion, or, rather, an inquiry, as to what course it would be better for us to pursue. My own opinion is that we probably can make more rapid progress by not continuing to-day with the one witness who is here, who is not fully ready to testify, because he is awaiting some documentary evidence to accompany his statement, which he will have by morning, and another witness, who just arrived, after a very long journey, and with whom I have not talked.

We expect to conclude the testimony, so far as it is to be taken by us, unless the committee should have some other plan, before the Senate adjourns next week; and I suppose the committee are indifferent, largely, to the question as to exactly what days shall be taken, so we get it within that time and not interfere too much with their other engagements and convenience. My suggestion is it would be better, perhaps, to adjourn until to-morrow, but if the committee desire to go on, we can put a witness on and proceed as far and as well as we can with him this afternoon. I doubt whether in the end we will save any time by it.

The CHAIRMAN. Do you anticipate that some of the witnesses will be here in the morning?

Mr. TAYLER. We will be ready to go ahead in the morning, certainly. I do not think there will be any delay when we start to-morrow until we finish.

The CHAIRMAN. And you expect to conclude the testimony that will be offered for the protestants before the adjournment?

Mr. TAYLER. Within the next three or four working days.

The CHAIRMAN. Would it be agreeable to counsel on the other side to adjourn now?

Mr. WORTHINGTON. We are very anxious to go ahead, Mr. Chairman.

Mr. TAYLER. If we had had the witnesses all here, Mr. Chairman, we would have gone right through with the testimony; but, as the chairman and gentlemen interested in the case know, they have been delayed by storms and otherwise and are not here.

The CHAIRMAN. The committee will adjourn until to-morrow morning at 10 o'clock; and, gentlemen, let us be prompt, so that we can put in a full day.

The committee, at 2 p. m., adjourned until Friday, December 16, 1904, at 10 o'clock a. m.

WASHINGTON, D. C., *December 16, 1904.*

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

Present: Senators Burrows (chairman), Foraker, McComas, Dubois, and Overman; also Senator Smoot; also R. W. Tayler, counsel for the protestants; A. S. Worthington and Waldemar Van Cott, counsel for the respondent, and Franklin S. Richards, counsel for certain witnesses.

The CHAIRMAN. Mr. Tayler, who is your next witness?

Mr. TAYLER. Mrs. Annie Elliott.

TESTIMONY OF MRS. ANNIE ELLIOTT.

Mrs. ANNIE ELLIOTT, having been duly sworn, was examined, and testified as follows:

Mr. TAYLER. Where do you live?

Mrs. ELLIOTT. I live at Price, Utah.

Mr. TAYLER. Where were you born?

Mrs. ELLIOTT. In Denmark.

Mr. TAYLER. How old were you when you left Denmark?

Mrs. ELLIOTT. I was born in 1852, and I come to America in 1872.

Mr. TAYLER. Had you been married before you came?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. Were you converted to Mormonism before you left Denmark?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. Did your husband come to this country with you?

Mrs. ELLIOTT. No, sir.

Mr. TAYLER. Did he come later?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. Is he living now—that is, the husband whom you married in Denmark?

Mrs. ELLIOTT. No, sir.

Mr. TAYLER. You lived with him until he died, did you?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. Where did he die?

Mrs. ELLIOTT. Why, in Elsinore.

Mr. TAYLER. In Utah?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. When?

Mrs. ELLIOTT. In 1897.

Mr. TAYLER. Did you, after his death, marry?

Mrs. ELLIOTT. Yes, sir; I married in 1899.

Mr. TAYLER. How long were you in this country before your husband came?

Mrs. ELLIOTT. I was in this country about a year and a half.

Mr. TAYLER. What did you do here after you came and before your husband came over?

Mrs. ELLIOTT. I worked as a cook for Mr. Jensen, in Brigham City.

Mr. TAYLER. Who was he?

Mrs. ELLIOTT. He was a counselor to Lorenzo Snow, and he was also in some business in the United Order at that time. The United Order was an order they had at that time in Brigham City.

Mr. TAYLER. Did he have more wives than one?

Mrs. ELLIOTT. Yes, sir.

Mr. VAN COTT. Who is "he?" Jensen?

Mr. TAYLER. Jensen, of course. When your husband came, where did you live after he came?

Mrs. ELLIOTT. I left Mr. Jensen's and lived with Mr. Hansen, in Brigham City, at the time my husband come.

Mr. TAYLER. Did you live with Mr. Hansen after your husband came to this country?

Mrs. ELLIOTT. A short time; not very long.

Mr. TAYLER. Where then did you and your husband live together?

Mrs. ELLIOTT. Why, we lived in Logan. We went from Brigham City to Logan.

Mr. TAYLER. What did you do at Logan?

Mrs. ELLIOTT. My husband worked at anything he could get there.

Mr. TAYLER. Did you do anything?

Mrs. ELLIOTT. No, I didn't do anything there but take care of my family. I had at that time children.

Mr. TAYLER. You have children, have you?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. How long did you stay in Logan?

Mrs. ELLIOTT. I stayed in Logan eight years.

Mr. TAYLER. Where did you go from Logan?

Mrs. ELLIOTT. To Elsinore, Sevier County.

Mr. TAYLER. How long did you live there?

Mrs. ELLIOTT. I have lived there pretty much for twenty years.

Mr. TAYLER. What did you do at Elsinore?

Mrs. ELLIOTT. I have been a nurse and midwife there for years.

Mr. TAYLER. Did you ever do any work in any of the temples?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. At what temple?

Mrs. ELLIOTT. The first work I done I done in the endowment house; in the old endowment house.

Mr. TAYLER. In Salt Lake City?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. What kind of work did you do there?

Mrs. ELLIOTT. I was sealed to my husband. I went with him and was married there and sealed to him—my first husband. So far as I remember, it was in 1875 or 1876, I am not sure which. I have it down to home, but I didn't bring it.

Mr. TAYLER. Did you go through the endowment house more than this one time?

Mrs. ELLIOTT. Yes, sir; not the endowment house.

Mr. TAYLER. That is what I say—the endowment house.

Mrs. ELLIOTT. No; only the one time.

Mr. TAYLER. Did you take the endowments more than this one time?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. How often?

Mrs. ELLIOTT. Twice more.

Mr. TAYLER. Where?

Mrs. ELLIOTT. In the Salt Lake temple.

Mr. TAYLER. And when?

Mrs. ELLIOTT. I think it was in 1896 and once again in 1897.

Mr. TAYLER. What did you take the endowments for these last times?

Mrs. ELLIOTT. I took the endowment for some dead people; I went through for some dead ladies.

Mr. TAYLER. Were they baptism ceremonies or marriage?

Mrs. ELLIOTT. Both—all through.

Mr. TAYLER. That is, you acted for some dead persons who were being married for eternity to some one?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. Did you take the endowments at any other place than those you have named?

Mrs. ELLIOTT. No, sir.

Mr. TAYLER. Did you do any work at any time in the temple?

Mrs. ELLIOTT. Yes, sir; at the time Logan Temple was dedicated I was, at that time, a teacher in the relief society, and I helped fix it up and put down carpets, and also made some carpets for them. I helped to get it in use.

Mr. TAYLER. What other work did you do, if any?

Mrs. ELLIOTT. I didn't do anything else there.

Mr. TAYLER. Did you ever do any work in the temple at Salt Lake?

Mrs. ELLIOTT. Why, yes; I done what work I told you.

Mr. TAYLER. I mean in the way of—

Mrs. ELLIOTT. Oh, yes; I went to Salt Lake to study again in 1896.

Mr. TAYLER. Do you mean to study for a nurse?

Mrs. ELLIOTT. Yes, sir; for a nurse and midwifery. I went there in the fall and in the summer. I went there and had a blessing pronounced on me, and also went through the temple at the same time, as I told you.

Mr. TAYLER. Did you receive some certificate from any officials respecting your work as a nurse or qualifications as a midwife?

Mrs. ELLIOTT. Yes, sir; I passed through the board in Salt Lake—the medical board—in 1897, I think it was, and got my certificate giving me permission to practice.

Mr. TAYLER. What kind of a medical board?

Mrs. ELLIOTT. It is where the doctors meet and examine us if we are capable to do that work, which was become a law at that time. It was not before.

Mr. TAYLER. That was a public matter, not a church matter.

Mrs. ELLIOTT. Oh, no; no church matter.

Mr. TAYLER. The blessing which you state you have received was in the temple?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. And pronounced by whom; do you remember?

Mrs. ELLIOTT. Why, there was a number of them, but the one that gave me the blessing was Apostle Lyman.

Mr. TAYLER. Did that blessing have anything to do with your employment or work as a nurse and midwife?

Mrs. ELLIOTT. Well, at that time I looked at it like it had a great deal to do. It looked to me like it would help me.

Mr. TAYLER. I do not want to take time with it, but did it make some reference to you as a nurse?

Mrs. ELLIOTT. Yes; it said that I was a nurse and I was capable to do the work, and I was set apart for work in Sevier County.

Mr. WORTHINGTON. By the church?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. Have you the paper that was given to you?

Mrs. ELLIOTT. No, sir; I have not.

Mr. TAYLER. It was the usual blessing that the church, upon request, will give to any suitable member who is engaged in the performance of useful work?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. Did you do any other work in the temple in connection with the temple work?

Mrs. ELLIOTT. Not any more than I have told you.

Mr. TAYLER. I had an impression you had done something about the making of garments.

Mrs. ELLIOTT. Yes. Well, of course I made lots of them to lay the dead people away and also for living people—lots of them. It is a rule there that we that belong to the relief society generally go together and make the clothes and also put them on the way they have to be. I have done that for years.

Mr. TAYLER. Those were the garments that were used in going through the temple or in taking endowments?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. And, as I gather from what you say, the women in the relief societies of the church were in the habit of going to such place as might be provided and making these garments?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. You first went through the endowment house about 1896?

Mrs. ELLIOTT. Yes, sir; in the fall.

Mr. TAYLER. Was that when you were sealed to your husband.

Mrs. ELLIOTT. Yes, sir; we were married what they call for time and eternity.

Mr. TAYLER. Your marriage in Denmark was the ordinary marriage ceremony?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. Such as is performed in that country?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. And this ceremony was to have the sanctity of the church's stamp and approval?

Mrs. ELLIOTT. Yes, sir.

The CHAIRMAN. Mr. Tayler, I want to understand. I understood the witness to say that she took the ceremony in the endowment house in 1896.

Mr. WORTHINGTON. No; the endowment ceremony, but in the temple.

The CHAIRMAN. I understood the witness to say that she went through the endowment house first; in the old endowment house?

Mrs. ELLIOTT. Yes, sir.

The CHAIRMAN. What date was that?

Mrs. ELLIOTT. I can not give you the date exactly, but it was in 1875 or 1876; I don't know for sure.

Mr. VAN COTT. Mr. Tayler, if you will let the stenographer read your question you will find that you mentioned the year 1896.

Mr. TAYLER. I know I did so, but that was a mistake. I will ask a few questions now to clear up the matter.

The fact is that you went through the old endowment house a few years after you came to this country?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. At that time you went through it for the purpose of being sealed to your husband whom you had married in Denmark?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. Then along about twenty years later, along about 1896 or 1897, you took the endowments in the temple in Salt Lake for the purpose of participating in behalf of some dead woman who was being married to some living man for eternity only?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. Or something of that sort?

Mrs. ELLIOTT. Yes, sir.

Mr. WORTHINGTON. She had not said it was a living person.

Mr. TAYLER. I supposed it must be that one of the persons was living. Was one of the persons living?

Mrs. ELLIOTT. There was a man stood beside of me which this woman was sealed to.

Mr. TAYLER. I did not attach especial importance to the particular ceremony except that it was one of those they performed.

Was the ceremony that was conducted when you were sealed to your husband along about 1896 the same practically as that——

Mrs. ELLIOTT. 1876, you mean.

Mr. TAYLER. Yes. Was that the same as those that you went through along in about 1896 or 1897?

Mrs. ELLIOTT. Yes, sir; just the same.

Mr. TAYLER. It took some time to go through them, did it?

Mrs. ELLIOTT. Yes; it took three or four hours. There was a number of people.

Mr. TAYLER. Were there a number of people present each time you went through?

Mrs. ELLIOTT. Yes, sir; there was quite a number of people each time.

Mr. TAYLER. Are you a member of the Mormon church?

Mrs. ELLIOTT. No, sir.

Mr. TAYLER. How long since you went out of it?

Mrs. ELLIOTT. About 1897.

Mr. TAYLER. In taking these endowments you were robed in some particular way, were you?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. And you passed through several different kinds of ceremonies?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. During the time it lasted?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. And as the ceremony went on——

Mr. WORTHINGTON. Do you not think it would be fair to let this witness state what took place instead of your putting the ceremony in your own way and having her say yes?

Mr. TAYLER. No; I do not.

The CHAIRMAN. Mr. Tayler has not asked the witness what the ceremony was.

Mr. WORTHINGTON. No; he is stating the ceremony in his own way and asking her if that is not so.

Mr. TAYLER. I do not care to have this witness go through a three-hour ceremony, and I do not think it would help this case for her to do so at all. I am not undertaking to lead, but only to eliminate a large part of the ceremony which I think it would not be profitable or necessary to go over. I am not wanting to do anything except to get that which is salient.

As the ceremony went on were there different obligations taken?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. Do you remember what was the first one that was taken?

Mrs. ELLIOTT. I think I do, but I don't know if I am capable of speaking it.

Mr. TAYLER. Well, whatever you can remember about the first one, Mrs. Elliott, or any of them that you remember. I do not care what it was.

The CHAIRMAN. Take your own time, Mrs. Elliott. Do not be embarrassed.

Mrs. ELLIOTT. The first one was, when we come to a certain place, if we didn't want to go any further and take those oaths it was to turn back and go out.

Mr. TAYLER. That was after you had gone on for some time, was it?

Mrs. ELLIOTT. Yes; a short time.

Mr. TAYLER. Then what is the next thing that you remember about that?

Mrs. ELLIOTT. It was where we took the oaths then, which I think it is very embarrassing for me to say them.

Mr. TAYLER. Tell us what you remember.

Mrs. ELLIOTT. One, I remember, they told me to pray and never cease to pray to get revenge on the blood of the prophets on this nation, and also teach it to my children and children's children.

Mr. TAYLER. Was there any other obligation?

Mrs. ELLIOTT. Yes; there was some more.

Mr. TAYLER. Will you state what you remember?

Mrs. ELLIOTT. Well, it was that if I ever revealed anything what was done in there, I was to have my throat cut from ear to ear and tear out my tongue by the roots. That was one of them.

Mr. TAYLER. Anything else that you remember?

Mrs. ELLIOTT. Yes; there is some more.

Mr. TAYLER. State them, if you can.

Mrs. ELLIOTT. I do not feel like I can. I think it was at that time too serious, and I have always thought I would put it away and never mention it, and it seems like it is hard for me to do it. Of course, if I have to, I can,

The CHAIRMAN. Of course, witness, it is hard and difficult, but state it in your own way the substance of what you remember.

Mrs. ELLIOTT. Well, it was also at a certain place that if I revealed anything my breast would be cut open and my vitals would be torn out, and another place that my abdomen would be torn open and the entrails squirt out.

Mr. TAYLER. Do you remember anything of an obligation or oath of sacrifice, Mrs. Elliott?

Mrs. ELLIOTT. Yes, sir; that we was to sacrifice all we owned if it was called for.

Mr. TAYLER. To what?

Mrs. ELLIOTT. To the church.

Mr. TAYLER. I think that is all.

The CHAIRMAN. Mrs. Elliott, this endowment ceremony in 1896 was like the one in 1876?

Mrs. ELLIOTT. Yes, sir.

The CHAIRMAN. Was there any change?

Mrs. ELLIOTT. No, sir.

The CHAIRMAN. How many were present or went through the endowment house?

Mrs. ELLIOTT. Why, there must have been about fifty. I don't know the number exactly, but I should judge about fifty.

The CHAIRMAN. And in 1896?

Mrs. ELLIOTT. There was more in 1896 than there was in 1876.

The CHAIRMAN. You mean in 1876 there were about fifty, you think?

Mrs. ELLIOTT. Yes, sir; it was very crowded.

The CHAIRMAN. And in 1896 how many?

Mrs. ELLIOTT. I think there must have been up to a hundred. There was a large crowd.

The CHAIRMAN. Did all those present at the time take this obligation of which you speak?

Mrs. ELLIOTT. Yes, sir.

The CHAIRMAN. How was it taken? I wish to know whether you were standing together, or kneeling, or how.

Mrs. ELLIOTT. We were standing, taking it by a certain sign.

The CHAIRMAN. Doing what?

Mrs. ELLIOTT. We had a certain sign by the hands, and showed that we were taking the oath.

The CHAIRMAN. And there were about a hundred, you think?

Mrs. ELLIOTT. Yes, sir.

Senator DUBOIS. Do all Mormons in good standing take these ceremonies; do you know?

Mrs. ELLIOTT. Yes, sir.

Mr. TAYLER. Have you any recollection of anything in the ceremony of an obligation respecting obedience?

Mrs. ELLIOTT. Yes. I have a recollection of it, but I couldn't say how it was worded.

Mr. TAYLER. What was the substance of it?

Mrs. ELLIOTT. I couldn't remember it exactly. I will have to be excused for it.

Mr. TAYLER. Was it an obligation, or was it a preaching or statement by some person who was in charge of the work?

Mrs. ELLIOTT. Yes; there was some speaking to the people going through—one person speaking to them.

Mr. TAYLER. Was this matter relating to obedience something that was said by some one to you?

Mrs. ELLIOTT. Yes; it related to obedience a good many places when we went through, which I can't explain.

Mr. TAYLER. Obedience to what?

Mrs. ELLIOTT. Why, to the priesthood.

Mr. WORTHINGTON. Mrs. Elliott, when was it that you last married?

Mrs. ELLIOTT. I married in 1899.

Mr. WORTHINGTON. What is your husband's full name?

Mrs. ELLIOTT. David H. Elliott.

Mr. WORTHINGTON. He lives where?

Mrs. ELLIOTT. In Price.

Mr. WORTHINGTON. What is his business?

Mrs. ELLIOTT. Liveryman.

Mr. WORTHINGTON. Is he a Mormon?

Mrs. ELLIOTT. No, sir.

Mr. WORTHINGTON. When did you cease to be a member of the Mormon Church?

Mrs. ELLIOTT. About 1897 or 1898—the beginning of 1898, some time.

Mr. WORTHINGTON. In what way was your connection with the church terminated?

Mrs. ELLIOTT. Before, do you mean?

Mr. WORTHINGTON. I say in what way did you cease to be a Mormon? Did you withdraw or were you excommunicated?

Mrs. ELLIOTT. No, sir; I withdrew from the church.

Mr. WORTHINGTON. Was that withdrawal in writing or merely a verbal communication?

Mrs. ELLIOTT. I went to the bishop at Elsinore and told him I didn't think I cared to be a member any longer.

Mr. WORTHINGTON. What time in 1897 was that?

Mrs. ELLIOTT. I think it was in the spring.

Mr. WORTHINGTON. Was it before or after the death of your first husband?

Mrs. ELLIOTT. Why, it was after.

Mr. WORTHINGTON. What time in 1897 did he die?

Mrs. ELLIOTT. He died in October.

Mr. WORTHINGTON. I understood you to say just now that you told the bishop you were going to withdraw in the spring.

Mrs. ELLIOTT. Well, then it was next spring again.

Mr. WORTHINGTON. Which was it now, the spring of 1896 or 1897?

Mrs. ELLIOTT. 1897, I think it was.

Mr. WORTHINGTON. Who was the bishop?

Mrs. ELLIOTT. Bishop Jensen.

Mr. WORTHINGTON. Up to that time had you been a faithful member of the Mormon Church?

Mrs. ELLIOTT. Yes, sir.

Mr. WORTHINGTON. What was it that brought your change of mind?

Mrs. ELLIOTT. Oh, I come in contact with people and got a look into it and decided that it was not what I thought it was.

Mr. WORTHINGTON. Did these obligations you say you have taken have anything to do with your leaving the church?

Mrs. ELLIOTT. Well, I looked at it and I studied over it a great deal, and thought, "Well, it is kind of an odd affair," and I wondered that I had not seen it before.

Mr. WORTHINGTON. I ask you whether these obligations you say you had taken had anything to do with inducing you to leave the church?

Mrs. ELLIOTT. In a certain way they had.

Mr. WORTHINGTON. And had you had any trouble about those obligations from 1876 to 1896? Had they troubled you at all?

Mrs. ELLIOTT. At times I thought of it—about some of the oaths I had taken, and like this; but they didn't seem to trouble me a great deal.

Mr. WORTHINGTON. When did it begin to trouble you first?

Mrs. ELLIOTT. I think it began to trouble me a short time after I went through the temple the last time, in 1897.

Mr. WORTHINGTON. Your first husband was a Mormon, was he not?

Mrs. ELLIOTT. Yes, sir.

Mr. WORTHINGTON. Did he go through any of these ceremonies with you?

Mrs. ELLIOTT. No, sir; not all of them. I was alone.

Mr. WORTHINGTON. When did you first tell anybody about these obligations?

Mrs. ELLIOTT. It was last summer.

Mr. WORTHINGTON. To whom did you tell the story first?

Mrs. ELLIOTT. To Reverend Kinney, I think he is. He is a reverend in the Baptist Church.

Mr. WORTHINGTON. And where does he live?

Mrs. ELLIOTT. I don't know exactly where he lives; but he visits our place frequently.

Mr. WORTHINGTON. How did you come to talk to him about the matter?

Mrs. ELLIOTT. Why, he come to talk to me. I began to visit his church, and he come to talk to me, and I explained the feelings to him as I had.

Mr. WORTHINGTON. Did you join his church?

Mrs. ELLIOTT. No, sir.

Mr. WORTHINGTON. Was there any person present except him when you told him about these things?

Mrs. ELLIOTT. No, sir.

Mr. WORTHINGTON. About these obligations?

Mrs. ELLIOTT. No, sir.

Mr. WORTHINGTON. Did you tell him in substance what you have testified to here to-day?

Mrs. ELLIOTT. No; I didn't tell him anything particular like that. I told him some few things about those questions, and he asked me some few things, and I said that I felt like I had a burden on me. I didn't know what it was. But he talked to me a while then, and I then told him about things. He is the only one I ever spoke to about it.

Mr. WORTHINGTON. Did you tell him about this business of avenging the blood of the prophet on this nation?

Mrs. ELLIOTT. No; I don't believe I did.

Mr. WORTHINGTON. Did you tell him about the penalty of having the throat cut and the body opened, and so on?

Mrs. ELLIOTT. No, sir; I did not.

Mr. WORTHINGTON. I want to know when you first told anybody about those things.

Mrs. ELLIOTT. I haven't told anybody about it. I haven't even told my husband.

Mr. WORTHINGTON. You have not told anybody about it?

Mrs. ELLIOTT. No, sir.

Mr. WORTHINGTON. Up to the time you got on the stand?

Mrs. ELLIOTT. No, sir.

Mr. WORTHINGTON. When Mr. Tayler put you on the stand, so far as you know, he did not know what you would say?

Mrs. ELLIOTT. No, sir.

Mr. WORTHINGTON. If Mr. Tayler had a written memorandum, asking you questions from it, you do not know then how he came to know what you would say?

Mrs. ELLIOTT. No, sir; I do not.

Mr. WORTHINGTON. Do you know Mr. Owen, sitting behind Mr. Tayler?

Mrs. ELLIOTT. No, sir; I don't know Mr. Owen. I have never met him.

Mr. TAYLER. You never saw him?

Mrs. ELLIOTT. No, sir.

Mr. WORTHINGTON. When did you get here

Mrs. ELLIOTT. I got here yesterday.

Mr. WORTHINGTON. What time?

Mrs. ELLIOTT. I got here about 10 o'clock yesterday forenoon—right here in this room, right from the depot.

Mr. WORTHINGTON. Did anybody meet you to bring you up here?

Mrs. ELLIOTT. No, sir.

Mr. WORTHINGTON. How did you know your way?

Mrs. ELLIOTT. I had my subpoena, and I asked the way to this place. I never talked to anybody.

Mr. WORTHINGTON. Did you get up here while we were taking testimony yesterday?

Mrs. ELLIOTT. I got up here yesterday just as you were opening the court.

Mr. WORTHINGTON. Did you get here before the recess? You know we took a recess yesterday from a little before 12 until half past 1.

Mrs. ELLIOTT. Yes, sir.

Mr. WORTHINGTON. You were here before that?

Mrs. ELLIOTT. Yes, sir.

Mr. WORTHINGTON. Where did you go during the recess?

Mrs. ELLIOTT. I went down to ask to get a room—some place to stop.

Mr. WORTHINGTON. Whom did you ask?

Mrs. ELLIOTT. I asked a lady here. I don't know where she is now, but she was a stranger to me.

Mr. WORTHINGTON. Where did you go?

Mrs. ELLIOTT. I went to a room down on—well, I can't tell you exactly where it is, but I can find the place. It is not very far from here.

Mr. WORTHINGTON. Are you stopping there now?

Mrs. ELLIOTT. Yes, sir; alone in a room.

Mr. WORTHINGTON. Did you come up here again yesterday afternoon?

Mrs. ELLIOTT. Yes, sir.

Mr. WORTHINGTON. And after the session was over where did you go?

Mrs. ELLIOTT. I went to my room.

Mr. WORTHINGTON. Did anybody go with you?

Mrs. ELLIOTT. No, sir.

Mr. WORTHINGTON. After the session was over yesterday, did you see anybody connected with this case at all?

Mrs. ELLIOTT. No, sir.

Mr. WORTHINGTON. Nobody came to ask you what you would testify to?

Mrs. ELLIOTT. No, sir; I went to bed early, and I got up this morning and came here.

Mr. WORTHINGTON. And you never told anybody about this matter of taking an obligation to avenge the blood of the prophet on this nation?

Mrs. ELLIOTT. No, sir.

Mr. WORTHINGTON. Until you told it just there in that chair a little while ago?

Mrs. ELLIOTT. No, sir.

Mr. WORTHINGTON. You are positive of that?

Mrs. ELLIOTT. Yes, sir.

Mr. WORTHINGTON. You never told anybody about the matter of the penalties of cutting the throat and opening the body and so on until you told it to-day?

Mrs. ELLIOTT. No, sir; I never did.

Mr. WORTHINGTON. If Mr. Tayler has a memorandum of what you would testify to and was asking you questions from it, you do not know where it came from or how he came to know it?

Mrs. ELLIOTT. No; I do not.

Mr. WORTHINGTON. You never told him?

Mrs. ELLIOTT. No; I never told anybody.

Mr. WORTHINGTON. And that is just as true as anything you have told on this stand, is it?

Mrs. ELLIOTT. Yes, sir; I considered I had put it away and never mentioned it.

Mr. WORTHINGTON. Have you joined any church at all?

Mrs. ELLIOTT. No, sir.

Mr. WORTHINGTON. You say all Mormons in good standing go through this same ceremony. You do not know anything about that except that a number have gone through when you did, do you?

Mrs. ELLIOTT. I know that much. I know you couldn't get a recommend from the bishop without you had pretty good standing to go through the temple.

Mr. WORTHINGTON. That is what you meant when you said they all took this obligation?

Mrs. ELLIOTT. Yes, sir.

Mr. WORTHINGTON. Because you say this obligation was taken when you went through, you suppose it was always taken by everybody?

Mrs. ELLIOTT. Yes, sir.

Mr. WORTHINGTON. Do you not know that a great many Mormons never take any endowment ceremony at all?

Mrs. ELLIOTT. Yes; there is lots that don't take it.

Mr. WORTHINGTON. Can they not be in good standing without taking it?

Mrs. ELLIOTT. They are not considered so very good if they don't take it.

Senator OVERMAN. Can one occupy the position of an apostle or priest without taking it?

Mrs. ELLIOTT. No, sir.

Mr. WORTHINGTON. You think you know that, do you?

Mrs. ELLIOTT. Yes, sir; I do.

Mr. WORTHINGTON. How do you know it?

Mrs. ELLIOTT. I know that by the rules of the church.

Mr. WORTHINGTON. Is that a printed rule, in a book or anything?

Mrs. ELLIOTT. Well, I have known of a lot of elders—a lot being called to be an elder, and being called on a mission, and I know they couldn't go on a mission without having their endowment.

Mr. WORTHINGTON. How do you know it?

Mrs. ELLIOTT. I know it personally, because I have been talking to the people.

Mr. WORTHINGTON. That is all, Mr. Chairman.

The CHAIRMAN. I understood you to say you participated in the making of the robes used in the endowment house.

Mrs. ELLIOTT. Yes.

The CHAIRMAN. Were there any marks or symbols on these robes?

Mrs. ELLIOTT. Yes, sir.

The CHAIRMAN. What were they?

Mrs. ELLIOTT. Why, there is a heart on the left side and a square on the right side, and some shape, like cut into both sides here [indicating] in front, and then there is one on the knee.

The CHAIRMAN. Do you know what those signify?

Mrs. ELLIOTT. Why, I have never had it explained to me, only I have talked to people about it and also talked with my husband about it. Of course, you would mostly call it our own ideas about it.

The CHAIRMAN. What was the general understanding as to the significance of it?

Mrs. ELLIOTT. I thought the marks was to remember us about the different oaths we had taken, and not to forget it. I thought the marks was for that purpose.

The CHAIRMAN. Did they have any relation to the penalty to be inflicted?

Mrs. ELLIOTT. I thought so.

Senator FORAKER. Did you ever hear of any of these penalties you have described being inflicted upon anyone?

Mrs. ELLIOTT. Excuse me; I didn't understand you.

Senator FORAKER. The cutting of the throat, and the opening of the body, and that sort of thing?

Mrs. ELLIOTT. No; I never heard of it being done to anybody.

Senator FORAKER. Are you going back to Utah to live?

Mrs. ELLIOTT. Yes, sir.

Senator OVERMAN. Are these garments worn outside the temple?

Mrs. ELLIOTT. Yes, sir; the garments are always worn by the people that went through the endowment house.

Senator OVERMAN. Always worn as undergarments?

Mrs. ELLIOTT. Yes, sir.

Senator OVERMAN. By male and female?

Mrs. ELLIOTT. Yes, sir.

Senator OVERMAN. With the same signs on them?

Mrs. ELLIOTT. Yes, sir.

Senator OVERMAN. Mrs. Elliott, do you tell us that all the Mormons in good standing in this room have those garments on?

Mrs. ELLIOTT. Yes, sir; I know they have.

Senator FORAKER. Have you any fear of these punishments or any of them being inflicted upon you when you return to Utah?

Mrs. ELLIOTT. Why, no, I have not.

Senator FORAKER. You have no apprehension at all of danger?

Mrs. ELLIOTT. No.

Mr. TAYLER. Do you imagine that you are likely to suffer in any way in consequence of it?

Mrs. ELLIOTT. Yes, sir; I imagine I am, in the line of my business.

Mr. WORTHINGTON. You mean by that that Mormons will not be likely to employ you as a midwife hereafter?

Mrs. ELLIOTT. No, sir; I don't think so.

The CHAIRMAN. Is that all, gentlemen?

Mr. TAYLER. That is all.

The CHAIRMAN. Who is your next witness?

Mr. TAYLER. Mr. Jackson.

TESTIMONY OF CHARLES H. JACKSON.

CHARLES H. JACKSON, having been duly sworn, was examined and testified as follows:

Mr. TAYLER. What is your name?

Mr. JACKSON. Charles H. Jackson.

Mr. TAYLER. Where do you live, Mr. Jackson?

Mr. JACKSON. In Boise City, Idaho.

Mr. TAYLER. How long have you lived there?

Mr. JACKSON. I have lived near Boise for the past twelve years. My residence has been for the past ten years at a place called Orchard, 25 miles southeast of Boise.

Mr. TAYLER. What is your business?

Mr. JACKSON. I am in the insurance business and in ranching.

Mr. TAYLER. And your place of business is where?

Mr. JACKSON. It is in Boise.

Mr. TAYLER. Do you mean you go there every day?

Mr. JACKSON. No; I practically now make Boise my residence, although my ranch and where my family spend most of the time is at Orchard.

Mr. TAYLER. Where did you go from to Idaho?

Mr. JACKSON. I came from New York City.

Mr. TAYLER. Do you know something about the politics of Idaho?

Mr. JACKSON. Yes, sir; I am the chairman of the Democratic party there.

Mr. TAYLER. You were then in charge of the campaign last fall?

Mr. JACKSON. Yes, sir.

Mr. TAYLER. How long, Mr. Jackson, have you given attention to political conditions in Idaho?

Mr. JACKSON. I have engaged in every campaign since 1894.

Mr. TAYLER. As a matter of public and political history, what subjects have agitated the minds of the people of Idaho particularly in the last few years?

Mr. JACKSON. The great question with us in Idaho has been the growing power of the Mormon Church in its interference in State affairs.

Mr. TAYLER. And has that been generally or only locally interesting and discussed?

Mr. JACKSON. It was made the paramount issue in the last campaign. It was the one subject which the Democratic party and independents discussed.

Mr. TAYLER. In what particular forms has this question of so-called Mormon interference in State affairs expressed itself?

Mr. JACKSON. By the visits of the apostles of the church, residents of Salt Lake City, coming into Idaho and directing the people of their faith how to vote, both by saying that it was the revelation that they should vote such and such a ticket and the desire of the church authorities to have them do so.

Mr. TAYLER. And what public legislation has been effected or sought or threatened by this so-called Mormon invasion?

Mr. JACKSON. The matter became one of vital interest two years ago, when the apostle, John Henry Smith, came to Boise while the Idaho legislature was in session, and there procured the passage of a resolution through the Idaho legislature providing for submitting to the people at the next election the question whether a constitutional convention should be held for the purpose of taking out of our State constitution that clause which prohibits polygamy in the State. During that same session of the Idaho legislature, John Henry Smith promoted or secured the passage of an act which provided a bounty on all sugar raised in the State during the years 1903 and 1904. These two measures were and are to-day, by public opinion, attributed to the active interference of John Henry Smith.

Mr. TAYLER. What interest had John Henry Smith or the Mormon Church, if you know, in the subject of a bounty on sugar, so far as the State of Idaho was concerned?

Mr. JACKSON. The Mormon Church, as I understand it, with Joseph F. Smith, owns the sugar factories, with one exception. President Joseph F. Smith of the Mormon Church is president of—I believe it is called the Idaho Sugar Company, recognized as a Mormon institution.

Mr. TAYLER. Have you finished your statement in that connection?

Mr. JACKSON. Yes, sir.

Mr. TAYLER. Do you know, Mr. Jackson, as a public man, of the circumstances leading up to the nomination of the Republican candidate for governor in Idaho this year?

Mr. JACKSON. Yes, sir. My information comes from conversations which I had with members of that convention, and from the public printed reports.

Mr. TAYLER. Who is the present governor?

Mr. JACKSON. Governor Morrison.

Mr. TAYLER. Is he serving his second term, or his first term?

Mr. JACKSON. This is his first term.

Mr. TAYLER. Do you know whether there was any special criticism of him as a Republican governor, by Republicans?

Mr. JACKSON. Not for any public act of his. He is held by the people generally of Idaho to have made an excellent governor.

Mr. TAYLER. Is there any respect in which he has been criticised by any part of his party or the people?

Mr. JACKSON. Why, he came into collision with part of the Republican leaders. Mr. Gooding was the chairman of the Republican State

committee in 1902. Mr. Gooding aspired to be governor. He effected combinations which eventually nominated him, and it was in collision with these combinations that Mr. Morrison fell down.

Mr. TAYLER. In 1904, you mean?

Mr. JACKSON. Yes, sir; this past summer.

The CHAIRMAN. May I ask you the politics of the governor?

Mr. JACKSON. He is a Republican, sir.

The CHAIRMAN. Now, that I have interrupted your narrative, I want to ask about Mr. Smith. His name is John Henry Smith, I think you said?

Mr. JACKSON. Yes.

The CHAIRMAN. What position does he hold in the Mormon Church, if you know.

Mr. JACKSON. He is an apostle.

Senator FORAKER. What did the defeat of Governor Morrison have to do with Mormonism? How is it connected?

Mr. JACKSON. It is understood in Idaho that the Mormon Church defeated Governor Morrison for renomination.

Senator FORAKER. Under the leadership of Gooding?

Mr. JACKSON. Yes, sir.

Senator FORAKER. Is Gooding a Mormon?

Mr. JACKSON. I do not think so.

Mr. TAYLER. You may briefly state what is the ground of the belief that the Mormon Church defeated Governor Morrison for the renomination.

Mr. JACKSON. In Idaho we have 21 counties, of which 6 are absolutely controlled by the Mormons; that is, the large percentage of the voters of those 6 counties are Mormons. The Mormon counties voted entirely for Mr. Gooding; and whatever the Mormon Church desires in Idaho is carried out. It is impossible for any man or any party to go against the Mormon Church in Idaho, whether he is a Republican or a Democrat.

The CHAIRMAN. You mean it is impossible to go against them?

Mr. JACKSON. I mean that unless the Mormon Church supports the individual, you might as well give up. There is no hope for you.

Mr. TAYLER. You say there are 6 out of 21 counties that are controlled absolutely by the Mormons?

Mr. JACKSON. They are called Mormon counties. Then there are other counties along the southern tier of counties of Idaho in which the Mormons have large colonies and where they practically hold in the counties the balance of power, as in the State they hold the balance of power.

Mr. TAYLER. The result is that in the legislature how many members of the senate and how many of the members of the house are necessarily, if the Mormon Church desires it, elected by it?

Mr. JACKSON. Well, practically, the six Mormon counties return about a third of the Idaho legislature. We have one senator from each county, therefore there would be six senators from the Mormon counties. Then, in addition, in some of the other southern counties the Mormons have, as I stated, the control and are able to secure the nomination, whereby the party usually controls in the legislature.

Mr. TAYLER. And in the house?

Mr. JACKSON. Well, it is in the same ratio in the house.

Senator DUBOIS. How many members of the house are there now?

Mr. JACKSON. I believe there are 48. I am not positive on that point.

Senator DUBOIS. I will ask this question to make it clear: What is the constitutional limit of the Idaho legislature?

Mr. JACKSON. I am not entirely certain.

Senator DUBOIS. It is 70, as a matter of fact. There is one senator, is there not, from each county?

Mr. JACKSON. From each county.

Senator DUBOIS. That makes 21 senators.

Mr. JACKSON. If there were 21 senators, then there would be 42 members.

Mr. TAYLER. You may state, Mr. Jackson, as chairman of the Democratic committee last year, what you know of the issues on which that campaign was fought, and the attitude of the Mormons in connection with it.

The CHAIRMAN. You mean this year, do you not?

Mr. TAYLER. I mean this year, 1904; I meant the year just passing.

Mr. JACKSON. This question became acute from the time of the passage of the constitutional resolution and of the sugar-bounty bill. The matter was brought to public notice, and the people were generally aroused over the matter by reason of the proceedings before this committee.

Senator DUBOIS. Mr. Jackson, will it disturb you if I ask what this sugar-bounty provision is?

Mr. JACKSON. Not at all.

Senator DUBOIS. How much bounty is paid, and on what is it paid?

Mr. JACKSON. It provides that a bounty of 1 cent a pound shall be paid in the year 1903 on all sugar manufactured in Idaho.

Senator DUBOIS. Not on the beets, but on the sugar?

Mr. JACKSON. On the sugar; yes, sir; and a bounty of half a cent a pound on sugar manufactured in 1904. From statements made by those in control of the management it is estimated that the sugar bounty in 1903 amounted to \$76,000, and in this present year will amount to about \$150,000.

Senator FORAKER. And how much of that goes to the Mormon Church?

Mr. JACKSON. There are four sugar factories, and three of them are Mormon. I do not know the capacity of the outside concern. It has lately been erected.

Mr. TAYLER. Did you say Joseph F. Smith was the president of the company which owns these factories?

Mr. JACKSON. Yes, sir.

Senator FORAKER. Do you know anything about what bounties, if any at all, are paid in other States for the production of beet sugar?

Mr. JACKSON. No, sir; I do not.

The CHAIRMAN. Now, go on with your statement.

Mr. JACKSON. The situation in Idaho in regard to the Mormon interference in politics had been known up to that time practically only to the leaders of both parties. All of us who had campaigned in the State were aware that Mormon officials, Mormon priests or apostles, had come into Idaho during the different past elections and had influenced the people. It was a matter known to the politicians of both parties that it was absolutely necessary to secure the Mormon support in order to be successful in the State. Both the Democrats and the Republicans figured on how best to do this, both in the selection of candidates

and in the preparation of the platform. When, however, the proceedings before this committee developed the fact that polygamy was being practiced, I think most of the men in Idaho began to examine into the situation much closer. Up to that time we had treated it more as a partisan political question. After that time we treated it as a public question outside of politics.

The matter was started by the Ada County Democratic convention, which was held on the 3d of June of this year to elect delegates to the State convention to be held at Weiser, which, in turn, was to select the delegates to the St. Louis convention. In that Ada County convention a resolution was passed directing the delegates from that county to see that a resolution was put in the State platform instructing our State delegates to St. Louis to secure the adoption of a plank declaring against polygamy and the church interference in politics.

About a week after that, I think on June 10 or about that date, the State convention was held at Weiser to elect delegates to the St. Louis convention.

The CHAIRMAN. May I ask you if you were a delegate to these conventions?

Mr. JACKSON. Yes, sir. I was chairman of the committee of resolutions of the Ada County convention, which prepared this first expression in regard to polygamy and church interference in politics. I was a delegate to the Weiser convention, and there the fight was on the adoption of this resolution, which was introduced from my county.

The CHAIRMAN. Proceed with your narrative.

Mr. JACKSON. It was maintained in that convention that it was the duty of the Democratic party to get this situation into the national platform, and the Ada County resolution was introduced. That resolution was opposed by the Mormon counties. The delegates from those counties are not always Mormons by religion. They are always Mormon in political action. In that debate the president of the Fremont County stake, Mr. Bassett, stated that if this resolution was withdrawn and no reference was made to it in our platform he himself, one of the leading Mormon officials of Idaho—there being none higher than himself in the State—would pledge himself to go to Salt Lake City and see President Joseph F. Smith and ask him not to interfere any longer in Idaho politics. Against the vote of the Mormon counties the resolution was passed, and the delegates from Idaho were instructed to introduce this resolution into the committee on resolutions of the St. Louis convention.

We also called attention in that resolution at the State convention at Weiser to the condition of affairs in Idaho regarding this question. We pointed out that there were no adequate penalties to punish those who were committing the crime of polygamy, and we pointed out this church interference in political affairs, and we asked the Democratic voters to bear this in mind when electing delegates to the nominating convention which was to be held in Lewiston on August 15.

Senator DUBOIS. Mr. Jackson, have you that resolution?

Mr. JACKSON. I have not the resolution, Senator. It was printed in the Boise Statesman the day following that convention.

The CHAIRMAN. We can reach that later. Go on with your statement.

Mr. JACKSON. I have a memorandum of the paper in which it can be found.

The CHAIRMAN. You may proceed.

Mr. JACKSON. We held a convention in Ada County to elect delegates to this nominating convention at Lewiston—and by nominating convention I mean the convention which was to select candidates for the State offices, governor, etc.—in the latter part of July, I think. In that convention we introduced a strong resolution pointing out specifically the crime of polygamy and also the evils of this church interference in political affairs, and by resolution of that convention a copy of our platform regarding these questions was submitted to the chairman of the Republican State committee, who was then Mr. Gooding, and was directed to be sent to the Republican State convention, which was to be held on the 12th of August, asking the Republican party to take this matter up and join with us in taking these questions entirely out of politics and in making it a nonpartisan movement to suppress polygamy and church interference. Those resolutions were certified to by me—I was the chairman of that convention—and sent to the Republican State chairman and to the State convention.

All of this time public opinion had been growing stronger. The question was being agitated practically all over the State. The Mormon counties were passing resolutions in their county conventions deploring this action, while in other counties, what we call the gentile counties, they were adopting what was known as the Ada County platform in regard to polygamy.

When the Republican convention met at Moscow on August 12 it was known that the Mormons were in entire control of that convention. Governor Morrison—

The CHAIRMAN. I did not understand what convention that was.

Mr. JACKSON. That was the Republican convention, sir. I am trying to develop the matter historically, in time.

The CHAIRMAN. Proceed.

Mr. JACKSON. It is practically an unwritten law in our State, followed by both parties, that a governor who has made a successful governor and against whom there is nothing personally shall be renominated.

Senator DUBOIS. How long does a governor hold his term?

Mr. JACKSON. For two years. That has been the practice ever since 1896, I believe—that is, to my personal knowledge. I do not remember in regard to 1894.

Governor Morrison was supported by the leading Republican papers. Opposed to him was Mr. Gooding. When the convention nominated Mr. Gooding it was so clearly understood that this was done by the Mormon Church that the leading Republican paper of Boise published at the head of its editorial column the words "Zion has spoken." In that Republican convention one of the most conspicuous leaders was President Parkinson, who is president of one of the stakes in Oneida County. The public and the newspapers attributed to Parkinson the control of the Mormon counties, and it was stated then, and it was stated during the campaign, that the reward of Mr. Parkinson in case Mr. Gooding should be elected would be the office of emigration agent; and that was one of the issues of the campaign, to prevent, if possible, that office being filled by a leading Mormon official.

In order to secure Mr. Gooding's nomination it was necessary for President Parkinson to labor with one of the northern counties, Latah County, from which Congressman French comes. Latah County had

instructed its delegate to vote for the renomination of Governor Morrison. It was necessary to secure Latah County to nominate Mr. Gooding, and it was reported in the paper and stated by the delegates that Mr. Parkinson went to Mr. French and told him that unless he threw the vote of Latah County to Mr. Gooding he would not receive a renomination. Latah County voted after that for Mr. Gooding.

Mr. Parkinson was in such control of that convention that the present attorney-general, who is a Mormon, was refused a renomination practically only an hour before the time came to renominate him. He expected to be renominated. The gentleman who was to renominate him had his nominating speech prepared. President Parkinson, an hour or two before this nomination was made, went up to Attorney-General Bagley and said to him: "It is unwise to renominate you?" Some of General Bagley's friends objected to that, and Bagley asked them not to renominate him because if they should it would force him to decline the renomination.

It was in such a state of affairs—it was in such a state of public opinion—that the Democratic convention met at Lewiston three days later, on August 15. The great question in front of us was this Mormon question. The gentleman who was nominated by the Democratic party, ex-Senator Heitfeld, declared in the early stages of that convention that unless this platform—

The CHAIRMAN. You mean nominated for governor?

Mr. JACKSON. Yes, sir. That unless this platform declaring against polygamy and church interference was adopted he would decline the nomination; and that precipitated the fight, the Mormon counties being opposed, the gentile counties endeavoring to nominate him.

After a prolonged and excited session in the committee on resolutions the committee finally brought to the convention a resolution declaring against polygamy and church interference in politics. The convention adopted, after a debate and after two votes, a resolution which declared that we were unalterably opposed to polygamy and church interference in Idaho, and pledged the Democratic party if put in power to carry out by appropriate legislation this declaration.

After the convention had adopted this resolution and Mr. Heitfeld had been nominated, the State committee met and I was elected chairman of the committee. Immediately after my election I held a meeting with the committee and with the candidates, and it was agreed that the paramount issue should be made of this—what we call the Mormon plank. That brings me up to the end of the convention.

The CHAIRMAN. You say you have not with you the resolution that was adopted in the convention?

Mr. JACKSON. I have the resolution that was adopted in the State convention, but not the first resolution, which brought this matter before the people of the State.

The CHAIRMAN. Have you the resolution adopted by the convention?

Mr. JACKSON. Yes, sir; I think so.

The CHAIRMAN. I wish you would state what it is.

Mr. JACKSON. That part of the platform which relates to this question reads as follows:

"We demand the extermination of polygamy and unlawful cohabitation within the State of Utah and the complete separation of church and state in political affairs. We pledge the Democratic party to enact such legislation as will effectually suppress such evils."

Senator DUBOIS. Were there Mormons in that convention?

Mr. JACKSON. Yes, sir; very much so.

Senator DUBOIS. Did they oppose this resolution?

Mr. JACKSON. Bitterly.

Senator DUBOIS. In speeches?

Mr. JACKSON. Yes, sir; it was opposed by their speeches and their votes—by the Mormons themselves and by gentiles who were in sympathy with the Mormons.

Senator DUBOIS. You say all the delegates from the Mormon counties are not necessarily Mormons in religion, but they are Mormons in politics. Will you explain that to the committee?

Mr. JACKSON. Those are what we call the jack-Mormons, Senator. They are worse than the original article. They are willing to go to greater lengths than any Mormon is willing to go. They are put up by the Mormons, really, to do the heavy work for them, and while they are nominally known as gentiles, and not affiliated with the church, everyone knows that they are Mormons for political purposes.

Senator DUBOIS. Could you recollect some of the arguments that the Mormons—not the jack-Mormons, but the Mormons—made in opposition to this plank?

Mr. JACKSON. The most striking statement that was made in the committee on resolutions was made by a Mormon, who said that it was not yet settled whether one wife or six was christianity. It was practically on that basis that we got into the fight.

Senator DUBOIS. Did they state what the political effect to the party would be of the passage of these resolutions?

Mr. JACKSON. They said that it would drive away every Mormon vote; that the Mormon people would regard this resolution against polygamy as a direct reference to the Mormon Church and as a threat to attack it. They told us that if we passed this resolution it would defeat our ticket. They stated that it was their belief that we had an equal chance in the State to carry our election if we did not introduce this resolution. They threatened that if we did pass this resolution they would leave us, and they did.

Senator McCOMAS. Did they bolt the convention?

Mr. JACKSON. No, sir.

Senator OVERMAN. Did any of the Mormons vote the Democratic ticket?

Mr. JACKSON. Not one of them.

The CHAIRMAN. Proceed, Mr. Tayler.

Mr. TAYLER. As the campaign progressed was there anything that occurred of a public character of which you have knowledge, bearing upon this situation?

Mr. JACKSON. As soon as the campaign developed and I returned to Boise, I visited the southeastern counties, Mormon counties, and called a meeting of the county committee and the State committeeman from that county, and also of leading citizens in the Democratic faith, for the purpose of outlining the campaign and of finding out how the Mormons were going to act. I went to Idaho Falls, in Bingham County, to Pocatello, and to Montpelier, in Bear Lake County.

Senator DUBOIS. Pocatello is in what county?

Mr. JACKSON. In Bannock County.

There I was told it would be impossible for me to secure any support at all in the Mormon counties. The striking thing was this, that the

gentiles there, whether they were Republicans or Democrats, would come to me privately, when they were sure they were not observed, and say, "We are with you, we are going to support your ticket, but we do not dare come out and say so. If it were known that we were going to vote the Democratic ticket it would ruin us in business." They said, "We will be unable to take any part with you in this campaign, but you can count on us to vote with you."

One of the members of the committee in Bannock County, after making a speech in this meeting which I had called and declaring that the Mormons were good people and that he had lived among them and found them all right, and it was an outrage that we were persecuting them, left that meeting and took me aside, and he said: "Jackson, you know the reason that makes me make this speech. If I didn't stand in with these people, I couldn't live here; but I am going to vote for you just the same."

In Montpelier one of the leading young Mormons attended the meeting. He was not a member in good standing. He had offended, some years ago, President Budge in a political matter. President Budge directed him—

Mr. TAYLER. You mean Stake President Budge?

Mr. JACKSON. Stake President Budge directed him to do certain things regarding politics which this Mormon refused to do on the ground that he was not bound to obey President Budge in political matters. This Mormon was thrown out of the church for disobedience. I believe they call it being out of harmony with them. He has since been endeavoring to be reinstated. He came to my meeting at Montpelier and said: "Mr. Jackson, we are very glad that this matter has come up in this way." Then he drew out of his pocket a clipping from the Deseret News, which he stated was the official organ of the church. He said: "Any editorial which appears in this paper is taken by the Mormons generally to be authentic and as representing the authorities of the church." I can not remember much of this clipping except the main idea, in these words, that anyone in the church who, by reason of his ecclesiastical position, endeavored to influence political action was a hypocrite, a liar, and an enemy of the church. This gentleman then said: "Taking that as being true, every man of us here knows that President Budge is a hypocrite, a liar, and an enemy of the church, because there is not a man present but what knows that in every election President Budge directs the voters of this county how to vote." This gentleman stated at that meeting: "The time has now come for the Mormons of Bear Lake County to show the people of Idaho that they are men and not a bunch of cattle; that they can vote their consciences and not be driven."

That was very satisfactory to me, as Bear Lake is practically the seat of war with us. President Budge is the controlling political factor in the Mormon situation in Idaho, and this was his home county. I arranged with this gentleman and the State committeeman there to provide for my meetings and look after the speakers when they were sent into that county. They agreed to do so. A short time after that I telegraphed these gentlemen that the candidate for governor was coming down to speak in their county, and asked them to procure the hall and make arrangements for him. This man who was so emphatic in rejoicing that this question was being urged at this time telegraphed back to me that he hadn't any money or any time to devote to a crusade

against a church, a people, or a faith, and that those people who believed in such warfare should conduct it.

Mr. VAN COTT. Was he a Mormon or a gentile?

Mr. JACKSON. This is the man who made the statement to me——

Mr. VAN COTT. I just wanted to know whether he was a Mormon or a gentile.

Mr. JACKSON. He was a Mormon—not in good standing, however.

All during the campaign I had the greatest difficulty in securing chairmen of my meetings in the southeast. There are few gentiles in business in the southeastern part of our State who dare to come out openly and take a position in opposition to what they think is opposition to the Mormon Church.

Senator DUBOIS. I want to ask this question right there. I think it is in line. Did these county conventions in the Mormon counties indorse our State platform?

Mr. JACKSON. No, sir.

Senator DUBOIS. It seems to me it is in line there, if it will not disconcert you——

Mr. JACKSON. Not at all.

Senator DUBOIS. To detail what action was taken in these Mormon counties by the Democratic party.

Mr. JACKSON. The matter of the county conventions was watched with a great deal of anxiety by the State committee. The Mormons threatened to hold no county conventions whatever. They, however, in every instance, did hold county conventions. In only one county was the State platform indorsed, and that simply by the statement, "We indorse the National and State platforms," no specific reference being made to this plank.

The CHAIRMAN. Mr. Jackson, you may suspend now, as the time for the meeting of the Senate is near at hand.

I will say to counsel on both sides that to-day there is a special order in the Senate to vote upon a proposition at 3 o'clock, and the Senators on the committee will want to be present. I therefore suggest it would be better to adjourn until to-morrow morning at 10 o'clock, as we could only put in an hour this afternoon, anyhow; and, really, Senators will want to be present all the afternoon.

Senator McCOMAS. I would like to ask just one question in that connection before we stop. After you had the returns of this election for governor, I should like to know whether you have any comment upon a variation from the prior party strength in gubernatorial elections in the anti-Mormon and the Mormon counties.

Mr. TAYLER. I will say, Senator, that we have quite an interesting little phase of his testimony which relates to that subject and answers that question.

Senator McCOMAS. I would like to have it answered now.

Mr. JACKSON. I beg your pardon, Senator. I did not get the drift of the question.

Senator McCOMAS. I would like to know if you looked over the returns of the election, comparing this election for governor with several prior elections for governor in Idaho; and if so, did you note any marked difference in the vote of the Democratic and Republican parties in Mormon and in anti-Mormon counties?

Mr. JACKSON. Yes, sir; it is very plain.

Senator McCOMAS. What is plain?

Mr. JACKSON. It is very plain that all the Mormons in the Mormon counties voted against the Democratic party, and that the increase in the normal majorities in those counties is tremendous.

Senator McCOMAS. And how was it in the anti-Mormon counties in respect to the two candidates for governor compared with former gubernatorial elections?

Mr. JACKSON. The pluralities in the gentile counties increased.

Senator McCOMAS. For the Democrats?

Mr. JACKSON. For the Republicans. The Republicans carried the State overwhelmingly; but the falling off in the gentile counties of the normal vote which the Republican candidate should have received had the ratio of his gains been kept up is very marked.

Mr. TAYLER. I do not want to leave it at that point. Is it not a fact, Mr. Jackson, that there is a very striking difference between the growth of the Republican vote in the Mormon counties and the growth of the Republican vote in the gentile counties?

Mr. JACKSON. Very striking indeed.

Mr. TAYLER. Indicating a local influence operating to produce that result?

Mr. JACKSON. Yes, sir.

The CHAIRMAN. The committee will stand adjourned until to-morrow morning at 10 o'clock, and I will say to counsel that as there will be no session of the Senate to-morrow we can go along for the entire day.

The committee (at 12 o'clock m.) adjourned until Saturday, December 17, 1904, at 10 o'clock a. m.

WASHINGTON, D. C., *December 17, 1904.*

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

Present: Senators Burrows (chairman), McComas, Pettus, Dubois, and Overman; also Senator Smoot; also R. W. Tayler, counsel for protestants; A. S. Worthington and Waldemar Van Cott, counsel for the respondent; and Franklin H. Richards, counsel for certain witnesses.

TESTIMONY OF CHARLES H. JACKSON—RESUMED.

The CHAIRMAN. Mr. Tayler, are you ready to proceed?

Mr. TAYLER. Call Mr. Jackson.

The CHAIRMAN. Mr. Jackson, will you please resume the stand?

CHARLES H. JACKSON, having been previously sworn, was examined and testified as follows:

Mr. TAYLER. Mr. Jackson, at the time of the adjournment yesterday you were speaking of the vote at the last election in the several counties of Idaho and made some general comparison between the increase in the Republican vote or majority in the gentile counties as compared with the increase in the Republican vote or majority in the so-called Mormon counties. Will you proceed along the line you were pursuing at that time?

Mr. JACKSON. A comparison of the Republican vote of 1902 and that of this year shows that the great bulk of the Republican majority in Idaho this year was cast in the six Mormon counties.

Senator DUBOIS. If you please, you are, as I understand it, instituting a comparison between the Presidential vote and the vote on governor?

Mr. JACKSON. No, sir; I am comparing the vote of the governor in both years.

Senator DUBOIS. You are comparing the vote on governor?

Mr. JACKSON. Yes, sir.

The CHAIRMAN. Proceed.

Mr. JACKSON. I am taking the vote of 1902, because up to that time the Mormon counties were strongly Democratic. In 1902 the Republican party carried Idaho for the first time since 1896, and I make the comparison with that vote for the reason that it, if anything, is more liberal in an estimate for the Republicans than any prior year would be, and still it shows less of change in the vote than any year back of it would show.

Mr. TAYLER. Before you proceed with that, you say "for the first time since 1896."

Mr. JACKSON. Yes, sir.

Mr. TAYLER. Did the Republicans carry Idaho in 1896?

Mr. JACKSON. No, sir; since 1896, I mean.

Senator DUBOIS. Did the Republicans carry Idaho in 1892?

Mr. JACKSON. No, sir; the electoral vote of Idaho was cast for General Weaver.

Mr. TAYLER. The inference that might be drawn from your remarks is that it went Republican in 1896.

Mr. JACKSON. No; it went overwhelmingly Democratic in 1896. The Mormon counties were, you might say, almost unanimous for free silver in those years.

Mr. TAYLER. Proceed.

Mr. JACKSON. Between 1902 and 1904 there has been a great increase in the population of Idaho. The vote of this year in the Mormon counties shows hardly any increase at all. The great increase in the vote appears in the gentile counties. The 6 Mormon counties gave Mr. Gooding, the Republican candidate for governor, a plurality of nearly 10,000. The 15 gentile counties, where the increase in the vote amounted to about 7,000, gave Mr. Gooding about 7,000 plurality.

Mr. TAYLER. Is that all you desire to say to complete the statement regarding that vote?

Mr. JACKSON. That is a general summary of the vote, without going into the different counties.

Mr. TAYLER. I do not care about separating the counties. How did the candidate for governor run as compared with the candidate for President in the two parts of the State designated gentile and Mormon?

Mr. JACKSON. In the gentile counties the Republican candidate for governor ran way behind Mr. Roosevelt's vote and in the Mormon counties he actually exceeded Mr. Roosevelt's vote in some of them, and in all of them his plurality was in excess of Mr. Roosevelt's. On the Democratic side Mr. Heitfeld, the Democratic candidate for governor, ran ahead of Mr. Parker in the gentile counties and in the Mormon counties ran behind him.

Mr. TAYLER. Now, what else, Mr. Jackson, occurs to you as suitable to be said in relation to this matter of church influence in politics in Idaho?

Mr. JACKSON. I was continuing a statement of the history of the campaign when the Senator asked me in regard to this vote. I had spoken of my meeting with the Democratic county committees in the Mormon counties and making arrangements for the campaign there. During the campaign it was with the greatest difficulty that I could hold meetings in the Mormon counties. I could not get anyone to act as chairman. So great was the trouble in this regard that I was compelled to send from Boise to the southeastern counties men to take personal charge of these meetings.

I tried to hold a meeting with the candidate for governor at Rexburg, a purely Mormon settlement, and I could not get a single man to dare to take the position of chairman of that meeting. Finally, in extremity, our representative went and explained the situation to the Mormons, and said it would seem a very strange thing if in this community we could not get a chairman, and it was through the Mormons that we arranged a chairman, one of the Mormons presiding at the meeting.

Some of the meetings were interrupted. At one meeting that we held in Oneida County, the Mormon chairman, after our candidate for Congress had finished, took the floor and explained to the audience that he was not in accord with the party; that he did not believe that this persecution of polygamy should continue; that there was no reason why polygamists in that State should be troubled.

During the meetings which were held toward the close of the campaign I was at all times apprehensive for the peace of the meeting, and in some cases in regard to the safety of the men making the speeches. There came to my knowledge open threats against some of our speakers, and I was bombarded at all times by letters and telegrams from the southeast, telling of the active interference of the Mormon bishops, of their holding what were called "priesthood meetings," and of the general activity of the Mormon leaders to influence the vote in that section.

I think that covers the general situation.

Mr. TAYLER. You think that covers the general subject you have in mind? I think you can inquire, Mr. Van Cott.

The CHAIRMAN. Is that all, Mr. Tayler?

Mr. TAYLER. Yes.

Mr. VAN COTT. Which apostles of the Mormon Church went to Idaho and stated that it was a revelation that they should vote such and such a ticket, and likewise that it was the desire of the church that they should do so?

Mr. JACKSON. In 1902 it was charged that Apostle Mathias Cowley went through Oneida County directing the people there to vote the Republican ticket as being the will of the church.

Mr. VAN COTT. Did you see him?

Mr. JACKSON. No, sir.

Mr. VAN COTT. Did you hear him?

Mr. JACKSON. No, sir.

Mr. VAN COTT. How did this word come to you?

Mr. JACKSON. It came to me through the protests of Mormon Democrats of Oneida County. They had nominated a county ticket there, and Apostle Mathias Cowley went through saying, especially to the women, that the church desired the election of the Republican ticket; and the Mormon leaders themselves, the Democrats who were

on our county ticket there, proposed to withdraw their county ticket as a rebuke to the church and to Apostle Mathias Cowley for his interference.

Mr. VAN COTT. What year was that?

Mr. JACKSON. 1902.

Mr. VAN COTT. Was there any other apostle?

Mr. JACKSON. I have known of Apostle John Henry Smith being in the State making political speeches.

Mr. VAN COTT. Stating it was a revelation to vote such and such a ticket?

Mr. JACKSON. It is always a revelation when an apostle of the Mormon Church addresses the Mormon people.

Mr. VAN COTT. Was that my question?

Mr. JACKSON. That is the answer to it.

Mr. VAN COTT. Did John Henry Smith say it was a revelation to vote such and such a ticket?

Mr. JACKSON. His personal presence there was the revelation. He did not actually state it in words.

Mr. VAN COTT. Is that true of M. F. Cowley?

Mr. JACKSON. It is true regarding every leading official of the Mormon Church.

Mr. VAN COTT. And the same answer holds true?

Mr. JACKSON. That their presence in a political campaign is a direct revelation to Mormon voters how to vote.

Mr. VAN COTT. You also stated that John Henry Smith was instrumental in passing the bounty law for sugar. Is that correct?

Mr. JACKSON. He is accredited with being the agent who came to Boise City and procured the passage of that act through the legislature.

Mr. VAN COTT. Have you any personal knowledge of that?

Mr. JACKSON. Only in the general knowledge of the community.

Mr. VAN COTT. That is, as people gossip and as rumors go around?

Mr. JACKSON. As stated in the newspapers and as people who were in attendance on the legislature told me; that they had seen the man there and heard him talk, and it was the general public information on the subject.

Mr. VAN COTT. Did anyone ever tell you that he had heard John Henry Smith working in any manner whatsoever to procure the passage of the law giving a bounty on sugar?

Mr. JACKSON. It is, as I say, the public information of the State in regard to the matter.

Mr. VAN COTT. You stated that the bounty on sugar—

Mr. WORTHINGTON. He has not answered your question.

Mr. VAN COTT. I believe I am satisfied with the answer in the way he put it. [To the witness.] You stated that the bounty on sugar amounted, in 1893, to something like \$76,000?

Mr. JACKSON. I think so. Those are practically the exact figures as furnished to me. I applied to one of the managers of the sugar factories, and those were the figures that he furnished to me.

Mr. VAN COTT. Has any money whatever been paid out as a bounty on sugar in Idaho?

Mr. JACKSON. None whatever.

Mr. VAN COTT. How much did the legislature appropriate as a bounty on sugar?

Mr. JACKSON. Twenty thousand dollars.

Mr. VAN COTT. So that while you say there were \$76,000 that would be earned in 1903 and about \$150,000 earned in 1904, only \$20,000 was appropriated and not one penny has been paid out?

Mr. JACKSON. They ran up against the auditor in regard to the payment of the sugar bounty.

Mr. VAN COTT. Would you be kind enough to answer my question? Then you can explain it.

Mr. JACKSON. Certainly; nothing has been paid out yet.

Mr. VAN COTT. Now explain, if you wish to do so.

Mr. JACKSON. The sugar bounties were to be paid by warrants. It was the understanding when the legislature passed the sugar-bounty bill that the sugar bounty would practically amount to only \$20,000. But so many sugar factories came in and the acreage of sugar beets was so great that the bounty earned in the first year alone was \$76,000. When it came time to settle for it, the father of the bill, a Mr. Turner, a senator at that time, who had since been elected to the office of State auditor, became convinced that the sugar-bounty bill was unconstitutional, and he refused to pay any bounty; and it is the judgment of the people of Idaho that he was denied a renomination by the Mormons on that account.

Mr. VAN COTT. You said that Mr. Turner was the father of the bounty bill?

Mr. JACKSON. Yes, sir. I think he was the one who introduced it, sir.

Mr. VAN COTT. Was he a Gentile?

Mr. JACKSON. I think he is. I am sure I do not know. Some say he is a Mormon and some say he is not. Personally I have no knowledge on the subject. I believe he is married to a Mormon. I do not know whether he himself is a Mormon or not.

Mr. VAN COTT. What county does he live in?

Mr. JACKSON. Bannock, Pocatello.

Mr. VAN COTT. Is he a Republican?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. A Republican legislature passed the bounty law?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. Personally, I suppose you are opposed to bounties?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. As a Democrat?

Mr. JACKSON. The bounty law that was passed in the Democratic legislature the session before was vetoed by the Democratic governor.

Mr. VAN COTT. Was a majority of that legislature Democratic?

Mr. JACKSON. Of 1902?

Mr. VAN COTT. Yes, sir.

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. And they passed a bounty law?

Mr. JACKSON. Yes, sir. Anything that the Mormon Church asks for in Idaho is granted, whether it is a Republican or a Democratic legislature.

Mr. VAN COTT. Now, coming to the factories that you say were established and of which you say three out of four are Mormon, which three are controlled by the Mormons?

Mr. JACKSON. The one in Sugar City, near St. Anthony; the one near Rexburg, and the one at Idaho Falls.

Mr. VAN COTT. Is one of them at a place called Garland?

Mr. JACKSON. I do not know. I never heard that name.

Mr. VAN COTT. Which was the first one?

Mr. JACKSON. There is a sugar factory at Sugar City, I think they call it, near St. Anthony.

Mr. VAN COTT. Do you know whether Mr. Havemeyer and his associates own half of the stock in that factory?

Mr. JACKSON. I do not. I know that President Joseph F. Smith, of the Mormon Church, is president of that concern.

Mr. VAN COTT. Did I ask you that?

Mr. JACKSON. No, sir.

Mr. VAN COTT. Did I not ask you whether Mr. Havemeyer and his associates owned half of the stock?

Mr. JACKSON. Yes, sir; and I answered that.

Mr. VAN COTT. I did not ask you about the other.

Mr. JACKSON. No.

Mr. VAN COTT. What Mormons do you know of who hold stock in the sugar factory at Sugar City?

Mr. JACKSON. I presume the president of the company must hold stock. I do not know it as a matter of personal knowledge, but I know who the president is.

Mr. VAN COTT. Waiving that one——

Mr. JACKSON. And the manager of the concern.

Mr. VAN COTT. Who is he?

Mr. JACKSON. A man by the name of Cutler.

Mr. VAN COTT. Anyone else?

Mr. JACKSON. I can not recall the names of the others in connection with that company. Those are two—the president and the manager.

Mr. VAN COTT. Do you know what stock they own?

Mr. JACKSON. No.

Mr. VAN COTT. You do not know then that they control the majority of the stock?

Mr. JACKSON. Well, usually, the president controls. I take it as an inference. If he does not control he is not elected president usually.

Mr. VAN COTT. Is that all on which your answer is based—this inference as to its being a Mormon sugar factory or controlled by Mormons?

Mr. JACKSON. No, sir. When the sugar industry of Idaho started in it was made a great public celebration. It was emphasized that that was a Mormon business, and because President Joseph F. Smith came up there from Salt Lake City and, with others of the hierarchy, met the governor of the State, and they laid the corner stone with great solemnity, it left the impression on my mind that it was a Mormon enterprise pure and simple, from the fact that the high dignitaries attended the laying of the foundation stone of the first factory.

Mr. VAN COTT. Will you say positively of your knowledge that the Mormon Church owns more than a small fraction of the stock in the factory at Sugar City?

Mr. JACKSON. I do not know what percentage they own.

Mr. VAN COTT. Will you say that the Mormons themselves own more than 30 per cent of all the stock in that sugar factory—of your own knowledge, I mean?

Mr. JACKSON. I do not know anything in regard to the stockholding. I only know certain policies and the reputation of the business.

Mr. VAN COTT. I suppose, Mr. Jackson, without going into details with respect to these other factories, that you would make substantially the same answer as to them?

Mr. JACKSON. Yes.

Mr. VAN COTT. Now, calling your attention to the governor who was elected in 1896—who was elected governor in 1896?

Mr. JACKSON. Frank Steunenberg.

Mr. VAN COTT. Was he a Republican or a Democrat?

Mr. JACKSON. A Democrat.

Mr. VAN COTT. And a gentile?

Mr. JACKSON. And a gentile.

Mr. VAN COTT. Who was elected in 1898?

Mr. JACKSON. Governor Steunenberg was renominated. It is the unwritten law of our State to renominate the governor.

Mr. VAN COTT. Who was elected in 1898?

Mr. JACKSON. Who was what?

Mr. VAN COTT. Who was elected?

Mr. JACKSON. He was.

Mr. VAN COTT. Frank Steunenberg?

Mr. JACKSON. The same person.

Mr. VAN COTT. In 1900 who was elected?

Mr. JACKSON. Governor Frank Hunt.

Mr. VAN COTT. In 1902?

Mr. JACKSON. Governor Morrison.

Mr. VAN COTT. What was the politics of Governor Hunt?

Mr. JACKSON. He was a Democrat.

Mr. VAN COTT. And in 1902 Mr. Morrison. Was he a gentile?

Mr. JACKSON. A gentile Republican.

Mr. VAN COTT. And in 1904 Frank R. Gooding was elected?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. Whom did the Democrats nominate in 1900?

Mr. JACKSON. Frank W. Hunt was elected governor in 1900.

Mr. VAN COTT. 1902, I should have said.

Mr. JACKSON. Governor Hunt was renominated.

Mr. VAN COTT. And these elections are what you denominate the unwritten law of Idaho in regard to the nomination of governors?

Mr. JACKSON. Yes, sir; I think there has been no break in that precedent, except in the present year.

Mr. VAN COTT. Now, take Governor Morrison, in 1902. I understood you to say that he came into collision with part of the Republican leaders. Is that correct?

Mr. JACKSON. Yes, sir; after he was elected governor, as the public understand it, he did not comply with all the wishes of the politicians of his party.

Mr. VAN COTT. He was in antagonism with a good many of them?

Mr. JACKSON. He was in antagonism with Mr. Gooding, who was then the chairman.

Mr. VAN COTT. Of the Republican party?

Mr. JACKSON. Of the Republican party.

Mr. VAN COTT. Was not Governor Morrison also opposed by the leading Republican representatives from Latah County?

Mr. JACKSON. There was a candidate for governor from Latah County. When you say "leading," I do not know.

Mr. VAN COTT. Well, eliminate that word, if it in any way interferes with the answer.

Mr. JACKSON. My understanding, without having any personal knowledge, but simply from the newspaper reports of the conditions in Latah County, is that Latah County was always reckoned as a Morrison county, as it was called.

Mr. VAN COTT. In 1902 did not the delegates from Latah County oppose Governor Morrison and oppose his nomination?

Mr. JACKSON. In 1902?

Mr. VAN COTT. Yes, sir.

Mr. JACKSON. Without referring to the paper, I could not answer. I do not remember.

Mr. VAN COTT. The Congressman from Idaho in that year was Mr. French, was it not?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. A Republican and gentile?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. Did he oppose Governor Morrison?

Mr. JACKSON. In 1902?

Mr. VAN COTT. Yes, sir.

Mr. JACKSON. I do not remember. I can not—

Mr. VAN COTT. Now, coming to 1904, of course Mr. Gooding was opposed to Governor Morrison, because Mr. Gooding was elected?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. Was Congressman French opposed to him?

Mr. JACKSON. Not, as I understand it, until the pressure had been applied to him.

Mr. VAN COTT. You did not understand before that that he was opposed to him?

Mr. JACKSON. He was quoted in the paper as being strong for Morrison—the leading Republican paper. I get most of my ideas of the Republican party and its leaders and policies through that paper.

Mr. VAN COTT. That is where you get that information?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. You stated yesterday that the representatives from Latah County were instructed for Governor Morrison.

Mr. JACKSON. I believe that is correct.

Mr. VAN COTT. Is that not incorrect, Mr. Jackson? As a matter of fact, were they not instructed simply to support Mr. French for Congressman and in all other respects were entirely uninstructed?

Mr. JACKSON. That is not the way I understand it or the way it was represented to me by the Republicans who were favoring Governor Morrison's election.

Mr. VAN COTT. Would you say the actual fact is not as I have stated it?

Mr. JACKSON. I beg your pardon; I did not catch the drift of your question.

Mr. VAN COTT. Would you undertake to say that the actual fact is not as I have stated it?

Mr. JACKSON. I can not tell you what the actual fact is, because I am getting this information from conversations with the Republican leaders who were favorable to Governor Morrison, and they said to

me that Latah County had been instructed for Governor Morrison. What the actual fact is—what the resolution of the county convention may have been—I do not know.

Mr. VAN COTT. Could you at present call to mind one Republican in Latah County who gave you that information?

Mr. JACKSON. It was not the information from Latah County. It was from people whom I met in Boise.

Mr. VAN COTT. Now, coming to the convention itself, in 1904, that nominated Mr. Gooding, how many delegates were there in that convention?

Mr. JACKSON. I do not know. I can not keep track of the Republican conventions. It is hard enough to keep track of the Democratic.

Mr. VAN COTT. Let me make a suggestion and see if it refreshes your recollection. Do you think 285 would be the correct number?

Mr. JACKSON. I should think it is something like that. I believe that the Democratic convention was composed of about that number.

Mr. VAN COTT. I am informed, Mr. Jackson, that 285 is the correct number, and for the present I will assume that that is the number.

Mr. JACKSON. That would be somewhere near it.

Mr. VAN COTT. You think that the Mormon counties of which you speak would have about a third of the representation?

Mr. JACKSON. I do not know. I can not answer about that, because it is Republican policy. In our State we fix the delegates according to the number of Democratic votes cast, and I presume the same rule is followed in Republican conventions. So I would not know how many delegates the Mormon counties cast in a Republican convention.

Mr. VAN COTT. Assuming it is about the same, then there would be about a third of the 285 who would come from the Mormon counties?

Mr. JACKSON. Assuming that it is about the same, yes.

Mr. VAN COTT. Would it be your judgment that it would be in proportion to their representation in the legislature?

Mr. JACKSON. In that year Mr. Morrison's plurality came from the north, and consequently there was a larger Republican vote in northern Idaho than in the Mormon counties, and I should judge that there would be a greater representation, on a basis of a ratio of delegates to votes cast, from the north than from the Mormon counties.

Mr. VAN COTT. So that probably the Mormon counties would not have a third?

Mr. JACKSON. I should say somewhere about that; perhaps between a quarter and a third.

Mr. VAN COTT. Will you explain, Mr. Jackson, what justified you in making the statement you did yesterday that the Mormons controlled in the nomination of the governor, for instance, Frank R. Gooding, if they hold only a third of the representation?

Mr. JACKSON. The politicians of Idaho know, regardless of their politics, that whichever way the Mormons vote so goes the State. No man can be elected governor in our State without the Mormon support, and no party can be successful without it. Therefore, when the Mormons come up in a bunch and indicate a preference for any man, the politicians are usually too glad to put that man on the ticket.

Mr. VAN COTT. That is, the one-third of the convention wags the two thirds and makes it go the way it desires. Is that correct?

Mr. JACKSON. That is apparently so.

Mr. VAN COTT. Apparently so?

Mr. JACKSON. But you must remember that in the balance of our State, especially in the southern counties, there are strong Mormon settlements, which go to control part of what are called the Gentile counties. The Mormon Church absolutely controls six counties, and it holds practically the balance of power in six other counties. So, while ostensibly the number of Mormons in our conventions or in our legislature is apparently only one-third, yet as a matter of fact the control is always in the hands of the Mormon Church, because they hold the balance of power in the other counties and they use the Gentiles there as well as the Mormons to represent them.

Mr. VAN COTT. That is, the Gentiles are willing to subserve the will of the Mormon Church, in your opinion?

Mr. JACKSON. I think when an election is offered to a man if he will do certain things that nine times out of ten they will do it. That has been my experience.

Mr. VAN COTT. That is your opinion of the Gentiles in Idaho?

Mr. JACKSON. Not of the Gentiles, but of the politicians.

Mr. VAN COTT. The politicians can not carry the conventions and the elections?

Mr. JACKSON. I have usually found that the politicians have a great deal to say about it.

Mr. VAN COTT. Now, do I understand you to say that the Mormons can elect their own representatives, so as to hold a majority in a convention?

Mr. JACKSON. They can, by their six Mormon counties and the influence which they have in other counties, control.

Mr. VAN COTT. That is, they endeavor to exert an influence over Gentiles, and do exert it?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. Is Mr. Gooding a Mormon?

Mr. JACKSON. I can not tell you, sir.

Mr. VAN COTT. He is reputed by everybody to be a Gentile and to have been always a Gentile?

Mr. JACKSON. Well, I have heard as many people say he is a Mormon as I have heard say that he is a Gentile, so I am in doubt.

Mr. VAN COTT. In the election returns of Idaho for the year 1904, I understood you to state that all of the Mormons voted for Mr. Gooding as governor. Is that correct?

Mr. JACKSON. That is the way I looked at it.

Mr. VAN COTT. I call your attention to what appear to be the returns of the Idaho election for 1904. The copy I hand you is not certified, but I assume that it is correct. It appears to be. Would you think so, Mr. Jackson?

Mr. JACKSON (after examining). Yes, sir; I should say from some of these returns that I recognize that this is official.

Mr. VAN COTT. Calling your attention, for instance, to the vote for governor, do you mean to say that Mr. Gooding would not have been elected if the Mormons had not voted for him?

Mr. JACKSON. No, sir.

Mr. VAN COTT. He would have been elected if every vote in every Mormon county had never been counted?

Mr. JACKSON. No, sir; he would have been defeated.

Mr. VAN COTT. I will ask you, then, to look at the returns before you, and state what was the vote for Mr. Gooding?

Mr. JACKSON. The total vote?

Mr. VAN COTT. Yes, sir.

Mr. JACKSON. Forty-one thousand eight hundred and seventy-seven.

Mr. VAN COTT. What was Mr. Heitfeld's vote?

Mr. JACKSON. Twenty-four thousand one hundred and ninety-two.

Mr. VAN COTT. His plurality was 17,685?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. I will ask you if the total vote of the six Mormon counties in Idaho, for the Republican candidate for governor, was not only 14,668, about three thousand less than Mr. Gooding's majority in the Gentile counties?

Mr. JACKSON. What was the total vote in the six Mormon counties?

Mr. VAN COTT. Fourteen thousand six hundred and sixty-eight.

Mr. JACKSON. Assuming that to be correct, that would have been less, apparently, than Mr. Gooding's plurality. But such is not the case. It is only an apparent situation.

Mr. VAN COTT. If you take all the Mormon counties and throw their votes out, eliminate them, Mr. Gooding would still have a plurality of over 3,000 votes over Mr. Heitfeld.

Mr. JACKSON. But when you have thrown out the votes of the six Mormon counties you have not by any means thrown out the Mormon vote of the State.

Mr. VAN COTT. That is, these gentiles who are influenced by the Mormons to vote?

Mr. JACKSON. No, sir; it is the Mormons themselves. There are settlements in practically all of the southern tier of what are called "gentile counties"—strong Mormon settlements.

Mr. VAN COTT. Take these six Mormon counties, as they are called. Are there not gentiles in all of those counties?

Mr. JACKSON. Oh, yes, sir.

Mr. VAN COTT. And in the question I put to you, I told you to eliminate the whole vote in those six counties.

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. And still Mr. Gooding is elected?

Mr. JACKSON. If you eliminate the whole vote of those counties Mr. Gooding would have had a very much better chance, because, as I understand it, almost all the gentiles, whether they were Democrats or Republicans, in those Mormon counties voted to support our ticket.

Mr. VAN COTT. Notwithstanding that, the Republican ticket was overwhelmingly elected?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. Now, coming to the vote itself, do you say that the Republican candidate for governor in what you have called the Mormon counties received a very much larger increase of the vote between 1902 and 1904 than did Governor Gooding in the gentile counties?

Mr. JACKSON. Yes, sir. His plurality in the Mormon counties was about four times what it was the year before, whereas in the gentile counties it was only double.

Mr. VAN COTT. Would you be kind enough to look at these returns again?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. Is Bannock County what you call a Mormon county?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. I will ask you if it is not a fact that the increase between the vote for governor in 1902 and 1904 was just about 33½ per cent gain for the Republicans?

Mr. JACKSON. I think I made some comparative statements.

Mr. VAN COTT. You have the returns for 1902 right before you.

Mr. JACKSON. I went over these figures and made a tabulation. If I had that paper here I could answer the question without going through the figures again.

Mr. VAN COTT. I would hardly want you to take the time to figure it.

Mr. TAYLER. He has some figures there, but he could not figure from your table without taking time.

Mr. VAN COTT. I would rather not press the question than to have him start to figure, unless he has the figures in mind.

Mr. JACKSON. I have the general figures here for the six Mormon counties. They show that in 1902 the Republican plurality was 2,751, and this year 9,992.

Mr. VAN COTT. I desire to get at it in another way, so as to identify the counties.

Mr. JACKSON. The six Mormon counties are Bannock, Bear Lake, Bingham, Cache, Fremont, and Oneida.

Mr. VAN COTT. Let me call your attention for a moment to Kootenai County. Was not the Republican increase, for governor, between 1902 and 1904, about 100 per cent?

Mr. JACKSON. Between 1902 and 1904?

Mr. VAN COTT. Yes. In 1902 was not the Republican vote for governor 1,894, and in 1904 3,555?

Mr. JACKSON. There was an extraordinary increase there. There had been a great influx of population in Kootenai County, and whatever the percentage is, it is a very great increase.

Mr. VAN COTT. In Lincoln County, was not the increase about 50 per cent?

Mr. JACKSON. Yes; but Lincoln County, of course, is Gooding's home county.

Mr. VAN COTT. In Canyon County, was it not very nearly 50 per cent?

Mr. JACKSON. I do not know.

Mr. VAN COTT. In the Mormon counties, as you have called them, was the increase in any instance more than 50 per cent, and did it not run down as low as 30 per cent, between 1902 and 1904, for governor? I am talking about the vote for governor all the time.

Mr. JACKSON. Perhaps I do not catch the drift of your question; but we suffered a most extraordinary loss for Bear Lake.

Mr. VAN COTT. The fact is all I want.

Mr. JACKSON. How is that?

Mr. VAN COTT. The fact is all I want.

Mr. JACKSON. I am trying to get at the fact through the figures. What per cent did you say? What was the minimum?

Mr. VAN COTT. About 80 per cent—from 25 to 50 per cent increase in the Mormon counties in the Republican vote for governor, while in some of the gentile counties did it not run as high as almost 100 per cent? I am speaking of the increase in the vote for governor between 1902 and 1904 in favor of the Republicans.

Mr. JACKSON. I do not think so. I think my figures show that in the Mormon counties the Republicans got practically four times what they had in 1902. I do not know what percentage you are figuring on. And in the balance of the State, where the great increase in the vote occurred, where all of the new voters voted, apparently, the increase was just about double.

Mr. VAN COTT. Of course, the figures speak for themselves, I suppose. I will call your attention to those later, to go into the record. But I ask you if my figures are not correct, as I have stated them to you?

Mr. JACKSON. I do not think they are.

Mr. VAN COTT. You do not think they are?

Mr. JACKSON. No. Perhaps I do not understand you. I am giving you the result of my summary in actual figures. Perhaps you can show me where I am not in accord with you. In the 15 gentile counties Mr. Gooding's plurality this year was 7,698. Mr. Morrison's plurality in those same counties was 3,100. It was a little over double this year. Now, in the Mormon counties, Mr. Morrison's plurality was 2,750, and this year it was 9,992.

Mr. TAYLER. Mr. Gooding's plurality?

Mr. JACKSON. Yes, sir; Gooding's. In other words, in the Mormon counties the Republican plurality was increased almost four times, and that increase was without any corresponding increase in the vote itself. There was a slight increase in the Mormon counties, but nothing as it should have been if the proportions were carried out.

Now, in the gentile counties there is a tremendous increase in the vote. Nearly 7,000 new votes were cast in the 15 gentile counties.

Mr. VAN COTT. Is it not a fact that in some counties in Idaho the Republican candidate for governor, for instance, actually lost votes between 1902 and 1904?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. There may be local disturbances that influenced that. That is correct, is it not?

Mr. JACKSON. There were not local disturbances. There was one grand fight on one single principle.

Mr. VAN COTT. I will come to that single principle later. The fluctuations in the vote nationally, as I suppose you have noticed, are sometimes very violent.

Mr. JACKSON. Yes, sir; I noticed that in the last election. There seemed to be a violent upheaval now and then.

Mr. VAN COTT. I do not suppose you would intimate for a moment that the Mormon Church changed the politics of Missouri?

Mr. JACKSON. I do not intimate that the Mormon Church does anything except what I know of in Idaho. I know what it did do there.

Mr. VAN COTT. You do not think they did it in Missouri, for instance?

Mr. JACKSON. No, sir.

Mr. VAN COTT. Now, yesterday you spoke of Democrats and Republicans figuring how best to secure the support of the Mormon

Church. Have you ever figured on that yourself while you have been chairman?

Mr. JACKSON. Not this year.

Mr. VAN COTT. Have you ever, I said.

Mr. JACKSON. This is the first year I have been chairman of the State.

Mr. VAN COTT. Have you ever yourself figured on how to get its support?

Mr. JACKSON. No, sir; but I know that we have had occasion in past years to go to Salt Lake City and protest against the action of the Mormon Church.

Mr. VAN COTT. Now, as to this Mormon question. I understood you to say that after your convention was held, you and the Democratic committee met together and agreed on what was the paramount issue in Idaho, and that was the Mormon question. Is that correct?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. You communicated with the Republican State chairman on that subject?

Mr. JACKSON. Not at that time.

Mr. VAN COTT. Oh, later?

Mr. JACKSON. No, sir.

Mr. VAN COTT. Any time?

Mr. JACKSON. Yes; when the agitation first——

Mr. VAN COTT. For the present, I just want to know the time.

Mr. JACKSON. It was immediately after the county convention in Ada County, which elected delegates to the State convention.

Mr. VAN COTT. You called this same point to the attention of the Republican convention in Idaho?

Mr. JACKSON. Yes, sir. A certified copy of the resolution was sent in both cases.

Mr. VAN COTT. Did the Republican convention agree with what the Democratic committee had decided was the paramount issue?

Mr. JACKSON. They at first claimed it was not an issue at all, and afterwards they devoted their entire time to it. So I presume they regarded it as an issue.

Mr. VAN COTT. I would appreciate it if you would just answer my question.

Mr. JACKSON. I held no communication with the Republican committee——

Mr. VAN COTT. I will ask the stenographer to repeat my question.

The reporter read as follows:

“Did the Republican convention agree with what the Democratic committee had decided was the paramount issue?”

Mr. JACKSON. Did the Republican convention?

Mr. VAN COTT. Yes. Did the Republican convention in Idaho agree with what the Democratic committee had decided was the paramount issue?

Mr. JACKSON. The Democratic committee was not in existence when the Republican convention met.

Mr. VAN COTT. Now, Mr. Jackson, you stated yesterday that this paramount issue was a public question, that it was one which existed irrespective of parties, that it was called to the attention of the Republican convention and was called to the attention of the Republican State chairman, Mr. Gooding.

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. Did the Republican convention in Idaho or the Republican party in Idaho agree with what the Democratic committee in Idaho had decided was the paramount issue for 1904?

Mr. JACKSON. The leading Republican paper was writing editorials that this was a great question. A great many of the leading Republicans were saying that their party should incorporate this in their platform, and so take it out of partisan politics. That is all I know of it.

Mr. VAN COTT. Is that the best you can answer my question? The people of Idaho who belong to the Republican party did not think, as manifested by their votes, that the paramount issue was what the Democratic committee had decided it to be?

Mr. JACKSON. I think they did.

Mr. VAN COTT. You think they did?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. And still they elected the Republicans by the biggest majority they ever had in the State?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. And that is the way they showed they thought the Democratic position was correct on that question?

Mr. JACKSON. When you consider that there are 20,000 Mormon votes in Idaho, and Mr. Gooding's plurality was only 17,000, I think we did pretty well.

Mr. VAN COTT. Is that the way you think it was shown?

Mr. JACKSON. I certainly do.

Mr. VAN COTT. The Gentiles in Idaho are in the majority?

Mr. JACKSON. Yes, sir; numerically.

Mr. VAN COTT. And yet, notwithstanding the Mormon question was the paramount question and that the Gentiles are in the majority, the Republicans, who did not have this Mormon plank in their platform, elected their ticket by the biggest majority they ever had, and the Democratic party, that had the Mormon plank in its platform, was defeated. Is that correct?

Mr. JACKSON. That is the bald statement. It is not the correct situation.

Mr. VAN COTT. If that is the bald statement, but not the correct situation, will you please explain why it was that the majority of the voters in Idaho, who are Gentiles, elected the representatives of the party that did not have this Mormon plank in its platform?

Mr. JACKSON. In the first place, the total vote of the State was 66,000. It is estimated, and I believe correctly estimated, that the Mormons in Idaho have 20,000 votes.

Mr. VAN COTT. Have you completed your answer? I do not want to interrupt you.

Mr. JACKSON. The showing on which we are content to go before the country is this: Mr. Roosevelt in our State had a plurality that amounted to over 29,000, and Mr. Gooding, on whom this issue was made, had a plurality of 17,000 and over. In other words, we cut down the plurality between the President, where there was no issue made, and Gooding, on whom the issue was forced, over 12,000 votes.

Now, the situation as it is disclosed by these figures shows this, that if the people of Idaho and the Gentiles of Idaho were not interested

in this question, the increased gain of Mr. Gooding in the Gentile counties should have made his plurality greater than that of Mr. Roosevelt, because in the Mormon counties Mr. Gooding's plurality in every case is greater than that of President Roosevelt. Therefore, instead of Mr. Gooding increasing the Republican plurality of Idaho, this issue actually knocked off 12,000 votes, and that practically in the Gentile counties.

Senator DUBOIS. Mr. Van Cott, will it disturb you if I ask a question?

Mr. VAN COTT. Not at all.

Senator DUBOIS. Mr. Jackson, I wish you would state what Roosevelt's vote was in Shoshone County.

Mr. JACKSON. The leading elector on the Republican ticket had 3,695.

Senator DUBOIS. That is purely a Gentile County, is it not?

Mr. JACKSON. Yes, sir.

Senator DUBOIS. What was Gooding's vote in that county?

Mr. JACKSON. Two thousand nine hundred and eighty-seven.

Senator DUBOIS. Have you there the difference between the two votes?

Mr. JACKSON. It was a difference of over 700 votes. A more striking difference, Senator—

Senator DUBOIS. Take the county of Kootenai, to which reference has been made. I want to take any two counties, I do not care which two. What was Roosevelt's vote in that county?

Mr. JACKSON. Four thousand one hundred and sixty-five.

Senator DUBOIS. What was Gooding's vote?

Mr. JACKSON. Three thousand five hundred and fifty-five.

Senator DUBOIS. Those are two typical Gentile counties?

Mr. JACKSON. Yes, sir.

Senator DUBOIS. There are no Mormons in either of those counties that you know of?*

Mr. JACKSON. No, sir.

Senator DUBOIS. So they would be as purely Gentile counties, perhaps, as there are in the State?

Mr. JACKSON. Yes, sir.

Senator DUBOIS. What is Bear Lake County?

Mr. JACKSON. Bear Lake County is practically a Mormon county.

Senator DUBOIS. What was Roosevelt's vote in Bear Lake County?

Mr. JACKSON. One thousand five hundred and thirty-five.

Senator DUBOIS. What was Gooding's?

Mr. JACKSON. One thousand six hundred and fifteen.

Senator DUBOIS. Take another typical Mormon county. Freemont is a typical Mormon county.

Mr. JACKSON. Roosevelt's vote in Fremont County was 3,869. Gooding's vote was 3,932.

Senator DUBOIS. That is all.

Mr. VAN COTT. Is not the statement that you have made, in answer to my last question, to the effect that Mr. Gooding's majority did not keep up in the Gentile counties the way it did in some of the other counties, true of practically every State in the Union—that a man will show more strength in some counties than he will in others?

Mr. JACKSON. I do not know about other States, but I know the line

is very clearly defined in Idaho between the Mormon and the gentile counties in regard to Gooding's vote.

Mr. VAN COTT. You went from New York to Idaho?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. Were you in politics in New York?

Mr. JACKSON. I was interested in politics.

Mr. VAN COTT. You know that the Democrats, for instance, have a larger majority in New York City than they have in the northern part of New York?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. So it is true there. Is it not a fact that Governor Gooding's plurality in Idaho was nearer to that of the Republican Presidential electors than that of any governor who was elected in any Northern or Western State in the Union?

Mr. JACKSON. I do not know.

Mr. VAN COTT. You speak of the leading Republican organ in Idaho. What paper do you refer to?

Mr. JACKSON. The Boise Statesman.

Mr. VAN COTT. Calling your attention now to the Democratic convention in 1904, you were present at it?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. During the discussion of a plank to be inserted in regard to polygamy you were present?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. Did not the delegates from these Mormon counties, Mormons and gentiles, say they would support a plank, if the Democratic party would put it into their platform, that adultery and fornication and such offenses should also be made criminal under the laws of Idaho the same as polygamy?

Mr. JACKSON. They did not. They voted down such a proposition as that.

Mr. VAN COTT. They voted it down? Who voted it down?

Mr. JACKSON. I presume the Mormon counties.

Mr. VAN COTT. Voted down what?

Mr. JACKSON. The request to put in the word "adultery" in connection with polygamy.

Mr. VAN COTT. In Idaho there is no statute against those two offenses, is there?

Mr. JACKSON. No, sir.

Mr. VAN COTT. And did not the Mormons and the Mormon representatives in the Democratic convention say that if they would put in a clause in favor of legislation against adultery and fornication they would support it?

Mr. JACKSON. No, sir. At Lewiston the first resolution that was brought into the convention contained the word "adultery," and the Mormon counties voted that down and the plank was lost. We then brought in the plank which I read yesterday, and which was passed.

Senator DUBOIS. Right in that connection, did any gentile delegate who was in favor of anti-Mormon legislation vote against the adultery plank in the convention?

Mr. JACKSON. Not that I know of; no, sir.

Senator DUBOIS. Does not the record of that convention show that the Mormons and their sympathizers voted down the adultery plank?

Mr. JACKSON. Yes, sir.

Senator DUBOIS. Against the solid vote of those who desired this class of legislation in favor of the adultery plank?

Mr. JACKSON. Yes, sir.

Senator DUBOIS. Those are the records of the convention?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. Now, these sympathizers with the Mormons must have been gentiles?

Mr. JACKSON. They were the Jack Mormons.

Mr. VAN COTT. They were the Jack Mormons?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. That is, whoever votes with the Mormons or sympathizes with them in any particular, in your opinion, is a Jack Mormon?

Mr. JACKSON. No, sir. I think I can give you an illustration of it.

Mr. VAN COTT. I thought you stated——

Mr. JACKSON. No, that is not my idea. My idea is taken from the attitude of the gentleman who made the leading speech in Lewiston for the Mormons. He made a speech there of two or three hours, in which he said that they were the best people that God ever made, and that there was no earthly reason why there should be any persecution of them; and yet that same man went out of that convention and bought a lot up in Lewiston, and when asked why he wanted it, he said, "I live among the Mormons, and no white man can live among them." That is what I call a Jack Mormon.

Mr. VAN COTT. Have you any objection to stating who that was?

Mr. JACKSON. Mr. Redwine.

Mr. VAN COTT. What are his initials?

Mr. JACKSON. R. G. Redwine.

Mr. VAN COTT. Did you hear the statement made?

Mr. JACKSON. I heard his speech.

Mr. VAN COTT. Did you hear him make that statement which you have repeated?

Mr. JACKSON. No, sir.

Mr. VAN COTT. Some one told you?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. Referring to the latter part of your statement, and also when you say that the Mormons voted down this clause, you do it in the same way you did before, namely, that one-third of the convention being from Mormon counties, they, with their sympathizers, controlled the vote?

Mr. JACKSON. Yes, sir.

Senator DUBOIS. They voted down this resolution containing the adultery clause, you said?

Mr. JACKSON. Yes, sir.

Senator DUBOIS. What action followed that?

Mr. JACKSON. I introduced the resolution which was adopted as a part of the plank.

Senator DUBOIS. When did they vote it down?

Mr. JACKSON. They had voted it down late one evening, and the first thing that happened the following morning was my introduction of the plank.

Senator DUBOIS. Was any motion made after the resolution was voted down?

Mr. JACKSON. A motion to adjourn.

Senator DUBOIS. Was that carried?

Mr. JACKSON. Yes, sir.

Senator DUBOIS. Then what happened?

Mr. JACKSON. Then we reconvened in the morning and I introduced this resolution.

Senator DUBOIS. What was the vote on that, and how divided?

Mr. JACKSON. That resolution was carried.

Senator DUBOIS. What was the difference between the resolution which was carried and the resolution which was beaten the previous night?

Mr. JACKSON. The omission of the word "adultery." That was carried by the gentile counties. The bulk of that vote came from the north and southwest.

Senator DUBOIS. You say the Mormons voted against the resolution containing the adultery clause?

Mr. JACKSON. Yes sir.

Senator DUBOIS. How did they vote on the resolution which you introduced the next morning, leaving out the adultery clause?

Mr. JACKSON. They voted against that resolution also.

Senator DUBOIS. They voted against both resolutions?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. So the second resolution was carried by gentile votes?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. That is, the gentiles defeated the resolution that had the word "adultery" in it and carried the one that eliminated it?

Mr. JACKSON. Yes, sir. I have always believed that there was a mistake in the first vote; that it was owing to a mistake on the part of some of the gentile counties as to their position. I think the first defeat was a mistake.

Mr. VAN COTT. If you think it was a mistake, why did they change the resolution? Why did they not pass it as it was at first?

Mr. JACKSON. The motion having been defeated, under the parliamentary rule, as I understand it, we had to introduce a resolution which was not identical with the resolution which had been voted down, for the purpose of having an original motion in front of the convention.

Mr. VAN COTT. So on this parliamentary quibble—and I do not use that term offensively—you think the second resolution was carried? Is that correct?

Mr. JACKSON. There was no quibble about it.

Mr. VAN COTT. No; no quibble. Simply the word "adultery" was taken out.

Mr. JACKSON. Simply the idea of having a fresh resolution. The point of order was raised as soon as I introduced the resolution, from a Mormon county, that it was out of order, because the convention had already voted on it; and then it was pointed out to the chair that this resolution was substantially different from the first resolution in the omission of the word "adultery," and he ruled that it was in order.

Mr. VAN COTT. Then it carried?

Mr. JACKSON. Then the house adopted it.

Mr. VAN COTT. You spoke of some gentleman coming in conflict with Mr. Budge. May I ask you his name?

Mr. JACKSON. His name is Mr. Hart.

Mr. VAN COTT. Would you give his initials, please?

Mr. JACKSON. I think it is James H.

Mr. VAN COTT. During 1904 did you know of any speaker who spoke for the Democratic side being molested in the Mormon counties?

Mr. JACKSON. Personally molested?

Mr. VAN COTT. Yes.

Mr. JACKSON. There was no violence offered. There were threats of violence.

Mr. VAN COTT. Did you hear them?

Mr. JACKSON. No, sir; of course I can not cover the whole State.

Mr. VAN COTT. No.

Mr. JACKSON. All my information is derived from my position as chairman. The greater bulk of my information comes to me in virtue of that office.

Mr. VAN COTT. But you heard of no violence actually perpetrated in any of those counties?

Mr. JACKSON. No, sir.

Mr. VAN COTT. Your apprehensions, so far as the actual facts were concerned, were groundless?

Mr. JACKSON. They were not fulfilled.

Mr. VAN COTT. Do you have the Australian ballot system in Idaho?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. A man can go into a booth and vote secretly?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. That is all.

Senator DUBOIS. I asked you yesterday, and I believe you did not complete the answer, as I think it was just before the adjournment, what political action was taken in the Democratic county conventions of Mormon counties in regard to the State Democratic platform?

Mr. JACKSON. In two counties, Fremont and Oneida, there was no reference to the State platform, except that the legislative candidates from those counties were pledged to prevent the passage of any legislation which would be inimical to them, to their franchise; in other words, looking to the disfranchisement of the Mormons; that was the idea, and as against the introduction of those laws which we had pledged ourselves in the State platform to enact.

In Bingham County, when this resolution indorsing the Democratic State platform, specifically mentioning the provision against polygamy and church interference, was introduced, every Mormon bolted.

Senator DUBOIS. Left the convention?

Mr. JACKSON. Yes, sir; left the convention.

The CHAIRMAN. Which convention was that?

Mr. JACKSON. That was the Democratic convention in Bingham County.

Mr. WORTHINGTON. What year?

Mr. JACKSON. This year. In Bear Lake County they repudiated the State plank.

The CHAIRMAN. How did they repudiate it?

Mr. JACKSON. I do not remember the exact wording.

The CHAIRMAN. Was it at a public meeting?

Mr. JACKSON. They simply said, "We repudiate the action of the Democratic party in passing this resolution against polygamy and

church interference in politics." That was the gist of it. That was the idea.

The CHAIRMAN. Was that in a public meeting?

Mr. JACKSON. That was in the Democratic county convention, met to nominate county officers.

In Bannock County there was no reference made whatever to the State platform—practically an agreement there between the Mormons and the Gentiles that no reference should be made.

In Cache County I never heard what the action of the county convention was. It was not reported in the papers, and I was away at the time and I do not know.

Mr. WORTHINGTON. We are through, Mr. Chairman.

The CHAIRMAN. Is that all, Mr. Tayler?

Mr. TAYLER. Yes.

The CHAIRMAN. I wish to ask one question. What year was it that there was some discussion of the propriety of amending the Idaho constitution?

Mr. JACKSON. 1902. In the legislature the resolution was passed calling—

The CHAIRMAN. 1902?

Mr. JACKSON. Yes, sir.

The CHAIRMAN. In what particular was it deemed desirable to amend the constitution?

Mr. JACKSON. To take out of it that section which declares that polygamy and bigamy are forever prohibited in the State of Idaho.

The CHAIRMAN. The purpose of the convention, as you understood it, was to eliminate that provision of the constitution?

Mr. JACKSON. Yes, sir. It was generally stated that that was the purpose. The calling of the convention was for the purpose of taking out of the constitution of those clauses which were objectionable to the Mormon people.

The CHAIRMAN. Was that the time that Apostle John Henry Smith visited Idaho?

Mr. JACKSON. Yes, sir.

The CHAIRMAN. Did he visit the legislature?

Mr. JACKSON. He visited the legislators.

The CHAIRMAN. Yes; the legislators. Was it before or after his visit that the resolution was passed?

Mr. JACKSON. It was after his visit.

The CHAIRMAN. How long after?

Mr. JACKSON. Perhaps a couple of weeks; three weeks.

The CHAIRMAN. During the same session?

Mr. JACKSON. Oh, yes, sir; immediately following his visit, practically.

The CHAIRMAN. Do you remember the terms of the resolution? Was it just simply a resolution calling a constitutional convention?

Mr. JACKSON. Yes, sir; that is all.

The CHAIRMAN. What became of the resolution?

Mr. JACKSON. The attorney-general declared that it was not properly voted on in the legislature and the secretary of state declined to certify it down to the county officers to be put on the ticket for voting this fall. It is left in the air as it is now.

The CHAIRMAN. And that was the end of it?

Mr. JACKSON. Yes, sir.

The CHAIRMAN. How long after the passage of the resolution did the attorney-general render that opinion?

Mr. JACKSON. Over a year.

The CHAIRMAN. Do you know how the attorney-general happened to render that opinion?

Mr. JACKSON. I only know according to the general information on the subject; nothing personally. I know the request was made from a Republican leader to the attorney-general regarding this matter. The people of the State had not been aware that this resolution had passed. It had passed silently, without any speeches in its favor, and there was no stir made of its passage. In other words, it had been overlooked.

Then Senator Dubois wrote a letter to the Democratic State committee calling attention to the fact that this question was coming up, to be presented to the people, whether the test oath and these different clauses, offensive to the Mormon Church, should be repealed. That was to be voted on in the election.

As soon as that letter became public property there was quite an agitation in regard to it. The test oath in Idaho is a clause in the constitution which is particularly dear to the people. It was at once recognized and stated plainly by the Republican paper and by our Democratic committeemen that this was an effort to repeal the test oath in Idaho. Then this request was submitted to the attorney-general, and he declared, in an opinion, that the houses had not conformed in some particular to the statute in regard to passing a resolution amending the constitution.

The CHAIRMAN. And that was the end of the matter?

Mr. JACKSON. Yes, sir.

Senator DUBOIS. Was there any agitation during the campaign preceding the meeting of this legislature which passed the resolution against the test oath in regard to the calling of a constitutional convention?

Mr. JACKSON. No, sir; none whatever.

Senator DUBOIS. Had the question ever been raised, politically or otherwise, to your knowledge, as to the advisability of a constitutional convention or the necessity for it?

Mr. JACKSON. No, sir; I never heard it discussed by anyone or by any paper.

Senator DUBOIS. The first knowledge that the people had of the fact that they were called upon to vote for a constitutional convention or against it was after the resolution had been passed?

Mr. JACKSON. It was a long time after the resolution was passed, Senator, that the knowledge came to the people. While the resolution was not passed surreptitiously, there was no opposition to it. It went through without a single speech in favor of it or against it, and practically by a unanimous vote. It glided through, and it was not until your letter calling attention to it that the matter really assumed any importance whatever.

The CHAIRMAN. Now, I want to ask you, Mr. Jackson, how do you know that the purpose of the resolution calling a convention was to eliminate those provisions from the constitution and not for some other purpose?

Mr. JACKSON. Apostle John Henry Smith stated to people in Boise

that he "desired to remove from the constitution of Idaho those clauses so objectionable to our people."

Senator DUBOIS. Is John Henry Smith a resident of Idaho?

Mr. JACKSON. No, sir; he lives in Salt Lake City.

The CHAIRMAN. The John Henry Smith to whom you refer is one of the apostles of the church?

Mr. JACKSON. Yes, sir; one of the apostles of the church.

The CHAIRMAN. Living in Salt Lake City?

Mr. JACKSON. Yes, sir.

The CHAIRMAN. He stated that to be the purpose?

Mr. JACKSON. Yes, sir.

The CHAIRMAN. I believe that provision of the constitution is in the record?

Mr. TAYLER. I have it here. Perhaps it had better go into the record at this point.

The CHAIRMAN. I should like to have you read it.

Mr. TAYLER. Section 4, article 1, of the constitution of Idaho, which was adopted in 1889, is as follows:

"SEC. 4. The exercise and enjoyment of religious faith and worship shall forever be guaranteed; and no person shall be denied any civil or political right, privilege, or capacity on account of his religious opinions; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, or excuse acts of licentiousness, or justify polygamious or other pernicious practices, inconsistent with morality or the peace or safety of the State; nor to permit any person, organization, or association to directly or indirectly aid or abet, counsel or advise, any person to commit the crime of bigamy or polygamy, or any other crime. No person shall be required to attend or support any ministry or place of worship, religious sect, or denomination, or pay tithes against his consent; nor shall any preference be given by law to any religious denomination or mode of worship. Bigamy and polygamy are forever prohibited in the State, and the legislature shall provide by law for the punishment of such crimes."

Section 3 of article 6, omitting an irrelevant part, is as follows:

"SEC. 3. No person is permitted to vote, serve as a juror, or hold any civil office who is under guardianship, idiotic, or insane, or who has at any place been convicted of treason, felony, embezzlement of the public funds, bartering or selling, or offering to barter or sell, his vote, or purchasing or offering to purchase the vote of another, or other infamous crime, and who has not been restored to the rights of citizenship, or who, at the time of such election, is confined in prison on conviction of a criminal offense; or who is a bigamist or polygamist or is living in what is known as patriarchal, plural, or celestial marriage, or in violation of any law of this State or of the United States forbidding any such crime; or who in any manner teaches, advises, counsels, aids, or encourages any person to enter into bigamy, polygamy, or such patriarchal, plural, or celestial marriage, or to live in violation of any such law, or to commit any such crime; or who is a member of or contributes to the support, aid, or encouragement of any order, organization, association, corporation, or society which teaches, advises, counsels, encourages, or aids any person to enter into bigamy, polygamy, or such patriarchal or plural marriage, or which teaches or advises that the laws of this State

prescribing rules of civil conduct are not the supreme law of the State."

The CHAIRMAN. Was it these provisions of the constitution——

Senator DUBOIS. The next article is extremely important.

The CHAIRMAN (to Mr. Tayler). Read the next.

Mr. TAYLER. I will.

"SEC. 4. The legislature may prescribe qualifications, limitations, and conditions for the right of suffrage additional to those prescribed in this article, but shall never annul any of the provisions in this article contained."

The CHAIRMAN. Was it the elimination of these provisions of the constitution, as you understood, that occasioned the visit of Apostle Smith to the legislature?

Mr. JACKSON. Yes, sir.

The CHAIRMAN. And the securing of the passage of this resolution?

Mr. JACKSON. Yes, sir.

The CHAIRMAN. That is all.

Mr. VAN COTT. In the legislature that passed that resolution were there not only 11 Mormons out of 69 members?

Mr. JACKSON. There were 11 Mormons by faith. The majority of them were Mormons in practice—political practice.

Mr. VAN COTT. Political practice?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. So that the 11 were successful in winning over a majority of the 69 members to pass the resolution?

Mr. JACKSON. No, sir.

Mr. VAN COTT. Well, how was it done?

Mr. JACKSON. As I have stated repeatedly, the balance of power in the other counties, outside of the six Mormon counties, is held by the Mormon people, and while a man may be a gentile, coming from those counties, he just as much represents the Mormon Church as though he were a Mormon, because his political safety and political ambition depend upon pleasing those people.

Mr. VAN COTT. Does not the constitution of Idaho provide that in order to pass such a resolution there must be a two-thirds majority vote in the senate and in the house?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. That was accomplished?

Mr. JACKSON. Yes, sir; it was accomplished.

Mr. VAN COTT. You spoke of this resolution ending with the attorney-general. What was his name?

Mr. JACKSON. Attorney-General Bagley.

Mr. VAN COTT. Was he a Mormon then?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. And is now?

Mr. JACKSON. Yes, sir.

Mr. VAN COTT. And was a Mormon when he was elected?

Mr. JACKSON. Yes, sir; he is the one that was——

Mr. VAN COTT. Did you hear John Henry Smith make the statements which you have repeated?

Mr. JACKSON. No, sir.

Mr. VAN COTT. Or any of them?

Mr. JACKSON. No, sir.

The CHAIRMAN. Who told you of that statement by Apostle Smith?

Mr. JACKSON. Mr. Balderston, the editor of the Boise Statesman.
The CHAIRMAN. What is his full name?
Mr. JACKSON. William.

TESTIMONY OF JOHN NICHOLSON—Recalled.

Mr. TAYLER. Will Mr. Nicholson take the stand again?
The CHAIRMAN. Mr. Nicholson will please take the stand.

JOHN NICHOLSON, having been previously sworn, was examined and testified as follows:

Mr. TAYLER. Are you in a better state of health, Mr. Nicholson, than you were a few days ago?

Mr. NICHOLSON. I think I am improving a little.

Mr. TAYLER. I have a few questions I wish to ask you.

You brought with you, under the authority of the subpoena duces tecum, a record book entitled "Living Sealings?"

Mr. NICHOLSON. Yes, Living Sealings.

Mr. TAYLER. Living Sealings A?

Mr. NICHOLSON. Yes, sir.

Mr. TAYLER. Or, Book A?

Mr. NICHOLSON. Yes, sir.

Mr. TAYLER. That record book begins with what year?

Mr. NICHOLSON. 1893, I believe.

Mr. TAYLER. 1893?

Mr. NICHOLSON. Yes, sir.

Mr. TAYLER. I think you testified that it contains a record of all of the sealings between living persons occurring after the taking down of the endowment house, or, in the new temple?

Mr. NICHOLSON. Yes, I made that statement; that is, it has all of the marriages. Of course it is marriages that are in there.

Mr. TAYLER. Is this book which you brought with you the same book which was opened and entries made in it in 1893?

Mr. NICHOLSON. Well, I do not know of any other. I have no recollection of any other than that. The book was made and used for that purpose.

Mr. TAYLER. Is it the only book that was made and used for that purpose?

Mr. NICHOLSON. Yes; of that character.

Mr. TAYLER. Books of what other character have you?

Mr. NICHOLSON. The various processes—religious processes—have each a book, and the records are taken on the respective books, and that is one.

Mr. TAYLER. Does this book contain all of the records of all of the sealings except sealings with the dead in the temple at Salt Lake?

Mr. NICHOLSON. Yes; that is to say, that is the full statement in that line from the opening of the temple until now.

Mr. TAYLER. Did you hear the testimony of August Lundstrom here, in which he stated that he had been sealed to his wife in the temple in 1894?

Mr. NICHOLSON. 1894.

Mr. TAYLER. Ought that to be recorded in this book?

Mr. NICHOLSON. Did he say it was for this book?

Mr. TAYLER. Did he what?

Mr. NICHOLSON. Did he say that it was to be placed in this book?

Mr. TAYLER. No; he did not say anything, except that he was sealed in the temple to his wife in August, 1894.

Mr. NICHOLSON. To his wife?

Mr. TAYLER. Yes.

Mr. NICHOLSON. There is another book that he might have been sealed to his wife in, but it does not go in that book.

Mr. TAYLER. Why did you not bring that book with you?

Mr. NICHOLSON. What book?

Mr. TAYLER. This other book.

Mr. NICHOLSON. Because this is not marriage. When a man and a woman who are married come there they are not put in that book that was brought here. It is another thing altogether.

Mr. TAYLER. Then, how many kinds of sealing books do you have?

Mr. NICHOLSON. How many kinds of sealing books?

Mr. TAYLER. Yes; books in which there is a record of sealings.

Mr. NICHOLSON. There is a book in regard to sealing children to their parents.

Mr. TAYLER. Yes; but I am talking about marriage sealings.

Mr. NICHOLSON. Marriage sealings? There are only the two; that is, that people who have been married go into the temple, and if they have been married, as I say, they do not go in that book. They go into another.

Mr. TAYLER. What do you call that other book?

Mr. NICHOLSON. That other book?

Mr. TAYLER. Yes.

Mr. NICHOLSON. It is in the nature of sealing, but it is not marriage.

The CHAIRMAN. The counsel asked you what is the name of the other book; how can it be designated?

Mr. NICHOLSON. It is also sealings.

The CHAIRMAN. What is the name of the book? Is it called Book A or Book B, or Book of Sealings? How do you identify it?

Mr. NICHOLSON. It is a book of sealings of the character to which I have made an explanation.

Mr. TAYLER. Is it a marriage ceremony——

Mr. NICHOLSON. No, sir.

Mr. TAYLER. Which is certified to——

Mr. NICHOLSON. No, sir.

Mr. TAYLER. Take the instance of Mr. Lundstrom. Assume that he told the truth when he said he was sealed to his wife in the temple in 1894.

Mr. NICHOLSON. I do not know. It seems that he was married and sealed to his wife. No person's name or record can be in that book that you have now to be examined except they bring——

Mr. TAYLER. A license?

Mr. NICHOLSON. A license.

Mr. TAYLER. Exactly.

Mr. NICHOLSON. But he can not—that, is to say, they must be not married.

Mr. TAYLER. Of course, I understand, Mr. Nicholson, that this book which you brought here contains the record of those marriages only which are predicated upon a public official license.

Mr. NICHOLSON. Yes, sir.

Mr. TAYLER. Issued under the authority of the State. Is that right?

Mr. NICHOLSON. That is right.

Mr. TAYLER. Where do you record the other marriages?

Mr. NICHOLSON. In another book.

Mr. TAYLER. That is what I thought.

Senator McCOMAS. Where is that book?

Mr. NICHOLSON. That book, for all I know, is in the temple, and it is not a marriage book at all.

Senator McCOMAS. You are the keeper of that book?

Mr. NICHOLSON. I am the keeper?

Senator McCOMAS. Of that book?

Mr. NICHOLSON. No, sir; not particularly that one.

Senator McCOMAS. Who is, if you are not.

Mr. NICHOLSON. Well, I can tell you. There are four of us who look after that.

Senator McCOMAS. Four of you?

Mr. NICHOLSON. Yes, sir.

Senator McCOMAS. Why did you not bring that book?

Mr. NICHOLSON. Because I did not want to; because it does not relate to marriage.

Senator McCOMAS. It is sealing?

Mr. NICHOLSON. It is sealing, and there is no ceremony of marriage such as is made when a license comes and all is clear. It is not when they go and get married, and then come in there to be married in a secondary way, except—

Senator McCOMAS. It is a sealing of the marriage of the living, but the living who are thus sealed have no marriage license under the law of the State?

Mr. NICHOLSON. It is not the marital process.

Senator McCOMAS. Let the reporter repeat my question.

The reporter read as follows:

"Senator McCOMAS. It is a sealing of the marriage of the living, but the living who are thus sealed have no marriage license under the law of the State?"

Mr. NICHOLSON. I have given it just as clear as I can give it. It is people who go to the temple, who have been previously married outside of the temple or in some place of that character.

Senator McCOMAS. Now, repeat that question, Mr. Stanographer; and, Mr. Nicholson, see that you get the point in it.

The reporter read as follows:

"Senator McCOMAS. It is a sealing of the marriage of the living, but the living who are thus sealed have no marriage license under the law of the State?"

Senator McCOMAS. Is not that true?

Mr. NICHOLSON. If you will add to it that they come there without any authorization, a lawful license, and that they have been married outside, it will be more correct.

Senator McCOMAS. And you put such in the book you speak of—the book you did not bring here?

Mr. NICHOLSON. There is a certain process given them, but not marriage. They have been married already.

Senator McCOMAS. And that is the book you have described and which you did not bring here?

Mr. NICHOLSON. I did not bring it.

Senator McCOMAS. Now, will you tell us why you did not bring it here?

Mr. NICHOLSON. Why did I not? Because it did not relate to marriage, and that is what you gentlemen asked for.

Senator McCOMAS. You think that marriage is only that which is legalized and certified to have taken place under a license?

Mr. NICHOLSON. Say that again.

Senator McCOMAS. You think that a legal marriage is one accompanied by a license to marry under the laws of the State?

Mr. NICHOLSON. Yes, sir.

Senator McCOMAS. And you call this other sealing, not marriage?

Mr. NICHOLSON. Not a marriage; just putting a blessing on them in addition to the marriage they have gone through.

Senator McCOMAS. And in that book you personally record these sealings that you have spoken of?

Mr. NICHOLSON. These sealings that are referred to? No, sir.

Senator McCOMAS. You do not?

Mr. NICHOLSON. No, sir.

Senator McCOMAS. Who does?

Mr. NICHOLSON. My assistants.

Senator McCOMAS. Your assistants do that? Are you in the habit of avoiding putting them down yourself?

Mr. NICHOLSON. No, sir; that is not my part.

Senator McCOMAS. My question is, Did you make it a point not to make entries in the book?

Mr. NICHOLSON. No, sir; I did not make any point at all. I simply have to look after the records and see that the recording is done, and I have a part in it, but it is not any of this.

Senator McCOMAS. You are familiar with that book?

Mr. NICHOLSON. Yes, sir; of course.

Senator McCOMAS. To the best of your recollection, are the number of marriages in it about equal for the same period, from 1893 on, to the number in the book which you have presented?

Mr. NICHOLSON. There is no comparison at all. There are very few.

Senator McCOMAS. Very few?

Mr. NICHOLSON. Comparatively.

Senator McCOMAS. Can you state, from your personal recollection, whether in any of those cases of which you have personal knowledge—entered in that book which you have described—there have been sealings of persons who already had one wife, and had then been sealed and the fact had been entered in that book, to a second wife or third wife?

Mr. NICHOLSON. What is that?

Senator McCOMAS. Are there any sealings in that book of persons who, having one wife, have had themselves sealed to a second or a third wife?

Mr. NICHOLSON. No, sir.

Senator McCOMAS. To your personal recollection, there are none such in that book?

Mr. NICHOLSON. No, sir; I have never seen anything of the kind.

Senator McCOMAS. Do you undertake to say that you are confident, so far as you have knowledge of the sealings recorded in that book,

which is not here, that there is no entry of the sealing of one man, having one wife, to a second woman?

Mr. NICHOLSON. No, sir; I do not know of one.

Senator McCOMAS. Are you sure there is not any, so far as your knowledge extends?

Mr. NICHOLSON. I am satisfied there is none, and that is all I can say, because I myself did not keep that book—that is, I did not do the writing.

Senator McCOMAS. How many sealings of one man, having one wife already, to a second woman have you had knowledge of during the time you have been keeping these records which you have there and those you have just spoken of?

Mr. NICHOLSON. You speak too rapidly for me, the same as I do for you.

Senator McCOMAS. How many sealings of a man having one wife already to a second woman have you had knowledge of during your holding of this office and your control of these books?

Mr. NICHOLSON. There has not, of course, to the best of my knowledge been any marriage of that character—that is, a man taking a second or third wife, as the case may be. I know of not one.

Senator McCOMAS. You have not heard during all the years——

Mr. NICHOLSON. And I have not seen one.

Senator McCOMAS. You have not seen one or heard of one?

Mr. NICHOLSON. No, sir; not in all of the time of the temple to the present.

Senator McCOMAS. And to the best of your knowledge and belief there has been no such marriage? You keep records of them all on these various books?

Mr. NICHOLSON. I do not know of any.

Senator McCOMAS. You do not know of any?

Mr. NICHOLSON. No.

Senator McCOMAS. And to the best of your knowledge and belief, have there been any?

Mr. NICHOLSON. What is that?

Senator McCOMAS. Have there been any such marriages in Salt Lake City, to the best of your knowledge and belief?

Mr. NICHOLSON. Not on the rumors I have heard outside.

Senator McCOMAS. I do not know that I understand you—"outside?"

Mr. NICHOLSON. Outside.

Senator McCOMAS. But there has been no such sealing in the temple?

Mr. NICHOLSON. No; I do not think so; that is to say, I am sure, because that book contains all up to date.

Senator McCOMAS. It is a pity we have not that book.

Mr. WORTHINGTON. Mr. Nicholson, when you say "that book," which book do you mean?

Mr. NICHOLSON. The book I brought.

Senator McCOMAS. That book contains the records where parties have procured licenses to marry under the laws of the State?

Mr. NICHOLSON. Yes; it is the usual way.

Senator McCOMAS. I mean the book you now describe as containing the sealing of living persons who have obtained from the law officers a license to marry under the law of the State.

Mr. NICHOLSON. Do you refer——

Senator McCOMAS. To this book here.

The CHAIRMAN. To the book we have here.

Mr. NICHOLSON. It is done just the same as all other people do. They obtain the proper means, and they go and enter into marriage, whether it is our people or any other people. They have to bring the public authority.

Senator McCOMAS. You have had for years the custody of this book and the other book which you have described. Do you say there are three or four different kinds of books?

Mr. NICHOLSON. Yes; there is a book for baptisms.

Senator McCOMAS. I mean for the marriage of the living.

Mr. NICHOLSON. Yes. There is a book of the living.

Senator McCOMAS. That is, as between men and women, you have this book for persons who are licensed to marry under the laws of the State?

Mr. NICHOLSON. Yes, sir.

Senator McCOMAS. And you have the second book which you have just described?

Mr. NICHOLSON. Yes, sir.

Senator McCOMAS. What other book have you describing marriage or sealing between the living besides the two you have mentioned?

Mr. NICHOLSON. Nothing that I know of.

Senator McCOMAS. Only those two?

Mr. NICHOLSON. That is all I can think of.

The CHAIRMAN. You can find the second book you have spoken of?

Mr. NICHOLSON. Would I find it?

The CHAIRMAN. Yes.

Mr. NICHOLSON. I could tell that better when I got back.

The CHAIRMAN. Yes, I know; but you know where it is?

Mr. NICHOLSON. Well, I knew it, yes; I have known it.

The CHAIRMAN. Do you not know now?

Mr. NICHOLSON. It was in the temple.

The CHAIRMAN. Whereabouts?

Mr. NICHOLSON. Whereabouts?

The CHAIRMAN. Yes.

Mr. NICHOLSON. It is used for adding additional cases, if there should be any.

The CHAIRMAN. Do you think you could find it if you were in the temple?

Mr. NICHOLSON. I think maybe I might.

The CHAIRMAN. What do you mean by "maybe I might?" Do you not know whether you could or not?

Mr. NICHOLSON. I am not certain. There is no person who can be entirely certain when he is a long way off. As far as I know, I could.

The CHAIRMAN. I put you right in the temple. That is not a long ways off. Suppose you were right in the temple?

Mr. NICHOLSON. I thought it was, when I came down here.

The CHAIRMAN. If you went to the temple could you find the book?

Mr. NICHOLSON. If the book was there I think I could find it.

The CHAIRMAN. You know where it is, or you did know where it was?

Mr. NICHOLSON. I did know.

The CHAIRMAN. When did you last see it?

Mr. NICHOLSON. I have not particularly looked at it for quite a while.

The CHAIRMAN. Do you remember ever to have seen it?

Mr. NICHOLSON. I could not give you the date.

The CHAIRMAN. Do you remember ever to have seen it?

Mr. NICHOLSON. Have I ever seen it?

The CHAIRMAN. Yes.

Mr. NICHOLSON. Yes.

The CHAIRMAN. When, last?

Mr. NICHOLSON. I do not know.

The CHAIRMAN. Three years ago?

Mr. NICHOLSON. I never bear these things in my mind, especially now.

The CHAIRMAN. I know; but do you not know when you saw it last?

Mr. NICHOLSON. No; I do not remember.

The CHAIRMAN. Have you seen it this year?

Mr. NICHOLSON. Oh, I think so; without a doubt, a good many times.

The CHAIRMAN. Can you not give us an idea as to when you saw it last?

Mr. NICHOLSON. No; I can not.

The CHAIRMAN. How long before coming here did you see it?

Mr. NICHOLSON. Of course I could tell you if I knew that.

The CHAIRMAN. Did you see it before coming here?

Mr. NICHOLSON. No; I do not know.

The CHAIRMAN. In answer to the subpoena, you must have been put upon inquiry as to the book. Did you run across the book then?

Mr. NICHOLSON. The subpoena does not require anything of me from there but the marriages; that is all.

The CHAIRMAN. I understand; but when you had the subpoena you of course looked for the book the subpoena called for?

Mr. NICHOLSON. Yes, sir.

The CHAIRMAN. Did you run onto this book that you did not bring?

Mr. NICHOLSON. No, I did not; because there is nothing connected with marriages about it.

Senator McCOMAS. Was the book there at the time?

Mr. NICHOLSON. I beg pardon.

Senator McCOMAS. Was the book there at that time?

Mr. NICHOLSON. I have no reason to think any way else; but to say that I have seen it within a short time, I could not.

Senator McCOMAS. Who else is in the room where the book was then?

Mr. NICHOLSON. There are three persons. They are my assistants.

Senator McCOMAS. Your assistants?

Mr. NICHOLSON. Yes, sir.

Senator McCOMAS. Which of them would have the most knowledge of this book and know most about it?

Mr. NICHOLSON. I think either of the three would do.

Senator McCOMAS. Which one would probably know it best?

Mr. NICHOLSON. Duncan M. McAllister. He was the man who made the entries in this book here.

Senator McCOMAS. And also in the other book?

Mr. NICHOLSON. This book here.

Senator McCOMAS. Where is he now? He is not here.

Mr. NICHOLSON. No; he is not here.

Senator McCOMAS. He is in Salt Lake, so far as you know?

Mr. NICHOLSON. So far as I know. He was there when I left.

The CHAIRMAN. Give us the names of the other two custodians?

Mr. NICHOLSON. Joseph Christianson is one, and the other is Lycurgus Wilson.

The CHAIRMAN. Where do they live?

Mr. NICHOLSON. One lives a short distance out of Salt Lake——

The CHAIRMAN. Do they live in Salt Lake City?

Mr. NICHOLSON. Except one, who is a number of miles south of the city. That is Lycurgus Wilson. The other two live in the city of Salt Lake.

Senator McCOMAS. If I wanted to ask one of these men to let me see this book, what would I ask for? How would you ask for it? What name would you give it? If I wanted to ask McAllister to show me that book, by what name would I ask for it?

Mr. NICHOLSON. You might ask him for Sealings—Living Sealings.

Senator McCOMAS. Living Sealings?

Mr. NICHOLSON. Yes.

Senator McCOMAS. This is called Living Sealings A. What is that called?

Mr. NICHOLSON. The other is different, and he would understand it by that.

Senator McCOMAS. By what?

Mr. NICHOLSON. He attends to that. Some of the others do it occasionally.

Senator McCOMAS. If you wanted to call for that book or to ask McAllister for it, what would you say—"Give me what book?"

Mr. NICHOLSON. I would simply go and ask for the Living Sealings—the nonmarried in the temple.

Senator McCOMAS. But he might give——

Mr. NICHOLSON. I do not think you heard all of the answer.

Senator McCOMAS. Let the reporter read it.

The reporter read as follows:

"I would simply go and ask for the Living Sealings—the non-married in the temple."

Senator McCOMAS. Is there only one book of that kind?

Mr. NICHOLSON. Only one, I think.

Mr. TAYLER. That book you did not bring?

Mr. NICHOLSON. No, sir.

Mr. TAYLER. You have also other records of marriages under your charge there in the temple that you did not bring, have you not?

Mr. NICHOLSON. No; I do not know of any other marriages done in the temple.

Mr. TAYLER. Not marriages done in the temple. The subpoena did not refer to marriages done in the temple.

Mr. NICHOLSON. No. It seemed to take in everything.

Mr. TAYLER. It called upon you to produce all the marriage records in your possession or under your control or in any way subject to your direction, did it not?

Mr. NICHOLSON. Yes, sir.

Mr. TAYLER. Did you bring all of the marriage records-

Mr. NICHOLSON. Yes, sir.

Mr. TAYLER. Covered by that description?

Mr. NICHOLSON. No.

Mr. TAYLER. Why not?

Mr. NICHOLSON. Because I had no business to do it.

Mr. TAYLER. Why not?

Mr. NICHOLSON. No authority.

Mr. TAYLER. In whose custody are they?

Mr. NICHOLSON. I could not say exactly; but I know that I have no right to take them out.

Mr. TAYLER. Exactly.

Mr. NICHOLSON. Without consent.

Mr. TAYLER. Suppose you wanted to go and look at one of those marriage records which you did not bring, whose consent would you ask?

Mr. NICHOLSON. For me to examine it?

Mr. TAYLER. Yes.

Mr. NICHOLSON. I would go and examine it myself.

Mr. TAYLER. Precisely. So they are under your control, and you refuse to bring them?

Mr. NICHOLSON. They are not under my control. I could not get one, without being authorized to do it.

Mr. TAYLER. By whom?

Mr. NICHOLSON. By whom?

Mr. TAYLER. Yes.

Mr. NICHOLSON. By men who are above me.

Mr. TAYLER. Who?

The CHAIRMAN. Name them.

Mr. NICHOLSON. The presidency.

Mr. TAYLER. The presidency? Then, before you brought this Living Sealings A, you went to the president?

Mr. NICHOLSON. Well, I asked; I just simply asked if they had any objection to my bringing it.

Mr. TAYLER. Precisely. I see. Go on.

Mr. NICHOLSON. And they said no, with that condition to it that you know about.

Mr. TAYLER. Yes.

Mr. WORTHINGTON. That it should not go out of his possession.

Mr. TAYLER. I have no objection to that. [To the witness:] What did he say about bringing the other books?

Mr. NICHOLSON. He did not say anything.

Mr. TAYLER. Did he see the subpoena?

Mr. NICHOLSON. Yes, sir; he saw the subpoena.

Mr. TAYLER. What did he tell you to do?

Mr. NICHOLSON. To tell the truth.

Mr. TAYLER. Yes; that is easy. But what about the books you should bring?

Mr. NICHOLSON. Nothing.

Mr. TAYLER. What book did he tell you to bring?

Mr. NICHOLSON. I asked him if I could bring down this book that is here.

The CHAIRMAN. Whom do you mean?

Mr. WORTHINGTON. He said the president.

The CHAIRMAN. No; he said the presidency. Whom do you mean by "him?"

Mr. NICHOLSON. Joseph F. Smith.

The CHAIRMAN. All right; go on.

Mr. TAYLER. So you went to him and showed him the subpoena, did you?

Mr. NICHOLSON. Yes, sir.

Mr. TAYLER. What did he say when you showed him the subpoena?

Mr. NICHOLSON. He did not like it very well.

Mr. TAYLER. He did not like it?

Mr. NICHOLSON. I do not think he did, and neither did I.

Mr. TAYLER. Neither did you?

Mr. NICHOLSON. No; at least I think he did not like it very much.

Mr. TAYLER. Then what did you say to him about the books that that subpoena seemed to cover?

Mr. NICHOLSON. I did not say anything to him.

Mr. TAYLER. You did not say anything to him?

Mr. NICHOLSON. Because he had the thing himself to look at in his hand.

Mr. TAYLER. What did you say to him about the books you should bring?

Mr. NICHOLSON. I just simply said: "Can I take down this book?"

Mr. TAYLER. What book?

Mr. NICHOLSON. The book you are examining.

Mr. TAYLER. Did you have it with you then?

Mr. NICHOLSON. I did not have it then, but I told him about it.

Mr. TAYLER. How did you describe it?

Mr. NICHOLSON. That is what I said.

Mr. TAYLER. What?

Mr. NICHOLSON. I told him it was the marriage book.

Mr. TAYLER. The marriage book?

Mr. NICHOLSON. Yes; the book where all the marriages done in the temple were recorded.

Mr. TAYLER. I know, but there are lots of other marriages recorded.

Mr. NICHOLSON. But there is none like that.

Mr. TAYLER. "None like that?"

Mr. NICHOLSON. None like that that I am telling you about; that is to say—

Mr. TAYLER. Did the subpoena say: "Will you please bring down with you only the records of the marriages, 'Living Sealings A,' occurring in the temple since 1893?" Is that what the subpoena said?

Mr. WORTHINGTON. I object to the question about the subpoena. It is here and the body of it has been read into the record.

Mr. TAYLER. I want you to tell us now why you did not bring the other books containing the records of marriages.

Mr. NICHOLSON. Because those are the only records of marriages that were there, and that is what you wanted, according to this subpoena.

Mr. TAYLER. I understood you to say there were other records of marriages there.

Mr. NICHOLSON. No, sir; I have not said it.

Mr. TAYLER. You have not?

Mr. NICHOLSON. No; I said there were people who had been mar-

ried—who came in there to have the marriage performed there—you see.

Mr. TAYLER. Yes; I understand that very well.

Mr. NICHOLSON. And we did not do it, because they were already married under the law.

Mr. TAYLER. I know; but there are those other books that you told us you would not bring—that you had not any authority to bring.

Mr. NICHOLSON. Neither have I.

Mr. TAYLER. I say why did you not bring them?

Mr. NICHOLSON. For that reason.

Mr. TAYLER. You would have felt that you would have to ask Joseph F. Smith for permission to bring them?

Mr. NICHOLSON. He was right near where I was, and I asked him if he had any objections to my taking that book with me.

Mr. TAYLER. You did not ask him if he had any objection to your taking other marriage records?

Mr. NICHOLSON. No; I did not ask him. I thought that was enough.

Mr. TAYLER. You thought that was enough to respond to this subpoena?

Mr. NICHOLSON. Yes, sir; because that is all I could give; because that is the only book of the kind, and the marriages are made conspicuous on the paper that I got, and I do not know anything else except what is in the temple.

Mr. TAYLER. I do not want you to leave any misapprehension in our minds as to what you mean. You do not mean now to assert that there is no book in the temple there containing a record of the marriages save only this Living Sealing A?

Mr. NICHOLSON. There?

Mr. TAYLER. That is not the only book, is it, in the temple?

Mr. NICHOLSON. That is not made in the temple.

Mr. TAYLER. I am not talking about "made" in the temple. I am speaking—

Mr. NICHOLSON. There are other books.

Mr. TAYLER. Is there such a book there?

Mr. NICHOLSON. There are other books there.

Mr. TAYLER. Recording marriages? Is that right?

Mr. NICHOLSON. Yes; I presume there may be some.

Mr. TAYLER. Do you use the word "presume" because you are in doubt?

Mr. NICHOLSON. Because I am in doubt?

Mr. TAYLER. Yes.

Mr. NICHOLSON. No; I am not in doubt. I will say yes, there are some there.

The CHAIRMAN. Just one question. Who has the authority to permit those books to be brought to the committee?

Mr. NICHOLSON. The whole thing belongs to the church. There is a head to it.

The CHAIRMAN. Who has authority to permit those books to be brought here?

Mr. NICHOLSON. Who has the authority? Well, I suppose that those who are at the head of affairs.

The CHAIRMAN. Can not you answer my question directly?

Mr. NICHOLSON. Yes, sir.

The CHAIRMAN. Has Joseph F. Smith the authority and the power to have these books brought here?

Mr. NICHOLSON. I will tell you why I rather do not like to say so.

The CHAIRMAN. Let us have it.

Mr. NICHOLSON. Can I not make an explanation?

Mr. WORTHINGTON. Mr. Chairman, he ought not to be required to answer the question. It is a question of law.

The CHAIRMAN. It is a very simple question. Do you know who has authority to take those books out of the temple and bring them to the committee?

Mr. NICHOLSON. I certainly think that the head of the church would, but—

The CHAIRMAN. The head of the church?

Mr. NICHOLSON. But there is this, yet. There is a law in relation to the church—that is, our law—and that is that all these things of importance shall be submitted to the church; that is, shall be voted on by the church. They might bring that law in.

The CHAIRMAN. Was there a vote taken by the church before you brought this book?

Mr. NICHOLSON. An oath?

The CHAIRMAN. A vote.

Mr. NICHOLSON. No.

The CHAIRMAN. Was there a vote taken by the church before you brought this book?

Mr. NICHOLSON. But—

The CHAIRMAN. Was there a vote taken?

Mr. NICHOLSON. No, sir.

The CHAIRMAN. You have just said that a vote was necessary.

Mr. NICHOLSON. Not in that case, but there is a greatly more important matter. You want to scoop in the whole business.

Senator McCOMAS. Why—

The CHAIRMAN. Wait a moment. The books you have left behind you are more important than the one you brought?

Mr. NICHOLSON. No; I think the one I have brought is the more important—most decidedly.

The CHAIRMAN. If you could bring this book, why can you not bring the other?

Mr. NICHOLSON. Because I have not the authority.

The CHAIRMAN. Who has?

Mr. NICHOLSON. I have told you as near as I can these two facts, that there is a presidency of this institution.

The CHAIRMAN. Has the president the authority?

Mr. NICHOLSON. They have, but it is modified by this statement in the revelation.

The CHAIRMAN. I have no further questions.

Mr. WORTHINGTON. I have a question or two to ask the witness when I have an opportunity.

Mr. TAYLER. I am not through.

(To the witness.) So you think that before these very important books could be brought here you might feel it necessary to submit the question to the church before you would obey the subpoena?

Mr. NICHOLSON. There is a part in the revelation that says that matters of importance shall be submitted to the church.

Mr. TAYLER. So that if it was deemed of great importance, then,

before you would feel that you could bring those books which you have not brought you would feel that you ought to submit it to the people of the church to decide whether they should be sent or not. Is that right?

Mr. NICHOLSON. Of course, Mr. Tayler, it would not be me to do it.

Mr. TAYLER. I do not mean you. I mean the president of the church.

Mr. NICHOLSON. Well, I do not know about that. You see, I do not know whether they would do it or not.

Mr. TAYLER. I want to understand you and not misinterpret or mislead you.

Mr. NICHOLSON. I believe that.

Mr. TAYLER. If you were called upon by this committee now to return to your home and bring, or send by some messenger whom you could trust, all the records which are in the temple there pertaining to the subject of marriage, or any other subject which the committee might order, you would first go to the first president and ask him, would you not, about it, as to what you should do in respect of that order?

Mr. NICHOLSON. I presume that is the proper way to do, yes; and I would.

Mr. TAYLER. I am not asking about the proper way.

Mr. NICHOLSON. I would say to them——

Mr. TAYLER. Let me understand you, Mr. Nicholson. We will assume that you were in a state of health that would permit you to travel back and forth; and that is excluded from the consideration of the question. Suppose the committee should say to you, or give to you an order, issued by the Senate of the United States, directing you to proceed at once to Utah, as the recorder of the temple, and bring with you the records that are there in the temple, in that office where you four men work. What would you do?

Mr. NICHOLSON. What would I do?

Mr. TAYLER. Yes.

Mr. NICHOLSON. Directing it to the presidency?

Mr. TAYLER. No; the order would be to you directly. What would you do now with that order respecting those records?

Mr. NICHOLSON. What would I do?

Mr. TAYLER. Yes.

Mr. NICHOLSON. You want me to say that I would go to the presidency.

Mr. TAYLER. No; I do not care what you say. I only want to know what the truth would be, as you said President Smith told you to tell it. All I want is the truth about it.

Mr. NICHOLSON. I should tell them——

Mr. TAYLER. You would what?

Mr. NICHOLSON. I should tell them——

Mr. TAYLER. You would tell him?

Mr. NICHOLSON. Tell them. There is more than one president.

Mr. TAYLER. You mean the first presidency or the apostles—which?

Mr. NICHOLSON. Yes.

Mr. TAYLER. How is it?

Mr. NICHOLSON. The presidency. Of course they are at the top.

Mr. TAYLER. That is the first thing you would do. Before pro-

ceeding to bring these books you would see the first presidency. That is right?

Mr. NICHOLSON. No.

Mr. TAYLER. What?

Mr. NICHOLSON. No.

Mr. TAYLER. Then what?

Mr. NICHOLSON. I should go home and see my folks mighty quick. I have a wife in a very dangerous condition. I would go to them and attend to that afterwards.

Mr. TAYLER. We are pleased to note the presence of a playful turn.

Mr. NICHOLSON. Would you not do the same thing?

Mr. TAYLER. I think I should do the same thing.

Mr. NICHOLSON. So would I.

Mr. TAYLER. But before going to the place where these records are kept and packing them up and bringing them with you to Washington, in obedience to the order of the Senate, you would go and ask the first presidency if it was proper for you to do so?

Mr. NICHOLSON. Yes, sir.

Mr. TAYLER. And whether the first presidency would deem it necessary to decide the question yes or no, or whether they would appeal to the assembly or to the church, you do not know, of course?

Mr. NICHOLSON. I do not know.

Mr. TAYLER. If the first presidency said, no, you were not to bring the books here, of course you would not bring them, would you?

Mr. NICHOLSON. I would not.

Mr. TAYLER. And if the Senate should send the Sergeant-at-Arms of the Senate and arrest you and order you to bring them with you, you would still refuse to bring them unless the first presidency told you to?

Mr. NICHOLSON. Yes, sir.

Mr. TAYLER. Now, Mr. Nicholson, just one question. You have stated that there is this marriage record which you brought with you, the nature of which we understand, and that there is a record of sealings between those who had been married before?

Mr. NICHOLSON. Yes, sir.

Mr. TAYLER. How did you know when a person's record of that kind came which book to put it in?

Mr. NICHOLSON. Because of that very fact that they had been married before.

Mr. TAYLER. How did you know that they had been married before?

Mr. NICHOLSON. Because we always find it out.

Mr. TAYLER. How?

Mr. NICHOLSON. They have to show it; bring their certificate.

Mr. TAYLER. Certificate from whom?

Mr. NICHOLSON. There is a certificate given to the parties by law.

Mr. TAYLER. You are speaking of legal marriages? Now, Mr. Nicholson, do you know Mr. Hickman, a professor in the Brigham Young University?

Mr. NICHOLSON. Yes, sir.

Mr. TAYLER. You know him?

Mr. NICHOLSON. Yes, sir.

Mr. TAYLER. Are you well acquainted with him?

Mr. NICHOLSON. No, sir; not very.

Mr. TAYLER. You did not hear him testify, or you were not here when he testified?

Mr. NICHOLSON. I did not.

Mr. TAYLER. Mr. Nicholson, Mr. Hickman testified——

Senator McCOMAS. What page?

Mr. TAYLER. At page 94, four or five questions down. Mr. Hickman had testified that he had married a legal wife some fifteen or twenty years ago, and that in the summer of 1890 he married a plural wife in Mexico. Subsequently, that is, three or four years ago, his legal wife died, leaving him with the plural wife surviving. Now, of course, you would understand from that that there would be no record of any legal marriage at that time between him and the plural wife. You would recognize that, would you not? Now, in that state of affairs he testifies:

“Mr. TAYLER. Have you been married again to your plural wife?”

He replied:

“No, sir.”

Mr. WORTHINGTON. Page 94?

Mr. TAYLER. Page 94, near the top of the page.

“Mr. TAYLER. No ceremony has occurred except that which took place in 1890?”

“Mr. HICKMAN. Except we went through the temple and were sealed there.

“Mr. TAYLER. When?”

“Mr. HICKMAN. Something like a year ago—no, between two and three years ago.

“Mr. TAYLER. You deem that a marriage ceremony, do you not?”

“Mr. HICKMAN. Well, it is simply sealing.

“Mr. TAYLER. There was no marriage license issued?”

“Mr. HICKMAN. No, sir.”

Now, where is the record of that sealing?

Mr. NICHOLSON. I do not know.

Mr. TAYLER. Where would it be?

Mr. NICHOLSON. It would be, in my opinion, in the Book of Sealings.

Mr. TAYLER. Of which sealings?

Mr. NICHOLSON. Eh? [Pause.] You say he had a wife and she died and left the other one?

Mr. TAYLER. Left the plural wife. After the death of the legal wife he says what I have read to you—

“Except we went through the temple and were sealed there.”

I have no doubt this was the Salt Lake temple, but that is not important. I want to know what book that sealing would be recorded in.

Mr. NICHOLSON. That is a juggler, because I do not know anything about it. It is a new thing.

Mr. TAYLER. It is a new thing?

Mr. NICHOLSON. That is, for me. I never heard of a case.

Mr. TAYLER. You never heard of a case like that?

Mr. NICHOLSON. No, sir.

Mr. TAYLER. As it stands by itself there is no book that you know of where it could properly be recorded. Is that correct?

Mr. NICHOLSON. Yes, sir; that is about it.

Mr. TAYLER. The inference, therefore, is that if a man is so sealed to a woman in the temple, there is no record of it. Is that right?

Mr. NICHOLSON. No.

Mr. TAYLER. I do not want to be unfair. What does it mean?

Mr. NICHOLSON. You would have to go back to the temple and find out whether it was there or not. If they were sealed, it was not a marriage you know. There is a book, as I said, for that class who are only sealed and not married.

Mr. TAYLER. What do you suppose he was sealed to this woman for?

Mr. NICHOLSON. There is a process by which they receive blessings that will be of benefit to them in time and in eternity. But it is not a marital affair at all.

Mr. TAYLER. Is it your interpretation of the testimony of Professor Hickman that the ceremony that he went through had nothing at all to do with their relation as husband or wife?

Mr. WORTHINGTON. I object to his being asked to interpret the testimony of a witness given when he was not here.

Mr. TAYLER. He heard the testimony.

Mr. WORTHINGTON. He said he was not here.

Mr. NICHOLSON. I never heard the testimony.

The CHAIRMAN. But Mr. Tayler just read what Mr. Hickman testified to.

Mr. WORTHINGTON. He read a part of it. Mr. Hickman later explained the matter and gave an entirely different interpretation, and the facts are entirely different from what Mr. Tayler has assumed to this witness.

This witness never heard any part of the statement. You will find from an examination of page 101 that the situation was nothing like Mr. Tayler understood Mr. Hickman to say at first.

Senator McCOMAS. One hundred and one?

Mr. WORTHINGTON. At the top of page 101. Instead of it being what it is assumed to be, it is exactly the reverse of what it has been assumed to be.

Mr. TAYLER. Before a person can be sealed in any way the endowment must be taken, must it not?

Mr. NICHOLSON. Yes, sir; that is proper.

Mr. TAYLER. It is necessary?

Mr. NICHOLSON. Yes, sir.

Mr. TAYLER. And in case of his being sealed in any way for any purpose, endowments have to be taken?

Mr. NICHOLSON. Yes, sir; that is the way. It comes up gradually—baptism, endowment.

Mr. TAYLER. The ceremony of marriage, of the character which is recorded in this book which you brought, could not be performed in the temple for Mr. Hickman and his wife unless he brought a license, could it?

Mr. NICHOLSON. That is the way it appears, according to your statement.

Mr. TAYLER. That is the fact?

Mr. NICHOLSON. According to your statement of the testimony given.

Mr. TAYLER. When President Winder said to Professor Hickman that they could not marry him and his wife, to whom he had been

married some years before by a plural-marriage ceremony, unless and until he came there with a marriage license issued by the civil authority——

Mr. NICHOLSON. I am not familiar with that at all. I do not know anything about it.

Mr. TAYLER. That is all.

Senator McCOMAS. Mr. Nicholson, as Mr. Worthington has stated, the facts in the case of Mr. Hickman are fully set forth later on in his testimony.

Mr. NICHOLSON. I can not hear you, Senator.

Senator McCOMAS. I want to ask you a question respecting Professor Hickman. In his testimony he said:

"We asked President Winder, then the president of the temple, in regard to being married. We told him that we had been sealed for time and eternity in old Mexico many years before, and asked him if we could be married. He made the statement that if we desired to it could be done, but we would have to have a license. But under the circumstances he took a record of our marriage and said then if we desired to come and be married according to the laws of the land, and bring a license, they would marry us."

But he said under the circumstances President Winder took a record of their marriage in old Mexico. When the president of the temple took a record of the marriage of Professor Hickman and one of his wives in old Mexico, where would that marriage be recorded according to the practice of keeping your books?

Mr. NICHOLSON. I do not know.

Senator McCOMAS. You do not know?

Mr. NICHOLSON. No.

Senator McCOMAS. Why not?

Mr. NICHOLSON. Because I am not informed on it.

Senator McCOMAS. But if President Winder took a record of the marriage between Hickman and wife in old Mexico he would probably give it to you or to your assistants?

Mr. NICHOLSON. Very likely; but it is a matter——

Senator McCOMAS. According to your practice, where would you enter that record of the marriage which President Winder took—in what book?

Mr. NICHOLSON. I do not know a thing about that.

Senator McCOMAS. I am referring to a marriage in old Mexico between a man and a woman, a record of which had been taken by the president of the temple, President Winder. I simply want to know where that marriage would be recorded—in what book in your care?

Mr. WORTHINGTON. If in any.

Senator McCOMAS. If in any, where?

Mr. NICHOLSON. It ought to be in the book. You say they were married there?

Senator McCOMAS. They were married in old Mexico, as I understand, according to the methods of the Mormon sealing.

Mr. NICHOLSON. It would look to me as if it ought to go in the sealing book.

Senator McCOMAS. In the sealing book?

Mr. WORTHINGTON. The marriage was in Mexico, for time only. They can only be sealed for eternity in the temple.

Senator McCOMAS. A marriage for time, contracted in old Mexico, would go in the other book which you have described?

Mr. NICHOLSON. Yes, sir; at least I think so.

Senator McCOMAS. The book you did not bring; not the book you did bring? I say it would be in the book you did not bring and which you have described, and not in this book?

Mr. NICHOLSON. I do not know whether it is there or not, but it may be.

Senator McCOMAS. According to your practice it would go there. Is that right?

Mr. NICHOLSON. Yes; that is to say, if they were married, no doubt, although not according to the law.

Senator McCOMAS. I could not hear the last part of your answer. Will the reporter please read it?

The reporter read as follows:

"Mr. NICHOLSON. Yes; that is to say, if they were married, no doubt, although not according to the law."

Senator McCOMAS. Then the names of those people who were sealed out of the temple, and in this case out of the country, and who are not married according to law, but are sealed for time, in this case in Mexico, or it may be elsewhere, although I do not know just where, would be put in the book you did not bring?

Mr. NICHOLSON. I think they would be entitled to be sealed in the temple under those conditions, if the former marriage was only for time.

Senator McCOMAS. I did not ask you about the marriage. I only want to know whether or not you would put the record of such a marriage as I have described, between Hickman and wife in Old Mexico, sealing for time, in the book you have described but did not bring. Would you record it there?

Mr. NICHOLSON. I can not say definitely, but——

Senator McCOMAS. You think you would?

Mr. NICHOLSON. I can not say definitely.

Senator McCOMAS. Do you think you would put in that book the record of a marriage of the kind I have described?

Mr. NICHOLSON. They were already married?

Senator McCOMAS. In Old Mexico; they were sealed in Old Mexico for time.

Mr. NICHOLSON (after a pause). It is a complicated thing.

Senator McCOMAS. No; it is very simple.

Mr. NICHOLSON. I would judge it would go in the other book.

Senator McCOMAS. That is right. That is all I want to know.

Mr. NICHOLSON. But I do not know. I want it understood that I can not tell anything about it, because it never came before me till I got here.

Mr. WORTHINGTON. You mean you have never known of such a case?

Mr. NICHOLSON. I never knew any other case like that, and I did not know about this one here.

The CHAIRMAN. Proceed, gentlemen.

Mr. TAYLER. Without looking at the book, do you recall about how many marriages have been recorded in the book which you have brought?

Mr. NICHOLSON. I could not tell without examining the book.

Mr. TAYLER. Are the entries in this book all made by one man?

Mr. NICHOLSON. This book here [examining book]?

Mr. TAYLER. Yes.

Mr. NICHOLSON. Yes, sir; that is my understanding. I have looked at it repeatedly.

Senator McCOMAS. Duncan McAllister, he said, made them.

Mr. TAYLER. Yes.

Mr. NICHOLSON. Yes.

Mr. TAYLER. It is his work to make the entries in that book, and, as you understand it, he has been making them since it started?

Mr. NICHOLSON. Yes, sir.

Mr. TAYLER. Now, will you tell us the number of marriages recorded in the book?

Mr. NICHOLSON. Six thousand six hundred and thirty-eight.

Mr. TAYLER. This is a blank book, with the pages ruled, and the record of a single marriage runs from the left-hand side of the left page clear across the other page?

Mr. NICHOLSON. Yes, sir.

Mr. TAYLER. With the heading: "Living Sealings, Salt Lake Temple."

And below that: "Number; names; remarks. Born: Day. Month. Year. Where born: Town. County. Country. State. Sealed: Day. Month. Year. By whom sealed; witnesses; recorder."

That is a correct description of the arrangement in columns of these two pages?

Mr. NICHOLSON. Yes, sir.

Senator McCOMAS. Mr. Nicholson, you have this book before you now?

Mr. NICHOLSON. Yes, sir.

Senator McCOMAS. Up to the page where it is now open the book is filled with the six thousand and odd hundred marriages. Is the other book which you have described about the size of this book?

Mr. NICHOLSON. Not quite so large.

Senator McCOMAS. Not quite so large?

Mr. NICHOLSON. No.

Senator McCOMAS. Is the book as thick as this book?

Mr. NICHOLSON. That is what I mean. It is not as thick.

Senator McCOMAS. According to your best recollection, refreshing your recollection by the last time you remember to have seen the other book, compared with this, about what part of that book which you have in your hand would probably be filled with the list of marriages contained in the other book? Indicate—a half, or a fourth, or a fifth of the book before you.

Mr. NICHOLSON. I could not.

Senator McCOMAS. Approximately, according to the best estimate, from such recollection as you have. Or, if you can, give the number of marriages; about the number.

Mr. NICHOLSON. It would not be much more than half, according to my recollection.

Senator McCOMAS. The book is somewhat smaller?

Mr. NICHOLSON. Yes, sir; it is somewhat smaller.

Senator McCOMAS. And would be about how much of this book?

Mr. NICHOLSON. It would not be more than about half.

Senator McCOMAS. Have you any approximate recollection——

Mr. NICHOLSON. There would not be half the number in it.

Senator McCOMAS. There would not be half the number of marriages?

Mr. NICHOLSON. Hardly, I think; not much more, if any.

The CHAIRMAN. Is there anything else wanted of this witness?

Mr. WORTHINGTON. I wish to see if I understand about these books. I think I do. In the book which you have brought here, Mr. Nicholson, there were recorded, according to your understanding and knowledge, all the legal marriage ceremonies that have been celebrated in the temple since it was opened?

Mr. NICHOLSON. Yes, sir.

Mr. WORTHINGTON. Down to the time you brought the book here?

Mr. NICHOLSON. Up to the time I left.

Mr. WORTHINGTON. In the other book, if I understand you, are recorded sealings, as you call them?

Mr. NICHOLSON. Yes; blessings.

Mr. WORTHINGTON. Which have taken place in the temple between people who are already married and who come there to have the additional ceremony of sealing. Is that it?

Mr. NICHOLSON. Yes, sir.

Mr. WORTHINGTON. Suppose a couple come there and wanted to be sealed, and tell you that they are not married, but that they want to be sealed. Is anything done about that?

Mr. NICHOLSON. Yes, sir; they can not have anything done.

Mr. WORTHINGTON. So far as you know and believe, is there anything recorded in this book which you have not produced here except the naked evidence of the fact of sealing people who are already legally married?

Mr. NICHOLSON. I have no reason to believe any other way than that.

Mr. WORTHINGTON. The fact that it was a sealing, as distinguished from a marriage record, under a subpoena which required you to bring only a record pertaining to marriages, was what actuated you in not bringing the book?

Mr. NICHOLSON. Because it was not marriages.

Senator DUBOIS. Where is the marriage of Abraham H. Cannon, performed in 1896, recorded?

Mr. NICHOLSON. What is that?

Senator DUBOIS. Where is the marriage of Apostle Abraham H. Cannon with Lillian Hamlin recorded?

Mr. WORTHINGTON. That is assuming that he was married to her.

Mr. TAYLER. Do you still deny that?

Mr. WORTHINGTON. I do not admit it. There is no evidence before this committee on which you could go into a court and establish the fact of marriage.

Mr. TAYLER. I could convict him of bigamy on that testimony in any court.

Mr. WORTHINGTON. No, sir.

Mr. TAYLER. Sure.

Mr. WORTHINGTON. You would not have the audacity to attempt to prove the fact of marriage by such testimony.

Senator DUBOIS. I want to ask you where the marriage of Abraham H. Cannon to Lillian Hamlin is recorded?

Mr. NICHOLSON. I do not know where it is. I have never come across it.

Senator DUBOIS. Do you think it is recorded in the temple at all?

Mr. NICHOLSON. I think very likely so, but I know nothing about it.

Senator DUBOIS. It would be recorded in the temple naturally?

Mr. NICHOLSON. I beg pardon.

Senator DUBOIS. Is not the temple the proper place to record that marriage?

Mr. NICHOLSON. Yes, I judge it is.

Senator DUBOIS. Would you judge that it is recorded in the temple?

Mr. NICHOLSON. You see, there may be a hundred cases you might mention to me, and I would not recollect anything about them. It could only be done by—

Mr. WORTHINGTON. Suppose a couple were married in some other temple, would there be any record of it in Salt Lake temple?

Mr. NICHOLSON. No.

Mr. WORTHINGTON. Suppose they were not married in any temple at all, but were married in some private place or residence, a plural marriage; would that be recorded in the temple?

Mr. NICHOLSON. No, sir.

Senator DUBOIS. Assuming that Abraham H. Cannon did marry Lillian Hamlin in 1896, would that marriage be recorded anywhere?

Mr. NICHOLSON. The marriage? I should think so.

Senator DUBOIS. Do you not know whether it would be or not? He was an apostle of the church.

Mr. NICHOLSON. You have the book in your possession.

Mr. WORTHINGTON. So far as you know, has there been any record kept in the temple of marriages and sealings except those which occurred in the temple?

Mr. NICHOLSON. Please state that again.

Mr. WORTHINGTON. So far as you know, since the temple was opened, has there been kept there any record of marriages or sealings except those which took place in the temple?

Mr. NICHOLSON. Not any there, only what were in the temple.

Mr. WORTHINGTON. Only those in the temple?

Mr. NICHOLSON. Yes, sir.

Mr. WORTHINGTON. If a marriage takes place anywhere outside of the temple it is not recorded in the book in the temple?

Mr. NICHOLSON. Yes; lots of them.

Mr. WORTHINGTON. What?

Mr. NICHOLSON. Yes; they do not come to us.

Mr. WORTHINGTON. What?

Mr. NICHOLSON. There are lots of people who do not come to the temple to get married.

Mr. WORTHINGTON. Do you mean you have a book in which you keep records of marriages that take place outside of the temple?

Mr. NICHOLSON. No; we do not keep a record of them.

Mr. WORTHINGTON. That is what I supposed. Then the book which you have produced here contains a record of all the marriages performed in the temple since it was opened?

Mr. NICHOLSON. All the marriages.

Mr. WORTHINGTON. You understand what I mean by that, do you—

any ceremony which makes it proper for a man to live with a woman as his wife? That is in this book which you have produced?

Mr. NICHOLSON. Yes. The record is all alike.

Mr. WORTHINGTON. Suppose a husband goes to the president of the church and tells him that he has been married to a plural wife and wants to be married in the temple, and the president tells him he will have to get a license, and he goes away without anything further, and the president makes a memorandum about it—about that marriage—finds out where the people had the illegal marriage ceremony performed, and makes a record of it, is there any book in which that would be entered?

Mr. NICHOLSON. No; I do not know of anything of the kind.

Mr. WORTHINGTON. I think that is all.

Mr. TAYLER. Mr. Nicholson, are you a polygamist?

Mr. NICHOLSON. Yes, sir.

Mr. TAYLER. How many wives have you?

Mr. NICHOLSON. I have two.

Mr. TAYLER. You have children by both wives?

Mr. NICHOLSON. Yes, sir.

Mr. TAYLER. Have you had children born to you since 1890?

Mr. NICHOLSON. 1890?

Mr. TAYLER. By both wives?

Mr. NICHOLSON. Wait a moment. I have so many that I can not tell.

Mr. TAYLER. Have you had children born by your plural wives since 1890?

Mr. NICHOLSON. My youngest living child is by my plural wife—

Mr. TAYLER. I do not catch that. Your youngest living child by your plural wife is how old?

Mr. NICHOLSON. Is 22 years old.

Mr. TAYLER. Have you had children by her since then?

Mr. NICHOLSON. No.

Mr. TAYLER. You said your "youngest living child." A child might have been born and died, for aught the answer shows.

Mr. NICHOLSON. I am right. That tells just exactly what is correct and true.

Mr. TAYLER. You have had no children by the plural wife since 1890?

Mr. NICHOLSON. Yes; that is, I have two living and three are dead.

The CHAIRMAN. What is your answer to that question?

Mr. TAYLER. Have you had any children by your plural wife since 1890?

Mr. NICHOLSON. I can not recall it. I am a little afraid to do it. The youngest child I have now is 22 years old.

Mr. TAYLER. I understand that.

Mr. NICHOLSON. I am pretty clear that I have not had any since the manifesto. I do not mean that for a joke.

Mr. TAYLER. What is it?

Mr. NICHOLSON. It is my wife that has had them, not me.

Mr. TAYLER. That seems to be the gentile habit also. I only want the fact about it, and I do not suppose there is any indisposition on your part to tell what the fact is, if you can recall it.

Mr. NICHOLSON. Not at all. I would tell you in a moment, but I

can not recall anything hardly. You noticed that, because I have been going through a lot of trials.

Mr. TAYLER. I think your memory has not been disappointing either to you or to us. You have been in the status of a polygamist ever since you took a plural wife?

Mr. NICHOLSON. Yes, sir.

Mr. TAYLER. That is all.

The CHAIRMAN. I do not want to annoy you, but can you readily recall the number of children you have had?

Mr. NICHOLSON. Fifteen.

The CHAIRMAN. How many of them by the plural wife, if you can tell?

Mr. NICHOLSON. Five; and ten by the other.

The CHAIRMAN. Are the five all living?

Mr. NICHOLSON. No; there are only two of the five living.

The CHAIRMAN. When did the other three die?

Mr. NICHOLSON. The other three at different times. There was only one fully developed young man, and the others were little children.

The CHAIRMAN. Can you tell about when they died?

Mr. NICHOLSON. The eldest boy died within this year.

Mr. VAN COTT. What was his age?

The CHAIRMAN. How old was he when he died?

Mr. NICHOLSON. He was 23.

The CHAIRMAN. That is all.

Mr. VAN COTT. When this witness is through, may I ask one question of Mr. Hickman, and only one question?

The CHAIRMAN. Is there anything further wanted of this witness?

Mr. TAYLER. Nothing more, Mr. Chairman.

The CHAIRMAN. Can he be discharged, or do you wish him to remain?

Mr. WORTHINGTON. He can be discharged, so far as we are concerned.

TESTIMONY OF JOSIAH HICKMAN—Recalled.

JOSIAH HICKMAN, having previously been sworn, was examined, and testified as follows:

Mr. VAN COTT. Mr. Hickman, what did you mean, in answer to one of my questions, when you answered that President Winder made a record of your plural marriage which had been celebrated in Mexico? What did you mean by the word "record?"

Mr. HICKMAN. He just had a tablet, I suppose a notebook, although I do not remember, as it has been some two years and a half ago, and took a note of our marriage, when and where.

Mr. VAN COTT. That is all.

Senator McCOMAS. Did he say why he took that note, or what he would do with it?

Mr. HICKMAN. No, sir; but he expected us to come back with our license to be married.

Senator McCOMAS. But you said that "under the circumstances he took a record of our marriage."

Mr. HICKMAN. Yes.

Senator McCOMAS. Did he indicate to you that he took that mem-

orandum of the names of the persons married, the date, and place, in order that there might be a record kept of the marriage?

Mr. HICKMAN. He made no explanation, and I gave it no further thought.

Senator McCOMAS. Did he say that he would keep a record or take a record?

Mr. HICKMAN. He took that record, but what he was to do with it I do not know; whether it was to hold it until we came and got married and then put it on the books I do not know.

Senator McCOMAS. You have no other knowledge of the reasons for taking it down?

Mr. HICKMAN. No, sir; he just made that remark.

Senator McCOMAS. What remark?

Mr. HICKMAN. That was read.

Senator McCOMAS. What remark?

Mr. HICKMAN. Under the circumstances he would take a note of that or take it down.

Senator DUBOIS. Is it permissible for a Mormon, or was it permissible when you were married the second time, for a Mormon to enter into plural marriage without getting the consent of some one in authority in the church?

Mr. HICKMAN. No, sir. You mean in my second marriage?

Senator DUBOIS. Yes; or any second marriage.

Mr. HICKMAN. I do not think it could be done without authority.

Senator DUBOIS. Without the consent of some of the authorities? Who gave you your authority to enter into this marriage?

Mr. HICKMAN. Francis M. Lyman.

Senator DUBOIS. Was he an apostle at the time?

Mr. HICKMAN. Yes, sir.

Senator DUBOIS. And he gave his consent?

Mr. HICKMAN. Yes, sir.

Senator DUBOIS. That was in the summer of 1890?

Mr. HICKMAN. I think it was June 7, 1890; that is when the marriage was performed. I got his consent some weeks or months before.

Senator DUBOIS. You have not been married since the marriage of June 7, 1890?

Mr. HICKMAN. No, sir.

Senator DUBOIS. You have not contracted any kind of a marriage?

Mr. HICKMAN. No, sir.

Senator DUBOIS. Since that of June 7, 1890?

Mr. HICKMAN. No, sir.

Senator McCOMAS. Have you been sealed for time to any person or persons since that time?

Mr. HICKMAN. No, sir.

Thereupon (at 12 o'clock and 55 minutes p. m.) the committee took a recess until 2 o'clock p. m.

AFTER RECESS.

At the expiration of the recess the committee resumed its session.

The CHAIRMAN. Call your next witness.

Mr. TAYLER. Is Mr. Penrose present?

TESTIMONY OF CHARLES W. PENROSE.

CHARLES W. PENROSE, having been duly affirmed, was examined and testified as follows:

Mr. TAYLER. You live in Salt Lake, Mr. Penrose?

Mr. PENROSE. Yes, sir.

Mr. TAYLER. What official position do you occupy in the church?

Mr. PENROSE. I am at present one of the twelve apostles; since last July.

Mr. TAYLER. You are editor of the Deseret News?

Mr. PENROSE. Yes, sir.

Mr. TAYLER. How long have you been editor of that paper?

Mr. PENROSE. I was connected with the editorial department in 1877, and have been most of the time since; but on two occasions, two years, I was on the Salt Lake Herald, and a couple of years in the church historian's office, and during that time I was not connected with the paper. But with those exceptions I have been connected with the paper right along.

Mr. TAYLER. You are not now church historian?

Mr. PENROSE. I say I was for a couple of years one of the assistant church historians.

Mr. TAYLER. How long have you been a member of the Mormon Church?

Mr. PENROSE. Ever since 1850.

Mr. TAYLER. You were not born a member of the church?

Mr. PENROSE. No.

Mr. TAYLER. That is to say, your parents were not, at the time of your birth, members of it?

Mr. PENROSE. No; they were not.

Mr. TAYLER. Did you become a member of the church in Utah?

Mr. PENROSE. No; in London, England.

Mr. TAYLER. When did you come to this country?

Mr. PENROSE. In 1861.

Mr. TAYLER. Have you lived in Utah ever since?

Mr. PENROSE. Yes; my home has been there since. I have been absent in Europe two or three times.

Mr. TAYLER. Your home has been in Salt Lake since that time?

Mr. PENROSE. Yes, sir.

Mr. TAYLER. Are you a polygamist?

Mr. PENROSE. Yes, sir.

Mr. TAYLER. How many wives have you?

Mr. PENROSE. My legal wife is dead, and I have two wives whom I recognize as my plural wives.

Mr. TAYLER. So that you have not been married, as the law defines marriage—you understand what I mean by that—to either of your present wives?

Mr. PENROSE. No.

Mr. TAYLER. How long is it since your legal wife died?

Mr. PENROSE. Just about two years; two years the middle of next January.

Mr. TAYLER. You have children by your other wives?

Mr. PENROSE. Yes, sir.

Mr. TAYLER. By both of them?

Mr. PENROSE. No; only by one.

Mr. TAYLER. Is it by the first plural wife that you have had children?

Mr. PENROSE. Yes.

Mr. TAYLER. How many children have you had by her since 1890?

Mr. PENROSE. None.

Mr. TAYLER. How old is the youngest child?

Mr. PENROSE. Eighteen years old.

Mr. TAYLER. You became an apostle last July?

Mr. PENROSE. Yes.

Mr. TAYLER. In place of Apostle Woodruff, I believe, who died?

Mr. PENROSE. Yes.

Mr. TAYLER. Was that Apostle Woodruff a son of Wilford Woodruff?

Mr. PENROSE. A son of Wilford Woodruff.

Mr. TAYLER. Will you tell us how, in so far as you have knowledge of it, you came to be elected apostle?

Mr. PENROSE. I was selected by the presidency of the church and the other apostles—

Mr. TAYLER. Yes; go ahead.

Mr. PENROSE. Who were present in the meeting in the temple. I was chosen to be one of the twelve by them.

Mr. TAYLER. Were you present at the meeting?

Mr. PENROSE. No; I was not there until after the decision had been made.

Mr. TAYLER. Until after they had made their choice?

Mr. PENROSE. Yes.

Mr. TAYLER. Did you then meet with them?

Mr. PENROSE. Yes; I was sent for and informed that they had unanimously chosen me to fill the place made vacant by the death of Mr. Woodruff.

Mr. TAYLER. Where was it you met them when you were called for?

Mr. PENROSE. I met them in a room in the temple.

Mr. TAYLER. Was it the regular meeting place of the apostles?

Mr. PENROSE. Yes, sir.

Mr. TAYLER. Or was it on a ceremonial occasion?

Mr. PENROSE. It was the regular meeting place where they usually assemble when they have a meeting.

Mr. TAYLER. Who were there?

Mr. PENROSE. President Joseph F. Smith, President John R. Winder, President Anthon H. Lund, Francis M. Lyman, John Henry Smith, Rudger Clawson. I do not know whether Reed Smoot was present or not; I could not remember about that; but there were Hiram M. Smith and George A. Smith. They were all who were present.

Mr. TAYLER. Was George Teasdale there?

Mr. PENROSE. No, sir.

Mr. TAYLER. Why not, if you know?

Mr. PENROSE. I do not know. I did not inquire.

Mr. TAYLER. Was he in the country, if you know?

Mr. PENROSE. Not that I know of.

Mr. TAYLER. Was John W. Taylor there?

Mr. PENROSE. He was not.

Mr. TAYLER. Do you understand that he is out of the country?

Mr. PENROSE. That is my understanding of it, but I do not know of my own knowledge where he is.

Mr. TAYLER. Heber J. Grant was on a foreign mission?

Mr. PENROSE. He was in Europe, as I understand.

Mr. TAYLER. Was Apostle Merrill there?

Mr. PENROSE. No. I understood he was too sick to be present. He has not been in Salt Lake for a long time. He makes his home in Richmond.

Mr. TAYLER. You know those men were not there?

Mr. PENROSE. Oh, yes; I know they were not there.

Mr. TAYLER. You know that all the others were there except Mr. Smoot?

Mr. PENROSE. All that I mentioned. I will not be certain whether Mr. Smoot was there or not. I do not remember.

Mr. TAYLER. Mr. Smoot is the only member of the presidency and the twelve apostles concerning whom you are unable to speak definitely one way or the other. Is that right?

Mr. PENROSE. Yes; in regard to his presence.

Mr. TAYLER. In regard to his presence there?

Mr. PENROSE. Yes; I think he was there, but I am not sure.

Senator DUBOIS. Was Apostle Cowley there?

Mr. PENROSE. No, sir.

Senator DUBOIS. Where was he?

Mr. PENROSE. I do not know.

Mr. TAYLER. Is that all, Senator?

Senator DUBOIS. Yes.

Mr. TAYLER. You were elected, you say, in July, and your election came up to be sustained, or you were sustained, when, after that?

Mr. PENROSE. At the general conference in October.

Mr. TAYLER. And at that time you and all of the first presidency and the twelve apostles were unanimously sustained?

Mr. PENROSE. Yes; I believe so. I saw no contrary vote.

Mr. TAYLER. In the conference of your people which you hold twice a year, in April and October of each year—

Mr. PENROSE. Yes.

Mr. TAYLER. The assent is shown by lifting the hand?

Mr. PENROSE. Lifting the right hand.

Mr. TAYLER. Have you ever known dissent to be shown by lifting the hand?

Mr. PENROSE. Yes; I remember one case very distinctly, when a number of hands rose against John W. Taylor.

Mr. TAYLER. When was that?

Mr. PENROSE. I can not give you the date now; I can find out.

Mr. TAYLER. About how long ago was it?

Mr. PENROSE. Several years ago.

Mr. TAYLER. What do you mean by "several?"

Mr. PENROSE. I can not give you the date; I can find it and let you have it.

Mr. TAYLER. Was it five or twenty-five years ago?

Mr. PENROSE. It is more like five, but I think it is a little over that.

Mr. TAYLER. As much as ten?

Mr. PENROSE. No; I do not think it is as much as ten. It may not have been any more than five.

Mr. TAYLER. How many hands were raised?

Mr. PENROSE. I do not remember the number.

Mr. TAYLER. There were several?

Mr. PENROSE. Yes; there were several.

Mr. TAYLER. What happened about it?

Mr. PENROSE. The matter was referred, and I believe John W. Taylor made it right with the persons who dissented from him and the matter passed along all right.

Mr. TAYLER. The persons who interposed their dissent were called upon to show why they dissented, were they not?

Mr. PENROSE. Not then and there.

Mr. TAYLER. Not then and there, of course.

Mr. PENROSE. They were not called upon. Mr. Tayler was referred to them, and they conferred personally together, and he made the matter right with them.

Mr. TAYLER. Do you remember the occasion of the objection to Mr. Taylor?

Mr. PENROSE. I believe it was some remarks he made about some members of the choir. I think that was the occasion of it.

Mr. TAYLER. And where were the dissenting hands; up among the choir?

Mr. PENROSE. Mostly among the choir; some in the congregation.

Mr. TAYLER. Apostle Taylor had made some remarks which disparaged or which the choir claimed disparaged them?

Mr. PENROSE. They claimed it reflected upon their personal character.

Mr. TAYLER. He charged them, in fact, or some of them, with immorality?

Mr. PENROSE. It had that inference.

Mr. TAYLER. And when, shortly after he had made this public charge against members of the choir, his name was presented, then there were some uplifted hands that refused to sustain?

Mr. PENROSE. In dissent; refused to sustain.

Mr. TAYLER. Against sustaining?

Mr. PENROSE. Yes, sir.

Mr. TAYLER. The incident, so far as that conference was concerned, was closed, I suppose, with that exhibition of uplifted hands in dissent?

Mr. PENROSE. The way I understand it is that he was required to meet with them and settle this matter of difference between them.

Mr. TAYLER. But nothing happened in a public way in that assembly?

Mr. PENROSE. No; because the majority, of course, the very large majority, sustained him.

Mr. TAYLER. Precisely, because the very large majority sustained him.

Mr. PENROSE. Yes.

Mr. TAYLER. And then he was required to take it up with these persons?

Mr. PENROSE. With the persons who were disaffected.

Mr. TAYLER. Do you know whether Apostle Smoot was present at the October conference?

Mr. PENROSE. I think he was, but I am not positive about it. I believe he was.

Mr. TAYLER. Has he ever been present at a meeting of the apostles when you were present?

Mr. PENROSE. Yes, sir.

Mr. TAYLER. The Deseret News is the organ of the Church of Jesus Christ of Latter-Day Saints?

Mr. PENROSE. It is in this sense, as we have published repeatedly, that whenever the authorities of the church have anything to say publicly they will say it through the Deseret News over their signatures. And any church news or intelligence, information for the general public, is published in the columns of the News.

Mr. TAYLER. The paper belongs to the church, does it not?

Mr. PENROSE. Yes, sir.

Mr. TAYLER. And the building?

Mr. PENROSE. The building and the plant.

Mr. TAYLER. And the paper itself?

Mr. PENROSE. Yes; I understand so.

Mr. TAYLER. And it is edited by one of the twelve?

Mr. PENROSE. It is now.

Mr. TAYLER. What office did you hold before you became an apostle?

Mr. PENROSE. For some time I was one of the presidents of the Salt Lake stake of Zion, as it is called, second counselor to Angus M. Cannon.

Mr. TAYLER. The Salt Lake stake of Zion is the largest of all the stakes?

Mr. PENROSE. It was then. There have been four made out of it since, and one of them is the Salt Lake stake, which is not the largest now.

Mr. TAYLER. Do you know, Mr. Penrose, whether one of your wives has recently changed her name, her public name, so as to indicate that she is your wife?

Mr. PENROSE. I believe while I was in Mexico, that, having moved her place of business—she is a doctor, a graduated doctor—she added the name of Penrose to her sign or to her advertisement in some way.

Mr. TAYLER. She had previously gone as a doctor by her name, the name which she had before she married you?

Mr. PENROSE. Yes.

Mr. TAYLER. When were you married to her?

Mr. PENROSE. March 11, 1886. I think that is the date.

Mr. TAYLER. Did you receive a special amnesty at the hands of President Cleveland?

Mr. PENROSE. I did.

Mr. TAYLER. Was it coupled with the condition that you should thereafter obey the law?

Mr. PENROSE. I believe it was.

Mr. TAYLER. That was the law respecting holding out more than one woman to be your wife, as well as the law against contracting new polygamous marriages?

Mr. PENROSE. I do not remember the exact wording of the document, but it implied that, I suppose.

Mr. TAYLER. That was the effect of it?

Mr. PENROSE. I suppose so.

Mr. TAYLER. You have not lived up to that condition, have you?

Mr. PENROSE. No.

Mr. TAYLER. That is all.

Mr. WORTHINGTON. When did you marry your other wives? You married one in 1886.

Mr. PENROSE. In 1863.

Mr. WORTHINGTON. Both of the others in 1863?

Mr. PENROSE. No; I am an old man. I married one in 1854, one in 1863, and one in 1886.

Mr. WORTHINGTON. 1854, 1863, and 1886?

Mr. PENROSE. Yes, sir.

Mr. WORTHINGTON. How long have you been the editor of the Deseret News?

Mr. PENROSE. I commenced work on the editorial staff of the Deseret News in 1877.

Mr. WORTHINGTON. You said that Apostle Teasdale was not present at this meeting.

Mr. PENROSE. I said he was not present.

Mr. WORTHINGTON. Do you know the reason of his absence?

Mr. PENROSE. I understood that when he went away some time ago he was very sick.

The CHAIRMAN. I want to ask a question, because I did not quite understand the witness. [To the witness:] Let me ask you what is the fact as to whether Senator Smoot was present at the meeting when you were chosen an apostle.

Mr. PENROSE. I had some little doubt as to whether he was present. I do not remember whether he was present or not. It was not a matter which made very much of an impression on my mind one way or the other. I am not sure of it. He may have been there.

The CHAIRMAN. What is your best recollection about it now?

Mr. PENROSE. It seems to me he was there.

Mr. WORTHINGTON. We will save any further trouble on that point. Senator Smoot was there.

Mr. PENROSE. He was there? I will admit that, of course.

The CHAIRMAN. He was there and participated in the election?

Mr. PENROSE. Yes. I was brought in there very unexpectedly and suddenly, and I did not particularly remember as to whether Mr. Smoot was there.

The CHAIRMAN. Quite naturally. What was the date of that election?

Mr. PENROSE. I believe it was July 7. I would have to refresh my mind on that point to be certain about the date.

The CHAIRMAN. This year?

Mr. PENROSE. The present year.

The CHAIRMAN. That is your best recollection?

Mr. PENROSE. Yes, sir.

The CHAIRMAN. Was it known to the apostles and the body that elected you at the time that you were a polygamist?

Mr. PENROSE. I do not know. Nothing was mentioned about it.

The CHAIRMAN. I understand.

Mr. PENROSE. I do not know whether they were acquainted with my affairs or not.

The CHAIRMAN. Mr. Penrose, is it a matter of general notoriety that you are a polygamist?

Mr. PENROSE. I think it was generally understood that I was. I

think they had that impression. I do not know about it. No question was raised about it.

The CHAIRMAN. No one of the body that elected you asked you that question?

Mr. PENROSE. No.

The CHAIRMAN. Or inquired whether you were or were not?

Mr. PENROSE. No; it was not mentioned in any way.

The CHAIRMAN. You had done nothing to conceal the plurality of wives?

Mr. PENROSE. No, sir.

The CHAIRMAN. It was generally known?

Mr. PENROSE. But, as the saying is, I had not "flaunted" the matter before the public. I had not done that.

The CHAIRMAN. How many of the body that elected you were polygamists?

Mr. PENROSE. Joseph F. Smith is one, Francis M. Lyman, and John Henry Smith. I think there were no others. They had the reputation of being polygamists.

Mr. TAYLER. You mean of those who were present?

Mr. PENROSE. Who were present. That is the question as I understood it.

The CHAIRMAN. Those who were present. The apostles who were absent—name them and state whether they were or were not polygamists.

Mr. PENROSE. M. W. Merrill is reputed to be a polygamist. I am not acquainted with his family. George Teasdale is not at present. Cowley is reputed to be a polygamist. I do not know his family. I do not know that I ever met them.

The CHAIRMAN. I just want the general understanding.

Mr. PENROSE. And John W. Taylor is reputed to be a polygamist.

The CHAIRMAN. How about Grant?

Mr. PENROSE. Oh, yes; Heber J. Grant. He was absent in Europe. Yes, sir.

The CHAIRMAN. Then, from your statement, it appears that a majority of the apostles are polygamists?

Mr. WORTHINGTON. I do not think so.

The CHAIRMAN. You think not?

Mr. PENROSE. I do not view it in that light.

The CHAIRMAN. I may have made a miscalculation.

Senator DUBOIS. No; you are right. Two of those who were present and four of those who were absent were polygamists, and the witness makes seven.

Mr. PENROSE. I suppose that would make it so now.

Mr. WORTHINGTON. I thought the question related to those who elected him.

The CHAIRMAN. You say no one protested against your election because you were a polygamist?

Mr. PENROSE. The matter was not mentioned in any way, shape, or form. The subject was not introduced at all.

The CHAIRMAN. Do you remember, Mr. Penrose, whether the apostles are required to go through the endowment house or take the endowments before they are eligible to the office of apostleship?

Mr. PENROSE. I never heard that mentioned as a necessary qualification.

The CHAIRMAN. So far as you know, is that the fact?

Mr. PENROSE. No; I do not know. I should explain, Senator, that what we call the endowment house is not the temple. There was a building called the endowment house, in which endowments were celebrated, but that building was pulled down, and all the same or similar ceremonies are performed in the temple. So we always use the term "temple," and not endowment house. Do you mean go through the endowment ceremony?

The CHAIRMAN. Yes.

Mr. PENROSE. No, sir. I have never heard that mentioned as a necessary qualification to be an apostle.

The CHAIRMAN. Have you taken the endowment?

Mr. PENROSE. Yes, sir.

The CHAIRMAN. In the old endowment house?

Mr. PENROSE. Yes, sir.

The CHAIRMAN. The same ceremony, in substance, is performed in the temple?

Mr. PENROSE. Yes, sir.

The CHAIRMAN. It is already in evidence that that building had been destroyed. Before 1890, before the manifesto, was the practice of taking plural wives quite prevalent?

Mr. PENROSE. Yes; to some extent. Of course it had to be to a limited extent, because the number of males in the Territory was in excess of the females, according to the census.

The CHAIRMAN. Then it was limited by the difference between the male and the female population?

Mr. PENROSE. That would have some effect, undoubtedly.

The CHAIRMAN. But was there any other restraining influence?

Mr. PENROSE. No; except the desire and will of the people either to go into the institution or not.

Of course there is another thing I may mention in connection with that, and that is that at that time persons who entered into that relation had to receive a proper recommend from the bishop of the ward in which they resided.

The CHAIRMAN. Had to receive what?

Mr. PENROSE. What was called a recommend—a certificate of good character—from the bishop of the ward and the president of the stake.

The CHAIRMAN. Their good character had to be certified to?

Mr. PENROSE. And to show that they were fit to go into the house of the Lord. That was the qualification.

The CHAIRMAN. Their good character had to be certified to before taking a plurality of wives?

Mr. PENROSE. Yes, sir.

The CHAIRMAN. That is all.

Senator McCOMAS. Only a question, Mr. Penrose. You are editor of the Deseret News?

Mr. PENROSE. Yes, sir.

Senator McCOMAS. You control its policy; you are the editor in chief?

Mr. PENROSE. The editor in chief.

Senator McCOMAS. You control its policy?

Mr. PENROSE. As far as I possibly can. I do so when I am there.

Senator McCOMAS. Your personal politics is what?

Mr. PENROSE. I am a Democrat myself, but the paper is independent.

Senator McCOMAS. Sometimes supporting the Republican party and sometimes the Democratic party?

Mr. PENROSE. We have not supported either party, but we have supported measures. We have sustained the Administration in its Philippine policy and on questions of that character, but not with reference to any party—only in regard to measures that we thought were for the good of the country.

Senator McCOMAS. You have never supported in your paper the Democratic or the Republican party?

Mr. PENROSE. No, sir; not as parties. The paper has been accused sometimes of being Democratic and sometimes of being Republican, but when the matter has been investigated the people had to "read between the lines," as they call it, to gain that impression either way. We have endeavored to keep it wholly independent, politically—that is, in a partisan sense.

Senator McCOMAS. With leanings to one side or the other, according to the independent policy?

Mr. PENROSE. As it might be so interpreted by either party.

Senator McCOMAS. The Deseret News, for instance, leaned to the Democratic party about the time President Cleveland favored the admission of the State, did it not?

Mr. PENROSE. We leaned to the admission of the State into the Union.

Senator McCOMAS. And to his Administration at that time?

Mr. PENROSE. I do not think there was anything supporting his Administration particularly as being Democratic.

Senator McCOMAS. At that time?

Mr. PENROSE. We supported his aim to bring the State into the Union, of course.

Senator McCOMAS. And only that?

Mr. PENROSE. I do not now remember anything else.

Senator McCOMAS. Recently your paper has leaned toward the support of President Roosevelt's Administration generally or only on the Philippine policy?

Mr. PENROSE. I do not think we have taken up any other question. I do not remember now taking up any other national question except in regard to the Philippines. We may, perhaps, however, have supported the position of the Administration in regard to the Panama Canal.

Senator McCOMAS. And only to the extent you have mentioned?

Mr. PENROSE. Yes, sir; that is all.

Mr. TAYLER. Mr. Penrose, you have been a rather conspicuous figure in the church in Salt Lake City for many years, have you not?

Mr. PENROSE. In some respects.

Mr. TAYLER. I am not asking you to say anything that would make you blush to say it.

Mr. PENROSE. Thank you.

Mr. TAYLER. I mean as respects self-praise. But you have been for so long a time at the head of the chief newspaper, as you would call it, of that region that the public generally has been very familiar with you personally.

Mr. PENROSE. Yes, sir.

Mr. TAYLER. You have not, as you say, flaunted or advertised the fact that you were a polygamist?

Mr. PENROSE. No.

Mr. TAYLER. I know of no one who has charged that against you. Nor, on the other hand, has there been any studious concealment of that fact?

Mr. PENROSE. No; I think not.

Mr. TAYLER. Do you not understand that the fact that you are a polygamist is one that is known of all men——

Mr. PENROSE. I think it is.

Mr. TAYLER. Who know you?

Mr. PENROSE. Pretty generally understood.

Mr. TAYLER. Have you the slightest doubt at all that Mr. Smoot knew that, as the rest of the world knew it?

Mr. PENROSE. I should think that he would know it on general principles. That is all. He had no special reason. He is not acquainted, I think, with my family affairs.

Mr. TAYLER. Did you read the testimony that was taken before this committee generally last spring?

Mr. PENROSE. Yes.

Mr. TAYLER. Was there a reference to you in that testimony as being a polygamist, do you remember?

Mr. PENROSE. I believe that President Smith, on being asked the question, said I was a polygamist.

Mr. TAYLER. That is what I thought. So if Mr. Smoot heard that he would have pretty fair testimony of the fact that you were reputed to be a polygamist?

Mr. PENROSE. Yes; from general reputation, anyway.

Mr. TAYLER. Now, let me understand what I fear is grossly misunderstood if the interpretation put upon your remark is the natural one. Do you mean to say that any person can or does become a member of the twelve apostles without taking what are called "the ordinary endowments?"

Mr. PENROSE. I said I thought it was possible. I do think it is entirely possible. But I think as a matter of fact they would all very probably have been through the endowments. But I would not know as a matter of fact.

Mr. TAYLER. Now, suppose that one is ordained, if that is the word—never mind the word—to the Melchisedec priesthood. He would have to take some kind of an endowment ceremony or pass through one?

Mr. PENROSE. Oh, no.

Mr. TAYLER. He would not?

Mr. PENROSE. No; not necessarily.

Mr. TAYLER. Not necessarily?

Mr. PENROSE. No.

Mr. TAYLER. If he were a priest, would he have any authority in respect of conferring or conducting the endowment ceremonies?

Mr. PENROSE. No; not because he was a priest.

Mr. TAYLER. Not because he was a priest?

Mr. PENROSE. Oh, no.

Mr. TAYLER. Who may conduct those ceremonies?

Mr. PENROSE. Only persons who are specially called and set apart for the work, and they need not be apostles. An apostle might do so if so set apart.

Mr. TAYLER. I understand that. Then this endowment ceremony is one that may be taken by any person who is a member of the church, provided the proper authority says that he is suitable, and it need not be taken by any member of the church?

Mr. PENROSE. That is correct. He has to be properly recommended in order to receive the ceremony.

Mr. TAYLER. Precisely.

Mr. PENROSE. But he can be a member of the church in full fellowship and standing without going through the ceremonies.

Mr. TAYLER. President Joseph F. Smith perhaps never passed through the temple in the sense of going through the endowment ceremony?

Mr. PENROSE. I should not like to say that he never did, because it is pretty well known that he did.

Mr. TAYLER. That he did?

Mr. PENROSE. That he passed through the endowment ceremony.

Mr. TAYLER. Would it surprise you if it was understood that Joseph F. Smith had never taken the endowment ceremony?

Mr. PENROSE. It would, because he has officiated there himself in the house in years gone by. It would surprise me very much.

Mr. TAYLER. Would it surprise you to learn that Apostle Smoot had not taken it?

Mr. PENROSE. I think I should be surprised if I heard that stated.

Mr. TAYLER. Have you the remotest suspicion that he has not? I am not referring to Mr. Smoot himself, but to any person high in the church.

Mr. PENROSE. I should think as a rule they had all gone through the endowment ceremony. I should think so, but I do not know it as a matter of fact.

Mr. TAYLER. Does it rise no higher than a mere think?

Mr. PENROSE. That is all. If I had seen him pass through the ceremony, I would have something more than a think.

Mr. TAYLER. I am not asking for the evidence of your eyes, but the evidence of your reason.

Mr. PENROSE. My reason would say yes.

Mr. TAYLER. And the history of the church?

Mr. PENROSE. I should say they had all received the endowments. I should think so.

Mr. TAYLER. That is all.

Mr. WORTHINGTON. I think you have already testified that your legal wife died about two years ago?

Mr. PENROSE. Yes, sir.

Mr. WORTHINGTON. Long before you were elected an apostle?

Mr. PENROSE. Yes.

The CHAIRMAN. Will any of you gentlemen want Mr. Penrose any further?

Mr. TAYLER. I would rather Mr. Penrose would not go for the present.

The CHAIRMAN. Mr. Penrose will remain in the city.

TESTIMONY OF MRS. WILHEMINA C. ELLIS—Recalled.

Mrs. WILHEMINA C. ELLIS, having been previously sworn, was examined and testified as follows:

Mr. TAYLER. Mrs. Ellis, did your late husband, Abraham Cannon, leave a diary?

Mrs. ELLIS. I never seen it.

Mr. TAYLER. Do you say you never saw it?

Mrs. ELLIS. I have seen it, but not since his death.

Mr. TAYLER. Not since his death?

Mrs. ELLIS. No, sir.

Mr. TAYLER. That is all.

TESTIMONY OF WILLIAM BUDGE.

WILLIAM BUDGE, being duly sworn, was examined and testified as follows:

Mr. TAYLER. Where do you live?

Mr. BUDGE. In Paris, Idaho.

Mr. TAYLER. How long have you lived there?

Mr. BUDGE. Thirty-five years.

Mr. TAYLER. You are a member of the Church of Jesus Christ of Latter Day Saints?

Mr. BUDGE. Yes, sir.

Mr. TAYLER. How long have you been a member of it?

Mr. BUDGE. Since the year 1848.

Mr. TAYLER. Where did you become a member of the church?

Mr. BUDGE. In Scotland.

Mr. TAYLER. When did you come to this country?

Mr. BUDGE. In 1860.

Mr. TAYLER. When did you live before you went to Idaho?

Mr. BUDGE. I lived in Cache County, Utah.

Mr. TAYLER. And having lived there some years went to Idaho, where you now live?

Mr. BUDGE. Yes, sir.

Mr. TAYLER. What official position do you hold?

Mr. BUDGE. I am president of the Bear Lake Stake. That is a territorial division.

Mr. TAYLER. How large a territory is that? Is it just the county of Bear Lake?

Mr. BUDGE. Just a little over; yes, more; a little more than the county of Bear Lake. It is a very small county, however.

Mr. TAYLER. It includes all of Bear Lake County and some area outside of it?

Mr. BUDGE. Yes, sir.

Mr. TAYLER. How long have you been president of that stake?

Mr. BUDGE. Since 1877.

Mr. TAYLER. Are you a polygamist?

Mr. BUDGE. Yes, sir.

Mr. TAYLER. How many wives have you?

Mr. BUDGE. Three wives.

Mr. TAYLER. How many children?

Mr. BUDGE. Twenty-five.

Mr. TAYLER. When were you married to your third wife, Mr. Budge?

Mr. BUDGE. In 1868.

Mr. TAYLER. That was the last marriage?

Mr. BUDGE. That is the last.

Mr. TAYLER. How old is your youngest child?

Mr. BUDGE. Between 6 and 7 years of age.

Mr. TAYLER. Between 6 and 7 years of age?

Mr. BUDGE. Yes, sir.

Mr. TAYLER. The mother of that child is your wife who was married to you in 1868?

Mr. BUDGE. Yes, sir.

Mr. TAYLER. How many children have you had by her since 1890?

Mr. BUDGE. Three children.

Mr. TAYLER. Where are your other wives?

Mr. BUDGE. Living also at Paris.

Mr. TAYLER. You do not live with one of them to the exclusion of the others, then?

Mr. BUDGE. No, sir.

Mr. TAYLER. Most of your children are grown persons?

Mr. BUDGE. Yes, sir.

Mr. TAYLER. You have a son who is the judge of the county in which you live?

Mr. BUDGE. The judge of the district.

Mr. TAYLER. Exactly; the district; which includes the county in which you live?

Mr. BUDGE. Yes, sir.

Mr. TAYLER. You have a son who is the county or prosecuting attorney of the county in which you live?

Mr. BUDGE. Yes, sir.

Mr. TAYLER. You have a son-in-law who is the chief assayer in charge of the mint at Boise?

Mr. BUDGE. Yes, sir.

Senator DUBOIS. What is his name?

Mr. TAYLER. What is his name?

Mr. BUDGE. H. Smith Wolley.

Mr. TAYLER. Is your daughter postmistress at Paris?

Mr. BUDGE. Yes, sir.

Mr. TAYLER. I suppose you are the most prominent Mormon in Idaho, are you not?

Mr. BUDGE. That is——

Mr. TAYLER. I do not mean by that that you have made yourself so, but I mean your official position in the church and the years that you have lived there have given you that prominence.

Mr. BUDGE. I may be so considered, yes.

Mr. TAYLER. You are so considered whether you are entitled to such elevated position or not. Is it not that right?

Mr. BUDGE. Yes.

Senator DUPOIS. I will testify to that.

Mr. TAYLER. Were you a member of the State senate of Idaho?

Mr. BUDGE. I have been.

Mr. TAYLER. When?

Mr. BUDGE. I think six years ago. I am not sure; six or eight years ago.

Mr. TAYLER. I forgot to ask you your politics.

Mr. BUDGE. I am a Republican.

Mr. TAYLER. Mr. Budge, in the Evening Capital News, which is a paper published at Boise, I believe, of date June 25, 1904, is a printed communication headed "An open letter from Bishop Budge," and with the printed name at the end "William Budge." Is that your letter?

Mr. BUDGE. I believe so.

Mr. WORTHINGTON. Show it to him.

Mr. TAYLER. I will.

Mr. BUDGE (examining newspaper). Yes, sir; that is my letter.

Mr. TAYLER. That is your letter?

Mr. BUDGE. Yes, sir.

Mr. TAYLER. I want this letter to go in.

Mr. WORTHINGTON. Do you mean extracts from it?

Mr. TAYLER. No; the whole letter.

Mr. WORTHINGTON. All right, if the whole letter is to go in.

Mr. TAYLER. It is not very long. I will read it.

The CHAIRMAN. Read it, Mr. Tayler.

Mr. TAYLER. The letter is as follows:

"To the Editor: The Democratic convention held at Weiser on the 6th instant has called forth considerable discussion as to the propriety and effect of the adoption of the anti-Mormon programme outlined by Senator Dubois. The resolution passed by the convention is as follows:

"We instruct our delegates to the national convention to use every honorable means to have the said convention place a plank in the national Democratic platform advocating such an amendment to the Constitution of the United States as will authorize Congress to pass such national legislation as may be necessary to suppress polygamy or unlawful cohabitation within the United States or any Territory subject to its jurisdiction, and to provide for the punishment therefor."

"There is evidently but one purpose of the resolution, although it is general in its terms: Dubois intends to appeal to the prejudices of the members of both parties against the Mormons. The solidity of the delegates from the southeast against the resolution, and the fact that the Senator fought them on the floor of the convention, indicates that he is determined to sacrifice the interests of the Democratic party to accomplish his purpose, as he must reasonably conclude that the southeastern counties will not sustain him in his bitter and unnecessary attacks upon a portion of the people of the State.

"While there is peace and good will existing politically, as fully as may be expected in any prosperous, order-loving State, what object can Dubois have in making an effort to disrupt parties, create confusion, and interfere with the present active development of our State? Dubois has always been a selfish political adventurer, who, in pursuit of personal interests, has lost the confidence of both political parties, but now, professing Democracy, is using that party organization in order to systematize his operations in an endeavor to establish a new party that he can lead, and thus control the next legislature,

through which he may work to bring about his reelection two years hence. Otherwise he can not be reelected.

"On what pretext does he intend to deprive both the Republican and Democratic parties as now constituted of their legitimate representation in the Senate? It is this, that the Mormons are still practicing polygamy, and that he is disgusted with the continuance of that form of immorality, which vexes his pure and righteous soul; and to reach the transgressors he is willing that the Democrats should throw their fundamental doctrine of State rights to the winds and stultify themselves, to put down polygamy—and to place him in the Senate once more—especially the latter. I can not for a moment suppose that he is raising all this excitement in the interests of morality, or he would have adopted the amendment to the antipolygamy resolution against other sexual offenses offered at the convention. I desire the Christian ministers and the women of Idaho to note that Dubois professes a desire to punish polygamy that he may obtain, by deception, your influence to assist him in his political projects; but he refuses to adopt a measure to punish adultery, seduction, and the business of brothels.

"Polygamy among the Mormons in every phase has practically disappeared and will soon be a thing of the past without legislation, and in proof of this statement I desire to present, for the information of the public, a few positive facts which I have taken the trouble to obtain: Senator Dubois has at different times made exaggerated statements as to the number of polygamists in Idaho, placing that number as high as one-third of the Mormon population. In Bear Lake County, which Mr. Dubois has been in the habit of calling the hotbed of polygamy in Idaho, there are but 20 men who occupy the status of polygamy. The ages of two of them is 42 years, one is 44 years old, and the others are between the ages of 58 and 76. If my word is doubted in regard to the number of persons who live in polygamy in this county I refer you to Rev. R. P. Boyd, a Presbyterian minister, who lives in Paris. He has always been exceedingly interested in the family relations of the people here and given much attention to polygamy. He is a good neighbor and will tell the truth. According to the course of nature (the ages of the wives estimated) the increase in these polygamous families is not likely to be such as to occasion alarm. At the time Idaho was admitted as a State (1890) the number of polygamists in Bear Lake County was, on close examination, found to be 43, and as to the whole State estimated to be 150. In the whole State now we estimate the number to be about 60. The Mormon population at the time mentioned was estimated to be 25,000; now it is nearly 40,000.

"Dubois's judgment must be very poor or he must have a poor opinion of the judgment of the intelligent citizens of Idaho, if he expects to deceive them with such a transparently foolish proposition as this polygamy question. There is no teaching or practice of polygamy by the Mormon people in Idaho. So long ago as Judge Berry's time, he, in a decision, so declared. The offense of polygamy never was at any time committed by the Mormon people in Idaho, but a few people do live in Idaho who a long time ago married a second or a second and third wife elsewhere. A third wife was unusual. Do the people of Idaho wish to join the unscrupulous Senator to run a few old people from their homes, which they so much need in their

old age, in order to help an unworthy man to remain in the Senate of the United States, and thus deprive better men and abler of their legitimate opportunities as faithful party adherents?

" 'Church influence' is another complaint which is used as capital in creating prejudice in connection with the effort of Mr. Dubois to reelect himself. I wish to state the facts as I understand them. Both the great parties, as well as the Populists, have at times desired Mormon help at elections, and we have taken no exceptions to their applications. As individuals we had as much right to give or refuse it as any other citizens. Whichever party, however, received the least encouragement made the greatest noise about 'church influence,' and blamed the bishops and others for using undue power. As it has been no uncommon practice elsewhere for politicians to help their friends at a distance at election times, so also have men from Utah come over the line to take part in politics in this State.

" It is also true that we are all subject to the influence of others more or less, and we must not expect an unnatural condition among Mormons, but they are just as unlikely to accept advice against their own interests, or to lose their independent political judgment, as non-Mormons, and in proof of their independence in politics statistics will show that in the southeastern counties, which were visited by men from Utah, the people did not change their political status in nearly so great a degree as some of the other counties in which there were no campaigners from outside. So long as it is understood by experience as well as by declaration of church authorities that Mormons are entirely free to vote for any person or support any political party they choose without let or hindrance, the responsibility at election times must rest with the individual. The church as such has never recognized politics as any part of its work, neither has it at any time called to account or corrected any man on account of his voting or political affiliation that I have ever heard of, and if it is true what our kind friend, the Boise Statesman, writes as to my position in politics (the agent of the church in Idaho), I ought to know whereof I speak.

" I have heard many of the church authorities express their views on political matters, Democrats and Republicans, but I could not well have pleased them all if they had desired a certain policy to be pursued in Idaho. I have never considered it necessary to ignore or neglect my duties as a citizen because I may be considered somewhat prominent in my church. I vote as I think best, and I would consider it a hardship if I was not permitted to express my views to my neighbors. They can do as they please and must be responsible like other people.

" I have often thought the Mormon people slow to understand the nature and value of their political interests, but if the majority of the delegates who attended the Weiser convention truly represent their constituents, I will hand the diploma for folly to those who sent them. Dubois & Co. asked the Democrats on the occasion referred to to proclaim to the world that there was polygamy in Idaho, and that the State had neither the will nor the means of calling the offenders to account; that the State could not be trusted to hunt up, try, convict, and punish a few old men who possibly would be amenable, and that the danger to the Commonwealth must be

brought before the national convention by United States Senator Dubois and the aid of the General Government solicited. Ye Democrats and others in Idaho, you are asked to deny your Democracy and give the Senatorship to Dubois in exchange for the punishment of a few old men, the pioneers of your own State, who have assisted under many trying circumstances to build it up.

"Dubois dragged my family affairs before the convention, which I thought was bad manners and very ungentlemanly, and his earnestness led him to increase the number of my wives. I have three wives, the last of whom I married in 1868. I married them all under the most sacred obligations to care for them, and to feed, clothe, and educate my children, which I have done to the best of my ability. I married them for time and all eternity; they are permanent wives and I can not forsake them. Senator Dubois may know men who have had more wives than I, although he did not mention it—temporary wives, however.

"A feeling of gratitude prompts me to say that the Senator honors me very much by inferring that I have the ability to dictate the politics of the State of Idaho, but I can only accept his kind opinion as the expression of his fervent friendship, for I am sure I lack the knowledge and wisdom to undertake so great a responsibility, provided the opportunity was given, and I trust that my political friends are aware that I have not at any time asked for any special favor.

" WILLIAM BUDGE."

The CHAIRMAN. What next, Mr. Tayler?

Mr. TAYLER. That is all.

Mr. WORTHINGTON. How long have you been a Republican, Mr. Budge?

Mr. BUDGE. I just forget the date, but at the time of the division. It was well known by the people in Idaho and elsewhere, perhaps.

Mr. WORTHINGTON. About 1891, was it not?

Mr. BUDGE. I became a Republican. Before that time—will you allow me to explain briefly?

The CHAIRMAN. Certainly.

Mr. BUDGE. Before that time we had little occasion for politics. We did not look after politics very much.

The CHAIRMAN. Before what time? I did not hear you.

Mr. BUDGE. 1891, did some one say?

Mr. WORTHINGTON. Give your own recollection about the date, Mr. Budge, when you became attached to political parties in that region. It has been testified in this case that it was about 1890, but I do not know when it was.

Mr. VAN COTT. Senator Dubois can probably supply that date.

Mr. BUDGE. Senator Dubois will remember.

Senator DUBOIS. Do you mean statehood?

Mr. VAN COTT. No; the division on party lines.

Senator DUBOIS. We have always had strict party lines in Idaho.

Mr. BUDGE. The Mormon people have not always had strictly party lines. The bulk of the Mormon people in Idaho were Democrats, and certain circumstances transpired which pressed them together—that is, they fled together for protection and voted the Democratic ticket. At a certain time—that was about the time of the manifesto—the people were, as it were, left at liberty. The hand of friendship was

held out by the leading politicians of Idaho to the Mormon people—that is, men belonging to both parties. I suppose each party expected to have the support of some, more or less, of the Mormon people, and the people were left at liberty. They always had been, but they were kept together by what they called oppressive measures—acts that compelled them to help each other as much as possible. They did not consider politics at all, but protection; but after the manifesto they did divide on party lines.

Mr. WORTHINGTON. The manifesto was issued in the fall of 1890?

Mr. BUDGE. Yes, sir.

Mr. WORTHINGTON. Then I was right. It was about 1891?

Mr. BUDGE. Yes; that is about the time, and I became a Republican at that time.

Mr. WORTHINGTON. I want to ask you the dates of your marriages to your first and second wives. You said you married your last wife in 1868?

Mr. BUDGE. Yes, sir.

Mr. WORTHINGTON. When did you marry the other?

Mr. BUDGE. I married my first wife in 1856.

Mr. WORTHINGTON. Is she living?

Mr. BUDGE. Yes, sir.

Mr. WORTHINGTON. When did you marry the second wife?

Mr. BUDGE. 1861.

Mr. WORTHINGTON. She also is living?

Mr. BUDGE. Yes, sir.

Mr. WORTHINGTON. It appears, then, that in your case all your marriages were before the manifesto. Can you tell us what has been going on in Idaho, where you have personal knowledge of the matter, as to any plural marriages since the manifesto?

Mr. BUDGE. There have been no plural marriages in Idaho that I know of since the manifesto.

Mr. WORTHINGTON. It has been brought out that you have been there a long time, and are perhaps the most prominent man there. Do you think any question of that kind, grave or small, could have occurred that you would not know about?

Mr. BUDGE. Possibly I might not know what was done in some other county, but in a general way I think I would.

Mr. WORTHINGTON. Has it come to your knowledge or information that there has been a plural marriage celebrated in Idaho since the manifesto?

Mr. BUDGE. There never was a plural marriage celebrated in Idaho at all; but there was a time when those who were married in that way were married elsewhere.

Mr. WORTHINGTON. Has it come to your knowledge or information, then, that since 1890 any of your men living in Idaho have been married to a plural wife anywhere?

Mr. BUDGE. No, sir; I do not know of any such circumstance.

Mr. WORTHINGTON. Do you know Mr. Hickman, who has been examined here as a witness?

Mr. BUDGE. No, sir; I never saw him until he was here.

Mr. WORTHINGTON. He has testified he married a second wife, and that for a time after that the second wife lived in Idaho, and that he visited her there. Do you know anything about that?

Mr. BUDGE. No, sir; I do not know anything about that.

Senator DUBOIS. Do you know a man named Newton?

The CHAIRMAN. One moment. Mr. Worthington, I suppose, is not through.

Mr. WORTHINGTON. You have said in this letter, which I am glad has been put in the record, that you vote as you think best. Is that true?

Mr. BUDGE. Yes, sir.

Mr. WORTHINGTON. Have you always exercised and had the privilege of voting for a Democrat or a Republican or otherwise, just as you pleased?

Mr. BUDGE. Always.

Mr. WORTHINGTON. Have you in any way endeavored to or have you used any force or compulsion, on account of your position in the church, against any man to vote otherwise than he pleased?

Mr. BUDGE. No, sir.

Mr. WORTHINGTON. So far as you know, has the Mormon Church or any Mormon official done so in Idaho at any time?

Mr. BUDGE. Not that I know of.

Mr. WORTHINGTON. There is one thing to which Mr. Van Cott calls my attention. Mr. Jackson has testified as to a leading young Mormon, whose name has not been mentioned, that you "directed him to do certain things regarding politics, which this young man refused to do, on the ground that he was not obliged to obey President Budge in political matters. This Mormon was thrown out of the church for disobedience. I believe they call it being out of harmony with them. He has since been endeavoring to be reinstated. He came to my meeting at Montpelier and said, 'Mr. Jackson, we are very glad this matter has come up in this way.' Then he drew out of his pocket a clipping from the Deseret News," and so on.

I have read all he says about you in relation to that matter. Does that recall to you any circumstance, or can you tell to what Mr. Jackson was referring when he made that statement?

Mr. BUDGE. Was it of me?

Mr. WORTHINGTON. Yes; let me read it again. He says:

"In Montpelier one of the leading young Mormons attended 'the meeting'—

That is, a meeting of the Democratic party in this last year, as I remember.

"He was not a member in good standing. He had offended, some years ago, President Budge in a political matter. Stake President Budge directed him to do certain things regarding politics, which this Mormon refused to do, on the ground that he was not bound to obey President Budge in political matters. This Mormon was thrown out of the church for disobedience. He has been since endeavoring to be reinstated."

Senator Smoot remembers that he afterwards said the name of this young man was Hart. Do you remember the circumstance?

Mr. BUDGE. Yes, sir.

Mr. WORTHINGTON. It is due to you that you shall have an opportunity to state what the fact is in regard to that matter.

Mr. BUDGE. Just previous to an election I had spoken in different places during the campaign—

The CHAIRMAN. What election, Mr. Budge?

Mr. BUDGE. That was the election of McKinley.

The CHAIRMAN. His first or last election?

Mr. BUDGE. The last.

The CHAIRMAN. In 1900. All right.

Mr. BUDGE. I had an opportunity in Paris to speak to a number of our neighbors there, and I did advance some reasons why we should sustain McKinley, but in the same spirit that I would have spoken elsewhere. There was no compulsion in any degree whatever, but I advanced some reasons that would favor their voting for McKinley. This man Hart took exception to this, and went down to Salt Lake City to complain to the authorities in regard to what I was doing. The authorities there, of course, did not wish to interfere in political matters. This Hart complained a great deal, and does now, about church influence, imagining that people are compelled in some degree to vote. They paid no attention to his complaints, because they did not wish to interfere in such matters. He came back and reported that the first presidency of the church had repudiated my action, and printed a letter in one of the Salt Lake papers to that effect. He came back and attended a meeting and gave the result of his visit to the people there who were at the meeting. That was all the offense that I gave him. He is not out of the church, as this gentleman has said.

Mr. WORTHINGTON. Do you remember whether Hart was elected or not?

Mr. BUDGE. He was not elected that time, I think.

Mr. WORTHINGTON. He has been elected since, I believe?

Mr. BUDGE. Yes.

Mr. WORTHINGTON. To what office?

Mr. BUDGE. County auditor.

Mr. WORTHINGTON. Of what county?

Mr. BUDGE. Bear Lake.

Mr. WORTHINGTON. That is the county where you live?

Mr. BUDGE. Yes.

Mr. WORTHINGTON. This young man has since been elected to this office?

Mr. BUDGE. Yes, sir.

Senator DUBOIS. Where do you say this controversy with Mr. Hart was? Where did the controversy occur between you and James H. Hart?

Mr. BUDGE. The meeting?

Senator DUBOIS. The controversy. At what kind of a meeting?

Mr. BUDGE. A meeting of a few of the neighbors.

Senator DUBOIS. Was it a teachers' meeting?

Mr. BUDGE. No, sir; no meeting at all, except a gathering—an informal gathering of the neighbors.

Senator DUBOIS. Do you recollect my calling on you at your office in Paris?

Mr. BUDGE. Yes, sir.

Senator DUBOIS. On one occasion, when two young Mormons waited for me on the outside? Do you remember that occurrence?

Mr. BUDGE. I remember you calling at my office.

Senator DUBOIS. It was charged at that time throughout Bear Lake County by Mormons, and brought to my attention when I came there to make a speech, that you had announced in your church—and it was with the permission of the authorities—that they should vote

for a certain ticket, was it not? Was not that current all through Bear Lake County?

Mr. BUDGE. Did it occur that I said that in a public meeting?

Senator DUBOIS. Was not that the rumor throughout Bear Lake County, that you had said in your church——

Mr. BUDGE. Not that I know of, and if it was a rumor it was a false rumor.

Senator DUBOIS. Did I not call upon you in regard to that rumor?

Mr. BUDGE. I don't remember your talking about the rumor.

Senator DUBOIS. What did we discuss? I do not recall any other time, do you, when I paid a visit to you?

Mr. BUDGE. I only remember you calling once.

Senator DUBOIS. What was the occasion of my calling? This, I think—I am not quite sure; you can, perhaps, refresh my memory—was during the election of 1896.

Mr. BUDGE. Possibly.

Senator DUBOIS. What was the occasion? It was a political visit, was it not?

Mr. BUDGE. Well, you would be better able, Senator, to state what object you had in coming. I don't know.

Senator DUBOIS. It was rumored throughout Bear Lake County, and the rumor was brought to me by Joe Rich and others, whose names I do not recall, but by numbers of Mormons, that you had announced publicly, in a public meeting, that it was the wish of the authorities that they should vote for McKinley and a Republican legislative ticket; and at the instance of these Mormons I called on you to ascertain whether you had that authority from the presidency of the church. Was not that what I called on you about?

Mr. BUDGE. I do not remember, Senator; it might have been.

Senator DUBOIS. What did I call upon you about?

Mr. BUDGE. I do not remember, Senator; it might have been as you say.

Senator DUBOIS. What did I call on you about?

Mr. BUDGE. Supposing you did. I don't wish to dispute the matter with you. I have a great deal of business to do, and I don't remember every little thing that happens.

Senator DUBOIS. Did you announce in the church, then, publicly that it was the wish of the authorities?

Mr. BUDGE. I say here solemnly that I never did say, in any public church meeting, that the people should vote any ticket of any party. I don't care what the rumor was.

Senator DUBOIS. Was it not the understanding among a great many Mormons that you did say that—that they heard you say it?

Mr. BUDGE. No, sir; I don't know of any such understanding, and if the Senator did hear such rumors, it would be nothing uncommon. Where so many people are interested in politics particularly, there are liable to be a great many rumors, and the Senator should know by this time that that is the fact. But I deny it.

Senator DUBOIS. I went to you directly when they brought these rumors to me. What party did you belong to up to 1886?

Mr. BUDGE. Before I became a Republican I voted and was connected in part with what we Mormons called the People's party, and we operated with the Democrats part of the time, at least.

Senator DUBOIS. Was not your ticket labeled Democratic? Did

you not always support the Territorial Democratic nominee for Congress?

Mr. BUDGE. Well, I say that we did part of the time, calling ourselves the People's party, but we operated with the Democrats.

Senator DUBOIS. When did you call any county ticket in Bear Lake County the People's party ticket?

Mr. BUDGE. I don't remember dates in regard to it. Not being a politician, I don't pay much attention to such things. When a time comes that I have an opportunity of exercising my privileges as a citizen, I do so according to my understanding of what is right.

Senator DUBOIS. As a matter of fact, was not the county ticket in Bear Lake County always called the Democratic ticket?

Mr. BUDGE. I have no doubt but it was. It might be.

Senator DUBOIS. Was not every Mormon in Idaho a member of the Democratic party up to 1886?

Mr. BUDGE. I could not tell that. I do not know.

Senator DUBOIS. Do you know of any single solitary Mormon in Idaho who was not a Democrat up to 1886?

Mr. BUDGE. I will tell you. The truth is that the Mormons in those early years were neither, in principle, one thing or the other. So what they called themselves I don't know.

Senator DUBOIS. Did they not elect members to the legislature who were called Democrats?

Mr. BUDGE. Yes.

Senator DUBOIS. And did not these Democratic members of the legislature, so called, go into caucus with the other Democratic members of the legislature?

Mr. BUDGE. I think it is very likely.

Senator DUBOIS. And affiliate with them?

Mr. BUDGE. That is what I have been saying. Very likely.

Senator DUBOIS. Why were they not Democrats?

Mr. BUDGE. I say they did operate with the Democrats.

Senator DUBOIS. They were called Democrats as much so as they were in any other county of the State or Territory?

Mr. BUDGE. Is that so?

Senator DUBOIS. You were disfranchised in the legislature of 1884-85? The test oath of Idaho was passed during the session of the legislature of 1884-85, was it not?

Mr. BUDGE. Well, Senator, as I have intimated already, I have given very little attention to such matters, and I have not tried to keep them in my mind as to dates. I am busily engaged otherwise and I have something else to do.

Senator DUBOIS. Do you recall whether there was an Idaho test oath? Was there ever any such thing as an Idaho test oath?

Mr. BUDGE. Yes; I understand it.

Senator DUBOIS. Did you ever take that test oath?

Mr. BUDGE. No; I never did.

Senator DUBOIS. Did you ever vote while that oath was in force?

Mr. BUDGE. Possibly.

Senator DUBOIS. Then you took the test oath?

Mr. BUDGE. I say possibly.

Senator DUBOIS. Do you not know whether you took the test oath? You could not vote unless you took the test oath, could you, up to the

time that the laws putting it into effect were repealed, which was in 1892?

Mr. BUDGE. There were a great many who did not take the test oath, I presume.

Senator DUBOIS. As a matter of fact, did any Mormon who was in good standing in the church take the test oath and vote?

Mr. BUDGE. I couldn't say what the good Mormons did do. I don't remember.

Senator DUBOIS. That test oath was in force until after statehood, was it not?

Mr. BUDGE. There were a number of years, I know, that we did not vote in consequence of the test oath; but as to what years we did not vote I couldn't tell.

Senator DUBOIS. It seems to have been a matter of some indifference to you. Now, as a matter of fact, were not a number of Mormons cut off from the church immediately prior to the election of 1888, in order that they might vote?

Mr. BUDGE. No, sir; no such thing ever occurred where I am or as far as I know.

Senator DUBOIS. Is it not a matter of fact that some 150 or 200 of them were arrested on account of this?

Mr. BUDGE. Yes, sir; it is true that a good many were arrested. I don't know the number; but I say that no man was cut off the church to vote.

Senator DUBOIS. You say you do not know whether they were cut off for that purpose?

Mr. BUDGE. That may be your statement; but I say it was not so, to my knowledge.

Senator DUBOIS. Were not a number of them arrested, and was it not proven?

Mr. BUDGE. No, sir.

Senator DUBOIS. By their own testimony?

Mr. BUDGE. No, sir; not where I live, I say.

Senator DUBOIS. Did you give the orders to the bishops to give these men a certificate that they should withdraw from the church?

Mr. BUDGE. Oh, that is a different thing. One of the judges that we had in the district where I live stated to the people that if they did not belong to the Mormon Church they could vote; so they withdrew from the church—from any connection with the organized church—to vote, but they were still Mormons, or claimed to be, just as a Mormon would be a member who came from England with a certificate of standing as a Mormon—came to this country and held it in his pocket. He is a Mormon, but he does not belong to the church organization.

Senator DUBOIS. Then they could take the test oath and could swear that they did not belong to or contribute to the support of an organization which permitted polygamy, etc.?

Mr. BUDGE. Such was the advice given by one of the district judges.

Senator DUBOIS. Was it not your advice to these Mormons and bishops to give them this certificate that they had withdrawn?

Mr. BUDGE. Not mine in particular that I know of.

Senator DUBOIS. Did you not approve of it?

Mr. BUDGE. Well, I approved of it this far, that if it would give the people what we considered to be their rights, I had no objection;

but I don't interfere with people, you know, in such things as that if they wish to do it.

Mr. TAYLER. I understand he issued the certificates. Is that it?

Senator DUBOIS. He directed the bishop to issue the certificates.

Mr. WORTHINGTON. Certificates of withdrawal.

Senator DUBOIS. Certificates of withdrawal from the church, and they resumed their active membership in the church immediately after election, did they not; immediately after they voted?

Mr. BUDGE. Some of them did, I believe.

Senator DUBOIS. And on account of this, what was considered a transparent subterfuge, a great many of them were arrested, and as a matter of history is it not true that one was in jail and taken out on a writ of habeas corpus, and on that account the test oath came before the Supreme Court of the United States?

Mr. BUDGE. The Senator is making an explanation. If there is any question for me to answer I will do so.

The CHAIRMAN. I was about to ask the Senator to name the individual in the case.

Mr. BUDGE. I don't recollect of any persons that withdrew from the church to exercise their political privileges that were imprisoned. I don't remember it—not in our county; but I can remember of people being arrested for unlawful cohabitation and polygamy.

Senator DUBOIS. I think I can refresh your recollection.

The CHAIRMAN. Beason was one of the parties, I believe.

Mr. VAN COTT. It was the case of Davis v. Beason, I think.

Senator DUBOIS. It was a case which arose in Oneida County. Mr. D. W. Standrod was the prosecuting attorney. The man was put in jail, and taken out on a writ of habeas corpus, and the case came directly to the Supreme Court of the United States. He was one of those who had received a bishop's certificate, was he not?

Mr. BUDGE. That might possibly be. I don't know.

Mr. WORTHINGTON. The case is in 133 U. S.

Senator DUBOIS. Up to 1886 the Mormons had voted the Democratic ticket. From 1886 down to 1892 they had to take the test oath. Now, it was after that that some of the Mormons became Republicans, was it not?

Mr. BUDGE. Well, about 1890—that is, at the time of the division on party lines—there were a few, comparatively, that became Republicans, but they had not turned yet, you see, to become posted as to party principles, and by degrees ever since then the number of Republicans has been increasing. I can not tell you how many Republicans there were at any given time.

Senator DUBOIS. Of what avail was it whether they were Populists or anarchists or Democrats or Republicans in 1890? They could not vote.

Mr. BUDGE. That was a matter, Senator, that you regretted yourself, I believe.

Senator DUBOIS. No; I assumed your manifesto was given in sincerity, therefore the franchise was restored to you.

Mr. BUDGE. Do you remember, Senator, you and I having a conversation at Salt Lake City?

Senator DUBOIS. Yes, sir.

Mr. BUDGE. Do you remember promising me, as you thought it

right and proper, to use your influence at the following election to remove that test oath?

Senator DUBOIS. I have no doubt about it; because I openly took that stand, and I was the first man to take it.

Mr. BUDGE. You at that time, like a good, considerate, just man, regretted that the Mormon people were embarrassed and oppressed as they had been, and you promised that you would help, at the next favorable opportunity, which would be two years or about two years from that time, to remove that law that was read here from the statutes.

Senator DUBOIS. Previous to that, however, I had written a letter advocating that course. I was the very first one to advocate that course. There is no discrepancy between us. That was based on the manifesto.

Mr. BUDGE. So, if some of the people did vote, thinking they were safe enough in doing it, they were simply carrying out practically what you, in your good feeling and sympathy, thought ought to be allowed them.

Senator DUBOIS. As a matter of fact, President Budge, did not the legislature of 1892 remove the restrictions?

Mr. BUDGE. If the Senator will be good enough to state the circumstances, I would be able to give the committee more satisfaction; but as I have stated already, my business is not politics. I don't pass much time in keeping track of political affairs and I don't remember dates. That is, I have not tried to remember them.

Senator DUBOIS. When the manifesto was issued in 1890, then for the first time the question arose about restoring the franchise. The State was admitted in 1890. You did not vote at the first election, but after the manifesto was issued all parties and all individuals united in restoring your franchise. Is not that a fact?

Mr. BUDGE. Yes, sir; I believe that is right.

Senator DUBOIS. So that you voted in 1894 for the first time?

Mr. BUDGE. Yes, sir.

Senator DUBOIS. Up to that vote in 1894 your votes had all been cast for the Democratic party. Then they divided about equally, as they did in Utah.

Mr. BUDGE. I think you and I agree on that, Senator.

Mr. WORTHINGTON. About this man James E. Hart, or James H. Hart—which was it?

Mr. BUDGE. James E. Hart.

Mr. WORTHINGTON. James E. is the son and James H. is the father?

Mr. BUDGE. Yes, sir.

Mr. WORTHINGTON. Senator Dubois has questioned you about James E. Hart. In 1896, I believe, there was a general rumor that you had directed the people of your State to vote for Kinley in that year?

Mr. BUDGE. Yes; I believe there was.

Mr. WORTHINGTON. As a matter of fact, ~~what was~~ the vote in Bear Lake County for McKinley and for Bryan in 1896?

Mr. BUDGE. I can't tell that.

Mr. WORTHINGTON. Do you remember which of them carried the county? Is it not a fact that Bryan carried the county by a large majority?

Mr. BUDGE. Oh, yes.

Mr. WORTHINGTON. Then, if the rumor had been true and you had instructed your people to vote for McKinley, it was plain they had disobeyed you and voted as they pleased.

Mr. BUDGE. It would appear so.

Mr. WORTHINGTON. Who was the district judge to whom you were referring when you said he had given some decision or advice about the effect on the right of a Mormon to vote if he should withdraw from the church?

Mr. BUDGE. His name was Hays.

Mr. WORTHINGTON. Was he a Mormon or a gentile?

Mr. BUDGE. He was a gentile?

Mr. TAYLER. Let me understand that, Mr. Budge. You say that some judge there gave some advice. Was it a judicial judgment?

Mr. BUDGE. If you will excuse me, I would like to explain this. I did not hear him do it.

Mr. TAYLER. No.

Mr. BUDGE. But there was a gentleman living in our town to whom he did tell it. At least this gentleman said he did tell him that the way to escape the consequences of voting would be to withdraw this fellowship from the church.

Mr. TAYLER. Exactly. So that having heard that that judge had made that statement to some other person, who told it to you——

Mr. BUDGE. Yes, sir.

Mr. TAYLER. You gave letters of withdrawal, did you?

Mr. BUDGE. No, sir.

Mr. TAYLER. Or instructed bishops to give them?

Mr. BUDGE. No; I don't know that.

Mr. TAYLER. What did you have to do with their withdrawal from the church?

Mr. BUDGE. You see the matter was discussed for a long time before this.

Mr. TAYLER. Yes.

Mr. BUDGE. And the people felt very much dissatisfied about being deprived of their political rights. The matter was discussed a good deal up and down the country, and I suppose others knew or learned of what this judge had said, and it spread abroad. I don't know that it was necessary for me to say anything. I don't remember anything about it—about saying anything. I might have done so, but not in any formal, general way.

Mr. TAYLER. And in your stake were certificates or letters of withdrawal of that kind issued to members of the Mormon Church?

Mr. BUDGE. Yes, sir; to a certain number.

Mr. TAYLER. When these letters were issued it was perfectly understood that they were none the less Mormons after the letters were received, was it not?

Mr. BUDGE. Oh, it didn't change their faith.

Mr. TAYLER. It did not change their faith nor change their actual relations to you and the rest of the officials of the church, did it?

Mr. BUDGE. Only in a technical way.

Mr. TAYLER. Then they went and took the test oath, such of them as wanted to, and voted, did they not?

Mr. BUDGE. Well, I couldn't tell that. I couldn't say.

Mr. TAYLER. Do you not know, as a part of the history of that period, that certificates of withdrawal were issued for that purpose, and

that men then went and took the test oath to the effect that they were not members of a church which permitted certain things that are described in the test oath; and then, having taken the test oath, and having voted, returned into fellowship with the church and were rebaptized, or whatever was necessary, after having received the certificate of withdrawal? Was not that done in several hundred cases?

Mr. BUDGE. I have no doubt it is true. I couldn't personally certify to it.

The CHAIRMAN. Who were the certificates signed by?

Mr. BUDGE. By the bishops. Any man has a right—

The CHAIRMAN. Bishops in the various wards?

Mr. BUDGE. Yes, sir.

The CHAIRMAN. Have you one of those certificates?

Mr. BUDGE. No, I have not. Any man has a right to go to a bishop and ask for a recommendation—that is, taking him from one ward or organization in view of taking it to another to claim fellowship with that other ward. So they did go in the usual way and obtain certificates of standing, probably without any explanation, and the bishops had a right, as usual, to give those certificates.

Senator OVERMAN. Did you at any time advise giving those certificates?

Mr. BUDGE. I don't know that I did. I have no recollection of advising.

Senator OVERMAN. Did you advise against it?

Mr. BUDGE. No; I don't know that I did.

Senator OVERMAN. Did you ever see one of them?

Mr. BUDGE. I rather doubt my advising, because I was not very sure of the correctness of the advice presumed to be given.

The CHAIRMAN. You saw the certificate?

Mr. BUDGE. No; I don't know that I ever saw one of the certificates. I know what they are. I know what such certificates are.

Senator DUBOIS. Are you not generally a delegate to the State convention?

Mr. BUDGE. Not generally.

Senator DUBOIS. You have been?

Mr. BUDGE. Well, occasionally.

Senator DUBOIS. You were not a delegate to the last State convention?

Mr. BUDGE. No.

Senator DUBOIS. Were you to the convention before that?

Mr. BUDGE. I think I was there before that.

Senator DUBOIS. And before that?

Mr. BUDGE. I couldn't tell.

Senator DUBOIS. Do you think you have been a delegate to a majority of the State conventions since the franchise has been restored to you?

Mr. BUDGE. No; I don't think I have.

Senator DUBOIS. I believe you testified you were State senator?

Mr. BUDGE. I was a State senator.

Senator DUBOIS. And when was that?

Mr. BUDGE. That was about six years ago, I think.

Senator DUBOIS. Have you held any other positions of a political nature?

Mr. BUDGE. Political? That is, civil positions?

Senator DUBOIS. Yes; outside of your church, I mean.

Mr. BUDGE. I don't think so.

Senator DUBOIS. Were you ever on the board of trustees for the State university?

Mr. BUDGE. Yes, sir; I was.

Senator DUBOIS. That is a position of some considerable dignity, is it not?

Mr. BUDGE. I thought you meant lately; I thought you meant now, or lately.

Senator DUBOIS. I mean since the franchise was restored to you.

Mr. BUDGE. Yes, sir.

Senator DUBOIS. How long were you a regent of the State university?

Mr. BUDGE. I presume the regular term, about two years. I am not sure.

Mr. TAYLER. Mr. Budge, do you know Mrs. Osmond, of Bloomington?

Mr. BUDGE. Yes; I know two Mrs. Osmonds.

Mr. TAYLER. Do you know Mrs. George Osmond?

Mr. BUDGE. Yes, sir.

Mr. TAYLER. Is she the wife of President George Osmond?

Mr. BUDGE. Yes, sir.

Mr. TAYLER. Where does he live?

Mr. BUDGE. He lives in Star Valley.

Mr. TAYLER. Is he a polygamist, do you know?

Mr. BUDGE. Yes, sir.

Mr. TAYLER. The Mrs. Osmond who lives in Bloomington is his first wife, is she; or don't you know?

Mr. BUDGE. Yes, I believe so.

Mr. TAYLER. The Star Valley stake is in Wyoming, I believe?

Mr. BUDGE. Most of it; yes, sir.

Mr. TAYLER. It is in both States, is it?

Mr. BUDGE. I think there is a small portion of the valley that is in Idaho.

Mr. TAYLER. Does his stake adjoin yours?

Mr. BUDGE. There are about 40 miles between the two.

Mr. TAYLER. Do you know how many wives he has altogether?

Mr. BUDGE. George Osmond?

Mr. TAYLER. Yes.

Mr. BUDGE. I never heard of his having any more than two wives.

The CHAIRMAN. I did not understand what stake he was president of.

Mr. BUDGE. He is president of the Star Valley stake.

The CHAIRMAN. And that extends into Wyoming?

Mr. BUDGE. The most of the stake, territorially speaking, is in Wyoming.

Mr. TAYLER. Do you know whether this President George Osmond holds any public office?

Mr. BUDGE. I have heard a report that he was running for some office this fall.

Mr. TAYLER. Was he not elected State senator in Wyoming?

Mr. BUDGE. I couldn't say, sir.

Mr. TAYLER. That is what he was running for.

Mr. BUDGE. I believe he was.

Mr. TAYLER. Is he a Republican?

Mr. BUDGE. Yes, sir.

Mr. TAYLER. Then he probably was elected, was he not?

Mr. BUDGE. I suppose so.

The CHAIRMAN. Have you any knowledge as to the number of Mormons in this stake of which you speak, over which Mr. Osmond presides—the number of the adherents?

Mr. BUDGE. I couldn't say positively; but I think there are about 1,500 souls; may be 1,800.

The CHAIRMAN. How many of this number, say 1,500, are in Wyoming?

Mr. BUDGE. I think they are practically all in Wyoming. There is just a narrow strip on one side of the valley that is in Idaho.

Mr. WORTHINGTON. Will you state your age, Mr. Budge, before you leave the stand?

Mr. BUDGE. I am 76; nearly 77.

Senator DUBOIS. Did you take any unusual interest in this last election?

Mr. BUDGE. No; I did not.

Senator DUBOIS. Did you go from your home up into Blaine County, in the Wood River country, just prior to the election?

Mr. BUDGE. I did.

Senator DUBOIS. Did you visit the Mormon settlements?

Mr. BUDGE. Yes, sir.

Senator DUBOIS. Did you consult with them as to how they should vote?

Mr. BUDGE. I had some conversation with them as to the voting; yes.

Senator DUBOIS. Did you go up there for that purpose?

Mr. BUDGE. Yes.

Senator DUBOIS. Then you did take some unusual interest, did you not? You took some interest?

Mr. BUDGE. Oh, well, that was very little to what I have sometimes taken—comparatively little interest this time.

Mr. TAYLER. Where is this place you went to to which the Senator has referred?

Mr. BUDGE. It is a place near Hailey, in Idaho.

Mr. TAYLER. How far from your stake?

Mr. BUDGE. It might be 200 or 300 miles.

Mr. TAYLER. It is in another part of the State, is it?

Mr. BUDGE. In another part of the State; yes, sir.

Mr. TAYLER. How long did you stay there?

Mr. BUDGE. A part of two days.

The CHAIRMAN. Did you go there at the suggestion of any other person, or on your own motion?

Mr. BUDGE. Well, in talking with some of the leading men, politicians—that is, managing men of Idaho—the question came up. I really don't know whether there was any particular suggestion or not. I was interested, as they were at that time, in talking the matter over, and, learning that there were some of our people up there that were not likely to be visited, I went up there and talked to them.

The CHAIRMAN. Can you state at whose suggestion you went up?

Mr. BUDGE. I don't know.

The CHAIRMAN. Was it the result of this conference you had?

Mr. BUDGE. It was the result of some conversation I had. I didn't know, in fact, that there were any of our people up there until we conversed about it.

The CHAIRMAN. This conversation was with the adherents of your church?

Mr. BUDGE. No, sir.

The CHAIRMAN. With whom was it?

Mr. BUDGE. It was with Mr. Brady and one or two others, maybe, at the same time.

The CHAIRMAN. A word about Wyoming. How many counties in Wyoming does the stake of Star Valley cover?

Mr. BUDGE. Just the one county, I think.

Senator DUBOIS. Do you remember about what day of the week it was when you were up in this Wood River country?

Mr. BUDGE. No, sir; I couldn't tell that.

Senator DUBOIS. You do not recall whether it was the Sunday before the election?

Mr. BUDGE. I wasn't there on a Sunday, at any time.

Senator DUBOIS. It was previous to that? It was previous to the Sunday before the election, was it?

Mr. BUDGE. A very short time before the election.

Senator DUBOIS. Was it the Sunday before or the Monday before?

Mr. BUDGE. I wasn't there on Sunday at all. It might be the Wednesday or the Thursday before the election. I am not sure about that.

Senator DUBOIS. It was shortly before the election?

Mr. BUDGE. Yes, sir.

Mr. WORTHINGTON. These gentlemen with whom you conferred, the politicians you referred to, before you went up into that country, were they Gentiles or Mormons?

Mr. BUDGE. Gentiles.

Mr. WORTHINGTON. And Republicans?

Mr. BUDGE. And Republicans.

Senator DUBOIS. Mr. Brady is the chairman of the Republican State committee.

Mr. TAYLER. That is all with this witness.

The CHAIRMAN. Who is your next witness?

Mr. TAYLER. John Henry Smith.

TESTIMONY OF JOHN HENRY SMITH.

JOHN HENRY SMITH, having been duly sworn, was examined, and testified as follows:

Mr. TAYLER. Where do you live, Mr. Smith?

Mr. SMITH. Salt Lake City, Utah.

Mr. TAYLER. We have heard a great deal about you, Mr. Smith, and your capacity as a public speaker; so be sure and speak so the chairman can hear you.

Mr. SMITH. You flatter me, sir.

The CHAIRMAN. The voices of most of the witnesses seem to be very feeble.

Mr. SMITH. Well, we are mild-mannered men, Mr Chairman.

Mr. TAYLER. You did not need to say that, Mr. Smith; we could see that.

Were you born in the Mormon Church?

Mr. SMITH. Yes, sir.

Mr. TAYLER. You are the son of whom?

Mr. SMITH. George A. Smith.

Mr. TAYLER. Was he any relation to Joseph Smith?

Mr. SMITH. First cousin.

Mr. TAYLER. And whose son is Joseph F.?

Mr. SMITH. Joseph F. is the son of Hyrum Smith, who was an elder brother of Joseph Smith.

Mr. TAYLER. So that you and Joseph F. are cousins in a certain degree?

Mr. SMITH. Second cousins.

Mr. TAYLER. Where were you born?

Mr. SMITH. I was born at Council Bluffs, Iowa.

Mr. TAYLER. How old are you now, Mr. Smith?

Mr. SMITH. I was 56 years old on the 18th day of last September.

Mr. TAYLER. You were born while the movement of the Mormons was going on, from Nauvoo to Utah?

Mr. SMITH. Yes, sir.

Mr. TAYLER. When did you become an apostle?

Mr. SMITH. In 1880, I think, if my memory serves me. I have a very bad memory on dates.

Mr. TAYLER. Francis M. Lyman is the senior apostle, I believe?

Mr. SMITH. Yes, sir.

Mr. TAYLER. And are you next to him?

Mr. SMITH. Yes, sir.

Mr. TAYLER. And are you a polygamist?

Mr. SMITH. Yes, sir.

Mr. TAYLER. How many wives have you?

Mr. SMITH. Two.

Mr. TAYLER. How many have you had?

Mr. SMITH. Two.

Mr. TAYLER. And you have had children born since the manifesto by your plural wife?

Mr. SMITH. Yes, sir.

Mr. TAYLER. How many?

Mr. SMITH. I couldn't say; but there are several of them. They were born outside of Utah, however.

Mr. TAYLER. Were they born in this country?

Mr. SMITH. They were born in the State of Colorado, sir, by my polygamous wife.

The CHAIRMAN. I can not hear a word you say.

Mr. SMITH. The question was, Senator, whether I had more than one wife. I told him I had. He desired to know how many children—that is, whether I had children that had been born since the manifesto. I told him, yes; they were born by my polygamous wife in the State of Colorado.

Mr. WORTHINGTON. Several since 1890?

The CHAIRMAN. Did I understand you to say you could not tell how many?

Mr. SMITH. No, sir.

The CHAIRMAN. I did not so understand?

Mr. SMITH. No.

The CHAIRMAN. Then you do know how many?

Mr. SMITH. Yes, sir. I have fifteen living children. I have buried four.

The CHAIRMAN. By this plural wife living in Colorado how many?

Mr. SMITH. Seven. She was the mother of eight children. She has buried one daughter.

Mr. TAYLER. You still have not stated how many were born to the plural wife since the manifesto.

Mr. SMITH. I couldn't say; but her youngest child, I think, is 7 years of age. I refer to my plural wife.

The CHAIRMAN. Can you not remember how many children you have had by this wife since 1890?

Mr. SMITH. No; I could not tell the date of the birth of a single child.

The CHAIRMAN. I do not ask the date; but how many are living?

Mr. SMITH. She has seven living children.

The CHAIRMAN. How many of the seven were born since 1890?

Mr. SMITH. I couldn't say.

The CHAIRMAN. Any of them?

Mr. SMITH. Yes, sir. Since 1890?

The CHAIRMAN. Yes; that is not long ago.

Mr. SMITH. No; it is not very long ago, but it is a matter with which I have never charged myself in regard to dates. The date of my own birth has always been a little mixed in my own mind.

The CHAIRMAN. Could you, by reflection, tell the committee about how many of the seven were born since 1890?

Mr. SMITH. I should think there were four of them.

The CHAIRMAN. Born since 1890?

Mr. SMITH. Yes. I am not certain, but I should think so.

The CHAIRMAN. The last one was born when?

Mr. SMITH. About seven years ago.

The CHAIRMAN. Proceed, Mr. Tayler.

Mr. TAYLER. When were you married to your plural wife?

Mr. SMITH. I couldn't say.

Mr. TAYLER. About when, I mean?

Mr. SMITH. Well, her oldest child is now a married woman and I think she is 26 years old, but I am not certain.

Mr. TAYLER. I notice in the book to which reference has frequently been made, called the Latter-Day Saints' Biographical Encyclopedia, in your biography, this statement:

"In April, 1877, John Henry yielded obedience to the principle of plural marriage by marrying Josephine Groesbeck, a daughter of Elder Nicholas Groesbeck."

Mr. SMITH. That is absolutely correct. I presume so.

The CHAIRMAN. That was in 1877?

Mr. SMITH. 1877.

Mr. TAYLER. You were one of the signers of the application for amnesty?

Mr. SMITH. Yes, sir.

Mr. TAYLER. You were one of those also who testified respecting your interpretation of the manifesto?

Mr. SMITH. No, sir; I have never made any interpretation that I remember of.

Mr. TAYLER. Do you remember the interpretation put upon it by Wilford Woodruff and the other leaders of the church?

Mr. SMITH. Yes, sir.

Mr. TAYLER. And the testimony of Joseph F. Smith respecting the meaning of the manifesto?

Mr. SMITH. Yes, sir.

Mr. TAYLER. Its application as well to polygamous cohabitation as to entering into new polygamous relations?

Mr. SMITH. Yes, sir.

Mr. TAYLER. You subscribe to their view of it, do you?

Mr. SMITH. Yes, sir.

Mr. TAYLER. But deny it in the practice?

Mr. SMITH. My position in regard to that matter, Mr. Tayler, is simply this, that nobody could take from me my family; that I was responsible to God myself, and that I must take the consequences of my countrymen punishing me if they saw fit to do so. That has been my position in regard to that matter.

Mr. TAYLER. Of course, you know now that your plural wife was taken after there was a law forbidding it?

Mr. SMITH. I knew it full well at the time, but with this fixed idea in my own heart, that the first amendment to the Constitution having never been passed upon in regard to that question, it was a question in abeyance, and that I expected, when the courts of this country decided it, that I could not be interfered with in the practice of that principle or in the maintenance of that wife.

Mr. TAYLER. So that you denied and still deny the validity of that law as applied to you?

Mr. SMITH. No, sir; I do not deny it. The law has been passed upon. The court has decided that.

Mr. TAYLER. But you say you propose to——

Mr. SMITH. I held that when I married that woman.

Mr. TAYLER. You propose to continue the practice that you then started, upon the theory that there is a higher obligation upon you than the obligation to obey the law?

Mr. SMITH. Yes; I must suffer the consequences, if my countrymen see fit to punish me.

Mr. TAYLER. You are very familiar with the history of your people, and especially what have been denominated persecutions they have endured in the past twenty-five years?

Mr. SMITH. Fairly well. I was in Europe when the first efforts were made in the prosecution, under Mr. Cleveland's Administration, of the polygamy cases.

Mr. TAYLER. You are one of those who have not taken a wife since the Supreme Court decided that the law declaring polygamy unlawful——

Mr. SMITH. As I understood it; yes, sir.

Mr. TAYLER. Was constitutional?

Mr. SMITH. I so regard myself; yes, sir.

Mr. TAYLER. You took your wife, this encyclopedia says, in 1877?

Mr. SMITH. Yes, sir.

Mr. TAYLER. And the Supreme Court decision was rendered in 1878?

Mr. SMITH. That is my remembrance of it, sir.

Mr. TAYLER. But do you understand, Mr. Smith, that your church

generally recognized at all the validity and binding effect of that decision of the Supreme Court as affecting their subsequent conduct?

Mr. SMITH. Yes, sir; I think my church fully recognized that.

Mr. TAYLER. That it did bind them or did not bind them—the decision of the Supreme Court?

Mr. SMITH. The decision of the Supreme Court of the United States is binding upon my people. They all recognize that.

Mr. TAYLER. Have they recognized it ever since it was decided?

Mr. SMITH. I think so.

Mr. TAYLER. Do you not know that a majority of your associates have taken plural wives since the Supreme Court made that decision?

Mr. SMITH. I have no knowledge of it myself.

Mr. TAYLER. Do you not think that from time to time you have had knowledge of that?

Mr. SMITH. No.

Mr. TAYLER. With all of the agitation? For instance, take the president of the church, Joseph F. Smith. He was married as late as 1884 to his plural wife, was he not?

Mr. SMITH. I don't know, I am sure, in regard to that matter. I was in Europe at that time. I don't know anything about his later marriages. I was entirely acquainted with three of his wives. They were raised in my father's house, and I grew up with them—that is, with two of them—as children together.

Mr. TAYLER. Do you mean to say that you never knew his last plural wife?

Mr. SMITH. Until recently.

Mr. TAYLER. Until how recently?

Mr. SMITH. I couldn't say. I have not been intimate with his family as we were formerly intimate for years. No two men were more intimate in life than Joseph F. Smith and myself. Our later appointments in life and my missionary work in the world has very much alienated us in regard to that matter. His family and mine associate very little.

Mr. TAYLER. When did you cease to have intimate personal relations with him?

Mr. SMITH. It would be about 1880 when I went away. In 1882 I went to Europe, and I was away for some three years—about three years.

Mr. TAYLER. Where have you been for the last ten years?

Mr. SMITH. I have been in every part, nearly, of the American Union and in Mexico.

Mr. TAYLER. You have been chiefly in this country, have you not?

Mr. SMITH. Yes; that is, in part.

Mr. TAYLER. And your home is in—

Mr. SMITH. Salt Lake City.

Mr. TAYLER. You have been there every year, more or less?

Mr. SMITH. Yes, sir; I have been there twice a year sure, when well, at what were known as our "April and October conferences."

Mr. TAYLER. Of course you knew Apostle Abram H. Cannon?

Mr. SMITH. Yes, sir; I knew Apostle Abram H. Cannon.

Mr. TAYLER. You heard the story of his marriage in 1896 to Lillian Hamlin, did you not?

Mr. SMITH. No; I did not hear the statement of his marriage.

Mr. TAYLER. You did not hear anything about it?

Mr. SMITH. I know nothing about Abram H. Cannon's family matters to any degree. The lady that was here, I knew her from a child, but his other wives I have not been intimate with. I wouldn't know one of them if I saw them.

Mr. TAYLER. You still do not answer my question. Did you ever hear of his having married Lillian Hamlin?

Mr. SMITH. I have heard intimations of that character; yes, sir.

Mr. TAYLER. You heard them about the time of his death, did you not?

Mr. SMITH. I think Mr. Lannon, of the Salt Lake Tribune, told me that Mr. Cannon had married Lillian Hamlin; but I have never met the lady and didn't know her. He was the first person that ever told me about it.

Mr. TAYLER. Were you in Salt Lake City at his funeral?

Mr. SMITH. I was; yes, sir—that is, I think during his sickness I was at his home once.

Mr. TAYLER. And was the only person who mentioned to you the fact, or the story, whether it was a fact or not, of his marriage to Lillian Hamlin Mr. Lannon?

Mr. SMITH. Yes; I don't remember of anybody else.

Mr. TAYLER. You heard nothing of it among the brethren or the apostles?

Mr. SMITH. I heard nothing of Mr. Cannon's marriage among my brethren, as far as that is concerned. I did once, in the midst of excitement, ask Joseph F. Smith if he married Lillian Hamlin to Abram H. Cannon. He said, "No, sir."

Mr. TAYLER. When was that?

Mr. SMITH. That would be probably five years ago, possibly.

Mr. TAYLER. Some time after the marriage is said to have occurred?

Mr. SMITH. Yes, sir.

Mr. TAYLER. Did you or any of your associates ever take any steps to find out whether it was true that Abram Cannon had taken a plural wife in 1896?

Mr. SMITH. No, sir.

Mr. TAYLER. Did you not think it touched very nearly the question of the honesty and sincerity of your church, Mr. Smith?

Mr. SMITH. No, sir.

Mr. TAYLER. To answer that question?

Mr. SMITH. No, sir; because the duties of men looking after people for violations of law is with the bishops of our church.

Mr. TAYLER. Exactly; but I am not talking about looking after some person for a violation of the law. This man was dead. I am thinking whether you had any interest in the church and in the conception that the rest of the country would have of its fidelity to its promise. Did that not lead you to make any inquiry, even personal inquiry, on that subject?

Mr. SMITH. I have never made any personal inquiry into Mr. Cannon's family conditions at all.

Mr. TAYLER. So that so far as any activity or expressed or exhibited interest of yours was concerned it was a matter in respect to which you were wholly unconcerned?

Mr. SMITH. Yes, sir.

Mr. TAYLER. Whether an apostle of your church had taken a

fourth wife six years after the manifesto. Now, do I correctly describe your state of mind?

Mr. SMITH. I take it for granted that every man of my faith is amenable to the law of the land and that the courts were in full operation in Utah; and if Abram Cannon or any other man had understandingly taken a wife that the courts were there and the officers thoroughly and fully competent to discharge their obligation and that I was not responsible in that matter. I never have held myself responsible for the deeds and acts of my associates, either morally or immorally, or otherwise, so far as that is concerned.

Mr. TAYLER. Mr. Smith, I do not want to intimate that your answer is not candid, but I have an appreciation of your intelligence that makes me hesitate to believe that your answer is quite fair. The stenographer will read the question again, so that you may answer it as asked. I am not asking you about what you would do in respect to any particular member of your church who might in that respect violate the law. I can appreciate the situation in which you would find yourself in such a matter, but Abram Cannon came home sick and died before anyone would think of arresting him if there had been any movement in that direction. The stenographer will please read the question that I asked you.

The stenographer read as follows:

"Mr. TAYLER. So that so far as any activity or expressed or exhibited interest of yours was concerned, it was a matter in respect to which you were wholly unconcerned?"

"Mr. SMITH. Yes, sir.

"Mr. TAYLER. Whether an apostle of your church had taken a fourth wife six years after the manifesto. Now do I correctly describe your state of mind?"

Mr. SMITH. The answer I could make to that is, had I been a grand jurymen and a case of that kind had been brought before me, and the evidence sufficient, I would have indicted him for a violation of the law. That is all I can say on that matter.

Mr. TAYLER. I see now, Mr. Smith, that you misunderstand my question. Did it not appeal to you that the rest of the country—Congress, for instance, public men who had been interested in the legislation in Utah—might think that Utah or the Mormon Church had been unfaithful and untrue if an apostle of the church had taken a fourth wife?

Mr. SMITH. I don't know that it ever struck me that way, because I thought the country recognized the fact that the courts were in motion in our State, and that cases of that kind would receive the consideration of the public officers, when the most of those officers were non-Mormons.

Mr. TAYLER. Would you not, Mr. Smith, realize to-day, for instance, that if the president of the church, Joseph F. Smith, should take a plural wife, the significance of that fact would be not arising at all out of what might occur to him if somebody prosecuted him, but as to its effect upon the church and its great concerns and the relation that it sustains to the rest of the country? Would you not appreciate that that was true?

Mr. SMITH. I would to this extent, that I believe he should be prosecuted if he did that sort of thing.

Mr. TAYLER. And that is all?

Mr. SMITH. Yes.

Mr. TAYLER. And do you think that that is the only respect in which the general public would be interested as to what would happen to Joseph F. Smith in respect to a prosecution for that offense?

Mr. SMITH. I think so.

Mr. TAYLER. Do you not think the most serious effect of such an act by Joseph F. Smith would be upon the people in the Mormon Church?

Mr. SMITH. There is no doubt about it.

Mr. TAYLER. It would be a very unfortunate thing, would it not, for the people in the Mormon Church?

Mr. SMITH. There is no doubt about that, Mr. Tayler.

Mr. TAYLER. Did you ever hear the charge made that Apostle Taylor had taken two additional wives?

Mr. SMITH. Not until I read it in the testimony taken before this committee.

Mr. TAYLER. Have you taken any steps to find out if there is any truth in that?

Mr. SMITH. No, sir; I have not.

Mr. TAYLER. Have you made any suggestion that it would be a good thing for Apostle Taylor to come before the committee and testify to the truth?

Mr. SMITH. I have not seen Apostle Taylor for years myself.

Mr. TAYLER. Where is he?

Mr. SMITH. I presume he is in Canada. I don't know. Mr. Tayler will remember that I was subpoenaed before this body of men some months ago. I was then confined to my room. A second subpoena was sent and I was there still. I am still laboring under the effects of that sickness and wholly unfitted, really, for any hard work. For seven months I was unable to dress myself. I just make that explanation. I haven't looked after anybody or paid any attention to anybody's interests except my own.

Mr. TAYLER. So that so far as you are concerned, you have not been so situated, even if you had the disposition, as to take up any of these inquiries?

Mr. SMITH. No.

Mr. TAYLER. You used to take an interest in politics?

Mr. SMITH. Yes, sir; I have been a very intense man in politics all my life.

Mr. TAYLER. You have always been a Republican, have you?

Mr. SMITH. My race were Federalists and Whigs, and I inherit every element of that stock, on both sides, as intense as ever was put in man.

Mr. TAYLER. A very good inheritance, indeed. Well, you sometimes got up into Idaho?

Mr. SMITH. Yes, sir.

Mr. TAYLER. On political missions?

Mr. SMITH. Yes, sir.

Mr. TAYLER. You recognized or claimed the same right to be active in politics that anybody else claimed?

Mr. SMITH. Yes, sir; everywhere in the world.

Mr. TAYLER. And in the exercise of that right you got to Idaho and anywhere else you pleased to go?

Mr. SMITH. Yes, sir. I want to say, though, Mr. Tayler, that I

never went to Idaho for political work except upon the invitation of some leading man of the State, usually the Republican chairman.

Mr. TAYLER. When you were in Idaho a couple of years ago and the subject of the amendment of the constitution came up, at whose invitation did you go?

Mr. SMITH. I was in Idaho upon that occasion, not with the intention of visiting the legislature or having any conversation in any way upon the question of politics at that time. There was a little organization of my church there, over which a man, if I remember correctly, by the name of Ballard presided. Upon his invitation I went there to attend a Sabbath meeting, and was received with open arms by all the leading men of the State, so far as that is concerned, that were there. Such men as the chief justice, the associate justices, and other men of the State treated me with the utmost courtesy. They attended my services. I preached to them on Sabbath day. While I was there, and in visiting around, I met Mr. Balderson, the editor of the Statesman, who was formerly the editor of the Salt Lake Times when I was an owner in the Times in our early efforts to make Utah Republican, and when it nearly broke me up in business. I called on Mr. Balderson. I think I met him at the hotel—the Idanha Hotel there—and I brought to his mind this fact. I said to him: “Mr. Balderson, if my memory serves me correctly, there is a provision in the constitution of Idaho that can be used by unscrupulous men to the hurt of my people, and yet I don’t want to take any step or do anything that would interfere with the execution of the laws upon polygamy. I accept the proposition as involved in the law. I would like it if an amendment of the constitution of this State could be made in such form that, while the conditions would be preserved that would carry out the spirit and meaning of the Congress of the United States, my people would not be hampered by some unscrupulous politician some day springing a test oath upon them and putting them in the shape that their liberties would be taken from them.”

I held that conversation with Mr. Balderson, and after talking with him I visited Mr. Borah, who, by the way, is a very warm political friend of mine and with whom I have been conversant for a number of years, and talked over the matter with him. I talked with Governor Morrison. I talked with several of the judges of the State and other leading men in regard to the matter. I also met some members of the legislature. I made no fixed recommendation in regard to the matter, but I asked some of my political friends to consider the matter and weigh its force, and if, in their judgment, it was a right thing to do, that an amendment to the constitution should free my people from the possibilities of these conditions, I would be most certainly well pleased in that accomplishment.

In connection with it I had some talks with these men—members of the legislature. I was in the legislature and heard a few speeches, but I did not hang around there. My conversations were principally with leading politicians of the State and men who had a deep interest in those questions. I had that conversation and returned to my home. Nobody was responsible for me. No church had made any suggestion to me. In fact, I want to say to you that, so far as I am concerned, my church has never in any way, sense, form, or shape suggested politics to me or had anything to do with my politics,

only as I have been able to convert some of them to the acceptance of them. That is all.

Mr. TAYLER. I can readily imagine that that is the direction that political controversy you would have with your political associates would take. You would have the political right on your side, as well as the argument. Were you there when the resolution was adopted?

Mr. SMITH. No, sir; I don't remember that I was.

Mr. TAYLER. Do you know how long after you left it was passed?

Mr. SMITH. Mr. Tayler, it had gone entirely from my mind until I incidentally read that Mr.—I had forgotten, in fact, the possibility of it being considered in the future, until I read the statement of the owner of the Statesman before this body.

Mr. TAYLER. Do all of these people with whom you talked agree with you?

Mr. SMITH. The question with us, Mr. Tayler, was simply this, as to the wisdom of the introduction of it, if they were converted to it. Part of them were for immediate action. They believed it was the thing to do. There was a difference of opinion in regard to that matter, and some of them held it might be an unwise thing to do now. I left it in that form among themselves, because I was uncertain. In fact, it is a singular thing, but at that time I had not even read that provision in the constitution of Idaho in regard to polygamy.

Mr. TAYLER. You knew that there was something of that sort there?

Mr. SMITH. Oh, yes, sir; I had part in attendance upon the first Republican convention that met in Idaho, that considered the question of the annulment of the test oath. I happened to be there; but the character of the provision and the shape of it I had not in my mind, and have not even now.

Mr. TAYLER. What view did Mr. Borah take of it?

Mr. SMITH. Mr. Borah, as my remembrance goes, was in sympathy, fairly, with the proposition. There was a question in Mr. Borah's mind. I believe Mr. Borah to be a thoroughly honorable man, and I think he treated me with absolute courtesy and consideration.

Mr. TAYLER. And Governor Morrison was about the same way, was he?

Mr. SMITH. I think the governor was much more timid in his feeling in regard to it than any other gentleman I spoke to. That is my remembrance now.

Mr. TAYLER. That is, he exhibited less positive friendliness to it than anybody else?

Mr. SMITH. Yes.

Mr. TAYLER. You could not by any possibility transform that mild expression into a statement that he was opposed to it, could you?

Mr. SMITH. He may have been opposed to it, but he did not say so absolutely. He thought it might be a little early, that the conditions were formative, and that men's advice might be changed in regard to those matters as they got better acquainted.

Mr. TAYLER. Did you have a little side line up there on the subject of the sugar bounty?

Mr. SMITH. No, sir. Well, when I say that, I am interested in the sugar factories of Idaho, but I never had anything to do with a bounty proposition in Idaho, only I would have been a recipient of some of the benefits in a limited way.

Mr. TAYLER. If it came up you would have been like anybody else, interested in it and an advocate of a law for your benefit?

Mr. SMITH. Yes; a dozen stockholders, like myself, of a limited amount, would come in for whatever proportion would belong to them. I was not a worker in connection with that matter, however.

Senator DUBOIS. Are you a director of the Idaho Sugar Company?

Mr. SMITH. I am; yes, sir.

Senator DUBOIS. And Joseph F. Smith is the president of it?

Mr. SMITH. Joseph F. Smith is the president; yes, sir.

Senator DUBOIS. Are you a director of all the sugar factories in which the church is interested—those in Utah as well as elsewhere?

Mr. SMITH. I am, sir. I was one of the first who made the effort to make sugar in Utah, and exhausted all my holdings in making the effort to do it.

Senator DUBOIS. Of how many sugar factories are you a director?

Mr. SMITH. There is a sugar factory at Lehi, in Utah County, with attachments of several kinds. Well, they are all in that county. There was one formerly in Salt Lake County. That, however, has been taken away from there. There are some three attachments by which the sirup is squeezed out in those factories and carried to the main factory. Then there is the Garland factory in northern Utah, in Box Elder County. That is owned by that Utah County company. Then the same parties are interested in the Idaho factory and in the Sugar City factory. That is, it would be what we used to call old Eagle Rock in the former times when you and I were as thick as thieves, Governor.

Senator DUBOIS. There is one at Sugar City, in Idaho, and one near Idaho Falls?

Mr. SMITH. Yes, sir.

Senator DUBOIS. That is my recollection.

Mr. SMITH. There is another one at your town now, I believe, owned by some other parties.

Senator DUBOIS. They are non-Mormons and are not in the trust at that factory. Have you not a factory in Oregon?

Mr. SMITH. No, sir; I am not interested in that. Those are other parties entirely.

Senator DUBOIS. It is a church factory, is it not?

Mr. SMITH. No, sir; it is not a church factory in any way; nor the others are not church factories in the sense I presume you would apply. They are only stockholders in common with other folks, in a limited way.

Senator DUBOIS. Is not Heber J. Grant a director in this factory also?

Mr. SMITH. Yes, sir; he is, or was. Grant has been away for several years, except a few months.

Senator DUBOIS. What I mean by Mormon factories is that the president of the church and the higher officials of the Mormon Church are a majority of the directorate; are they not?

Mr. SMITH. Let me see. The directorate consists of Joseph F. Smith; John R. Winder; W. S. McCormick, one of the heavy banking men of our section; John C. Cutler, the present governor of Utah; T. R. Cutler, and myself. There are in the Idaho factory two other gentlemen who are directors in that factory.

Senator DUBOIS. McCormick?

Mr. SMITH. McCormick is a director in all of them.

Senator DUBOIS. I think a majority of those you named are high officials of the Mormon Church.

Mr. SMITH. I presume they would be called high officials?

The CHAIRMAN. Gentlemen, I think we have put in a pretty good day's work. Mr. Smith, you remain and you will be called again Monday morning. The committee will adjourn until Monday morning at 10 o'clock.

Mr. John Nicholson appeared and presented the book referred to in his testimony as Living Sealings A, and the same was examined by counsel for the protestants and by the committee and returned to the custody of the witness.

Mr. Tayler thereupon stated that the witnesses Nicholson and Reynolds were excused from further attendance on the hearing.

At 4 o'clock and 30 minutes p. m. the committee adjourned until Monday, December 19, 1904, at 10 o'clock a. m.

WASHINGTON, D. C., *December 19, 1904.*

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

Present: Senators Burrows (chairman), Pettus, and Dubois; also Senator Smoot; also R. W. Tayler, counsel for protestants; A. S. Worthington and Waldemar Van Cott, counsel for the respondent, and Franklin H. Richards, counsel for certain witnesses.

TESTIMONY OF JOHN HENRY SMITH—Resumed.

The CHAIRMAN. Mr. Tayler, proceed.

Mr. TAYLER. Mr. Smith was on the stand when the committee adjourned.

The CHAIRMAN. Will you resume the stand, Mr. Smith.

Mr. TAYLER. I think I had about finished with Mr. Smith what was in my mind to inquire about, but Senator Dubois had questioned him respecting the Idaho sugar factories. I think you gentlemen may cross-examine.

JOHN HENRY SMITH, having been previously sworn, was examined and testified as follows:

Mr. WORTHINGTON. You said, Mr. Smith, that of the apostles you were next to President Lyman. What did you mean by that?

Mr. SMITH. I was ordained after he was ordained an apostle; next to him.

Mr. WORTHINGTON. Is there any rule about the line of succession of the apostles to the president?

Mr. SMITH. They go forward—they have so far—by seniority.

Mr. WORTHINGTON. Has that been an invariable rule since the organization of the church, so far as you know from the history of it?

Mr. SMITH. Yes, sir; so far as I remember.

Mr. WORTHINGTON. Then the fact that President Lyman is now the president is due to the fact that he came to that place by seniority?

Mr. SMITH. Yes, sir.

Mr. WORTHINGTON. And you come second?

Mr. SMITH. Yes, sir.

Mr. WORTHINGTON. And, so far as you can recollect, there has been no break in that law—unwritten law—or custom of the church?

Mr. SMITH. Not so far as I can tell.

Mr. WORTHINGTON. Are you acquainted with a member of your church named A. F. McDonald?

Mr. SMITH. Yes, sir; I know him. I will say that he is now dead.

Mr. WORTHINGTON. How long is it since he died?

Mr. SMITH. I think within the present year, but I am not certain.

Mr. WORTHINGTON. There is some testimony here tending to show that he performed a plural marriage ceremony after the manifesto. Have you at any time had anything to do with giving him instructions or directions in regard to that matter?

Mr. SMITH. Yes, sir.

Mr. WORTHINGTON. State the whole matter, please.

Mr. SMITH. After Lorenzo Snow became president of the Mormon Church I was instructed by him upon a certain occasion, in going to visit Mexico, that there had been an intimation made to him that Mr. McDonald had been exercising some powers that the president did not regard as belonging to him. He instructed me, upon my visit to Mexico, to say to Mr. McDonald that should he be informed of his marrying anybody during his administration, or sealing anybody, I was instructed to have him dealt with by the authorities of the church in that section.

Mr. WORTHINGTON. Did that apply to any sort of marriage ceremony, or simply to plural marriages?

Mr. SMITH. Wholly to plural marriages.

Mr. WORTHINGTON. When was this that you received these instructions—about when?

Mr. SMITH. I can not say. It was shortly after the coming of President Snow to be the president of the church, after the death of Wilford Woodruff; but I can not say just when it was.

Mr. WORTHINGTON. That is immaterial. It is in the record. Did you do anything in pursuance of that instruction?

Mr. SMITH. I visited Mexico. I called upon Mr. McDonald and informed him that information had reached President Snow that he had been exercising some authority in that matter, and I notified him that did the information come to me that he had done so, or attempted to do so in the future, I would insist upon the authorities in that section dealing with him for his fellowship in the church.

Mr. WORTHINGTON. So far as your information or knowledge goes—that is, up to the time that the testimony was given here the other day—what do you know with respect to his complying with your instructions?

Mr. SMITH. I have no knowledge of his violation of them, so far as I am concerned.

Mr. WORTHINGTON. You have neither knowledge nor information to that effect?

Mr. SMITH. No, sir.

Mr. WORTHINGTON. Testimony has been given here to the effect that there must be special authority from the president of the church to authorize any subordinate officer to perform the ceremony of plural marriage. What is that?

Mr. SMITH. Under the established rule of the church no person could secure a plural wife, except by the consent of the president of the church. But it is said that during the latter days of John Taylor, some time previous to his death, in Mexico and Southern Arizona,

some men were authorized to solemnize single marriages—that is, one marriage, but in no sense, that I know of, to solemnize plural marriage.

Mr. WORTHINGTON. Is this authority which the president gives to some subordinate officers of the church to perform plural marriages the authority to perform some particular marriage or generally to perform plural marriages? I am speaking of the time when that privilege was given.

Mr. SMITH. Never having been given the authority, I really do not know.

Mr. WORTHINGTON. You say you have understood that in President Taylor's time, which was prior to 1890, he had given Mr. McDonald some authority in this regard, and perhaps had given it to others.

Mr. SMITH. I presume there were others. It is simply a presumption.

Mr. WORTHINGTON. Was it to perform a particular plural marriage ceremony, or to perform plural marriages in general?

Mr. SMITH. To perform single marriages, but parties may have assumed otherwise.

Mr. WORTHINGTON. While I am on this subject, have you any knowledge or information that President Smith has at any time since the manifesto, or any other president of the church, authorized any plural marriage, in violation of the manifesto?

Mr. SMITH. I know of none myself. I know only of my own. Brigham Young authorized—

Mr. WORTHINGTON. I say, since the manifesto, do you know of any?

Mr. SMITH. No, sir.

Senator DUBOIS. Did you ever know the president of the church at any time to authorize a plural marriage?

Mr. SMITH. Senator, Brigham Young authorized Daniel H. Wells to marry me to a second wife.

Mr. WORTHINGTON. You did not understand the question.

Senator DUBOIS. Yes, that is right. Do you know of any other case except yours?

Mr. SMITH. No, sir; I do not call to mind a single instance.

Senator DUBOIS. At any time within the history of the church?

Mr. SMITH. Not a single instance. There may have been an instance, but I do not call it to mind.

Mr. WORTHINGTON. Perhaps I may have misunderstood you. Did you mean to say that President Taylor had authorized plural marriages, or authorized others to perform regular marriages?

Mr. SMITH. I think President Taylor had authorized men to do sealing or marrying of wives to men.

Mr. WORTHINGTON. You did not mean to say that he had authorized plural marriages?

Mr. SMITH. No; I do not know as to that. Of course, as a religious people, my people believe in being married by the church authorities, and in those sections which are removed from where our temples are there have arisen instances by appointment where men exercised that right.

Mr. WORTHINGTON. That is all on that subject. I want to ask you now about the matter of the sugar manufactories in Idaho. What can you tell us as to whether or not the church owns a majority of the stock in any of those corporations?

Mr. SMITH. I can say that the church does not own a majority of the stock in any of the corporations with which I am conversant.

Mr. WORTHINGTON. And which are those?

Mr. SMITH. The Utah Sugar Company, the Idaho Sugar Company, and the Fremont County Sugar Company.

Mr. WORTHINGTON. What, if anything, had you to do with bringing about the passage of the bill by the Idaho legislature, called the sugar-bounty bill?

Mr. SMITH. I do not remember to have had anything to do with it, only as a stockholder in the concerns. There was an effort made to secure a bounty by the legislature. I in no way labored, as I remember, for it, or had any part but in buttonholing legislators on the subject.

Mr. WORTHINGTON. Mr. Jackson told us something about members or officers of your church going to Idaho with revelations to the members of your church how to vote; that what you said to them was a revelation. Tell us, as far as your experience and knowledge go, if anything of that kind obtains in your church.

Mr. SMITH. I can not speak for anybody else's experience. It is a well-known fact that I have been a very active factor in the politics of my own State, and that I have also participated in the politics of the State of Wyoming, of the State of Colorado, the Territory of Arizona, and the State of Idaho; but I have never appeared in either of those States or Territory on the question of politics, except upon the invitation of the officers, the chairmen of the Republican committees of those districts, or of some prominent citizen of the State.

As far as the question of revelation is concerned, no such words have ever been used by me as affecting any man in seeking to influence him in his political views by an application of my church authority and dignity. Upon the contrary, I have stood upon the platform a hundred times and announced that I was there as a citizen of the United States, exercising my rights; that I asked no quarter and expected to give none so far as the question of politics were concerned.

Mr. WORTHINGTON. So far as you know, has any other member of your church—

Mr. SMITH. Never to my knowledge.

Mr. WORTHINGTON. Endeavored or in any way sought to convey to the minds of members of the church that they were speaking by authority or by revelation?

Mr. SMITH. Never to my knowledge.

Mr. WORTHINGTON. Were there any instances, that you can recall, when you went to Idaho to make political speeches where you had trouble about getting an audience, even in Mormon counties?

Mr. SMITH. Yes, sir.

Mr. WORTHINGTON. Mormon strongholds?

Mr. SMITH. Yes, sir.

Mr. WORTHINGTON. Give us an instance or two of that kind.

Mr. SMITH. I was once sent by Mr. Turner, I think he was the associate chairman, with a leading lawyer from Pocatello to visit the town of Oxford to speak upon politics. We went there, and the audience consisted of about a half dozen people, when we ought to have had about three hundred, possibly; that would be extreme. There were possibly fifteen people.

Senator DUBOIS. When was that?

Mr. SMITH. In the last campaign in which I took part in Idaho.

Senator DUBOIS. That was in the 1902 campaign. You did not take part in the last campaign?

Mr. SMITH. No.

Senator DUBOIS. No apostle took part in it?

Mr. SMITH. I was sick. Likely I would have been in it all over, but I was sick.

Senator DUBOIS. No leading official took part in it. This was during the 1902 campaign that you had that experience at Oxford?

Mr. SMITH. Yes, sir; I presume.

Senator DUBOIS. The man you spoke with was F. S. Dietrick, of Pocatello?

Mr. SMITH. That is the gentleman.

Mr. WORTHINGTON. Where do you say that is?

Mr. SMITH. Oxford, in Oneida County.

Mr. WORTHINGTON. That is one of the Mormon counties?

Mr. SMITH. Yes, sir.

Mr. WORTHINGTON. Oxford has a big Mormon settlement.

Mr. SMITH. I think probably two-thirds of it is Mormon.

Mr. WORTHINGTON. Have you any information, from common reputation, as to why it was you did not get any of your own people to come and hear you, except 15?

Mr. SMITH. Mr. Fisher, an intense Democrat and always a warm friend of mine, said he tried to keep his political friends from hearing me.

Mr. WORTHINGTON. Give any other instance where you had a lack of success in obtaining an audience.

Mr. SMITH. We had the same experience in Teton, Fremont County.

Mr. WORTHINGTON. When?

Mr. SMITH. During the same campaign.

Senator DUBOIS. Was the Teton meeting after the Oxford meeting?

Mr. SMITH. I think so; I am not certain. I have not those things in my mind as to dates.

Senator DUBOIS. Did you not start at Oxford and go north?

Mr. SMITH. I was at Soda Springs first in that campaign?

Senator DUBOIS. That is on about the same line, east and west.

Mr. SMITH. I was at Soda Springs, and Oxford, and later on in several places and finally wound up at Teton.

Senator DUBOIS. It was after the Oxford meeting?

Mr. SMITH. Yes, sir; but I can not tell you about the date.

Mr. WORTHINGTON. Is Teton a Mormon settlement?

Mr. SMITH. I think almost in its entirety.

Mr. WORTHINGTON. How large a place is it; how many people are there there?

Mr. SMITH. I should presume there were one hundred and fifty families in the neighborhood, maybe more than that.

Mr. WORTHINGTON. How many people came out to hear you?

Mr. SMITH. I should judge we had about fifty at that meeting, but I think every one of them was a Republican.

Mr. WORTHINGTON. Did you have any knowledge or information as to why the rest of your people did not come out to hear you?

Mr. SMITH. All I know is that some of my Democratic friends informed me that they got up a meeting when they heard I was coming and got the people in their own meeting.

Mr. WORTHINGTON. I wish to ask you about the repeal of the test oath law. We have seen what that was. It practically excluded Mormons from voting. Was the legislature that repealed that a legislature which had been elected while the test oath was in force?

Mr. SMITH. I think so. I beg your pardon. Just state that again.

Mr. TAYLER. How could it be otherwise?

Mr. WORTHINGTON. It could not be otherwise, but I did not want to assume anything.

Mr. TAYLER. It is fair to assume that.

Mr. WORTHINGTON. Let the reporter read the question.

The Reporter read as follows:

"Mr. WORTHINGTON. I wish to ask you about the repeal of the test-oath law. We have seen what that was. It practically excluded Mormons from voting. Was the legislature that repealed that a legislature which had been elected while the test oath was in force?"

Mr. WORTHINGTON. Of course it must have been, as Mr. Tayler says.

Mr. SMITH. I suppose so.

Mr. WORTHINGTON. Do you know whether there were any Mormons at all in the legislature that repealed the test oath?

Mr. SMITH. I do not think there were, because every Mormon was tabbed in that country by the Senator.

The CHAIRMAN. What?

Mr. SMITH. Tabbed.

Mr. WORTHINGTON. Tabooed, he means.

Mr. TAYLER. No; labeled.

Mr. SMITH. Labeled is the proposition.

Mr. WORTHINGTON. He could not hold office?

Mr. SMITH. No, sir; he could not run his own water ditch.

Mr. WORTHINGTON. That test-oath law, excluding Mormons, was repealed by the people of Idaho?

Mr. SMITH. Yes, sir.

Mr. WORTHINGTON. I now wish to ask you about the proposed constitutional convention. I have an impression that my friend on the other side has the idea that the object of those who favored the constitutional convention was to get rid of any laws against polygamy. Will you tell us what you know about that. You seem to have participated in it.

Mr. SMITH. The condition of the laws of Idaho was such that, with little effort, under excitement such as is sometimes gotten up, the test oath could be most rigidly applied to the Mormons. There was no purpose or thought, in seeking to have an amendment to the constitution, to annul the laws against polygamy. That was a fixed proposition by the decisions of the courts of the United States. But there was an effort upon my own part to see that my people should be freed from the possibilities of disfranchisement by an action brought on under excitement, such as probably exists in the United States at the present time.

Mr. WORTHINGTON. Your object, if I understand it, was to do what you could to keep your people from being prevented from voting.

Mr. SMITH. That is it.

Mr. WORTHINGTON. And not to repeal the laws against polygamy.

Mr. SMITH. No, sir.

Mr. WORTHINGTON. Do I understand that on this occasion, when you were in Idaho and talked to various persons about the proposed con-

stitutional convention, you had gone there on some other matter entirely?

Mr. SMITH. Yes, sir. I was invited there to attend religious services by the president or the presiding officer of the branch of the Church of Jesus Christ of Latter Day Saints who resided in Boise, Mr. Ballard.

Mr. WORTHINGTON. And while there on that business—

Mr. SMITH. After the matter was over, and in visiting around, I happened, I think, first to suggest the matter myself to Mr. Balderson, of the Statesman. I think so. I can not be positive in regard to that matter. I talked the matter over with Mr. Balderson, and maybe with others.

Mr. WORTHINGTON. I think on your direct examination you said to Mr. Tayler that you had gone to Idaho on a mission. What do you mean by "mission?"

Mr. SMITH. I was there on invitation of that gentleman to speak to the people, and did talk to them upon the Sabbath.

Mr. WORTHINGTON. Was it purely a church matter?

Mr. SMITH. Yes, sir. The word "mission" is entirely out of place in connection with it, because I was simply there upon invitation—

Mr. WORTHINGTON. What I want to get at is whether you went there purely on church matters, not having any reference to this matter?

Mr. SMITH. None whatever.

Mr. WORTHINGTON. You said something to Mr. Tayler about the decision of the Supreme Court as to the validity of the laws against polygamy. Did you have, or have you in your mind now, any particular decision? Do you know, for instance, how to distinguish between the Reynolds case and the Davis and Beason case and the rest?

Mr. SMITH. I have not. I was an ardent believer in that doctrine.

The CHAIRMAN. What doctrine?

Mr. SMITH. The doctrine of a plurality of wives.

Mr. WORTHINGTON. What is your understanding about the time when the Supreme Court rendered a decision which the Mormon people accepted as final and conclusive upon them as to the right to practice polygamy or the right of the law to prohibit it; how long was it before the manifesto?

Mr. SMITH. I can not recall it in memory.

Mr. WORTHINGTON. About how long before the manifesto?

Mr. SMITH. I can make this explanation, that the Mormon people fought to the utmost limit every law that was passed by Congress affecting that proposition, believing that their rights as citizens, as well as the rights of every other citizen in the Republic, were at stake, and that the Supreme Court would eventually determine that Congress could not pass a law interfering with an establishment of religion or prohibiting its free exercise. When they found they were to be placed in a position of antagonism to their Government they accepted the situation and they have done their best to comply with the conditions. I do not know whether I make myself clear.

Mr. WORTHINGTON. I think you do. Now, I come to the matter of amnesty, concerning which Mr. Tayler asked you some questions. Did you at any time have special amnesty from the President of the United States, or are you embraced in the general proclamation?

Mr. SMITH. I am embraced in the general proclamation. I have no

remembrance that I had any special. It was when the general amnesty was granted.

Mr. WORTHINGTON. You understood perfectly that that amnesty was granted to you only on condition that you were to comply with the terms on which it was granted?

Mr. SMITH. Yes, sir.

Mr. WORTHINGTON. And you have not complied with them?

Mr. SMITH. No, sir.

Mr. WORTHINGTON. That is all.

Senator DUBOIS. Mr. Smith, when did you first go to Idaho to make political speeches?

Mr. SMITH. Senator, the first time I went to Idaho that I have any remembrance of in regard to political matters in any shape was upon the invitation of General Roberts and Mr. Fenn—was there not a politician in your State by the name of Fenn—

Senator DUBOIS. Yes.

Mr. SMITH. To attend the Moscow convention. I believe I met you and talked over the matter, if my memory serves me right. I may, however, be at sea.

Senator DUBOIS. At the Moscow convention?

Mr. SMITH. No; before the Moscow convention, but about that time.

Senator DUBOIS. Very likely.

Mr. SMITH. I am not certain as to the time. I think I went up—

Senator DUBOIS. That is not my question. I wrote a letter advocating the repeal of the law making the test oath effective, so far as it concerns disfranchisement.

Mr. SMITH. Yes.

Senator DUBOIS. I was the first one to do that. I was in full accord with the movement to repeal the law. There is no controversy about that. I wrote a letter, which was published, giving the reason, meaning the manifesto. My question is, when did you first make political speeches in Idaho?

Mr. SMITH. I could not say.

Senator DUBOIS. Was it not in 1900?

Mr. SMITH. I could not say as to the date.

Senator DUBOIS. Did you make any political speeches in Idaho before statehood was gained for Utah?

Mr. SMITH. I think not. I do not remember that I did.

Senator DUBOIS. In 1900 you made political speeches in Idaho, did you not?

Mr. SMITH. I presume so, but I could not say positively, because it does not come up in my memory.

Senator DUBOIS. Did other apostles make political speeches in Idaho in 1900?

Mr. SMITH. I am not prepared to say. I think possibly Moses Thatcher did. I do not know.

Senator DUBOIS. Did he?

Mr. SMITH. I can not say positively, sir.

Senator DUBOIS. Did you make political speeches in Idaho in 1902?

Mr. SMITH. I presume I did.

Senator DUBOIS. You have just testified that you did.

Mr. SMITH. Yes; I presume I did.

Senator DUBOIS. Well, did you?

The CHAIRMAN. The witness says he presumes he did.

Senator DUBOIS. He testified a moment ago that he did. Did you make a political speech in Oxford in 1902?

Mr. SMITH. Yes, sir; I guess so.

Senator DUBOIS. Did you make one at Teton in 1902?

Mr. SMITH. Yes, sir.

Senator DUBOIS. So you made political speeches in Idaho in 1902. Did any other apostle make political speeches in Idaho in 1902?

Mr. SMITH. I never knew any other apostle, to my remembrance, to make political speeches in Idaho.

Senator DUBOIS. Did Apostle Cowley make speeches in Idaho?

Mr. SMITH. I know nothing about Cowley's work in Idaho.

Senator DUBOIS. Did any Democratic apostle ever make speeches in Idaho?

Mr. SMITH. I do not know about that, sir; I am not sponsor for the Democrats.

Senator DUBOIS. Where did you make political speeches in Idaho?

Mr. SMITH. I made them in so many places that I could not say now.

Senator DUBOIS. Did you make them outside of the Mormon settlements and the Mormon country? Did you make them in Boise?

Mr. SMITH. No, sir; I was never asked.

Senator DUBOIS. Did you make them in any of the so-called gentile counties?

Mr. SMITH. I think not, Senator.

Senator DUBOIS. Your speeches were confined not only to the Mormon counties, but to the Mormon settlements, were they not?

Mr. SMITH. I went where the chairman sent me.

Senator DUBOIS. I understand; and he sent you to Mormon settlements?

Mr. SMITH. I presume that is the case. He did it.

Senator DUBOIS. If you should decide in your own mind to take a polygamous wife to-morrow, would you feel justified in doing so without consulting your associates?

Mr. SMITH. Senator, such a thing is not probable as my deciding to do that sort of thing.

Senator DUBOIS. Well, if any apostle has entered into polygamy since 1890, has he done so without the knowledge or consent of his associates?

Mr. SMITH. I do not know, but I absolutely believe he has.

Senator DUBOIS. Even if he were an apostle?

Mr. SMITH. Yes, sir; even if he was an apostle.

Senator DUBOIS. An apostle then could retain his standing as an apostle, although he has entered into polygamy since 1890; new polygamy?

Mr. SMITH. The answer, Senator, to that is, unless, perchance, he were handled by the laws of his country.

Senator DUBOIS. He would not lose standing in the church or among his apostolic associates, he being an apostle, if he has married into new polygamy since 1890?

Mr. SMITH. I think if you demonstrated to his council that he had married since that time they would deal with him.

Senator DUBOIS. You mean that some gentile would have to present it to the apostolic quorum?

Mr. SMITH. No, sir; any citizen.

Senator DUBOIS. You think they would deal with him?

Mr. SMITH. Yes, sir; I can say for myself that I would.

Senator DUBOIS. Would he lose standing?

Mr. SMITH. Would he lose standing?

Senator DUBOIS. Yes; in the church.

Mr. SMITH. He would lose standing if he was dismembered from the church.

Senator DUBOIS. Oh, well; would he lose standing if he entered into a polygamous marriage since 1890?

Mr. SMITH. Should it be absolutely demonstrated in the courts, yes.

Senator DUBOIS. Do you imagine, or is it your opinion, that an apostle could enter into a new polygamous marriage now without the knowledge or consent of his associates?

Mr. SMITH. I could not say. I should think not, but what men may do is beyond my ken.

Senator DUBOIS. Was there not some objection to your speaking, before you spoke at Oxford, in the 1902 campaign, by the Democratic party of Idaho?

Mr. SMITH. Not to my knowledge. They never made any objection to me, that I know of.

Senator DUBOIS. Did they not make objection in person to Joseph F. Smith, president of the church?

Mr. SMITH. I know nothing about that.

Senator DUBOIS. Was it not published in the papers?

Mr. SMITH. Now, as to whether or not——

Senator DUBOIS. Was it not in fact notorious throughout that country, before you spoke at Oxford, that the Democratic party objected to Mr. Cowley and yourself speaking in these Mormon settlements and advising the people how to vote?

Mr. SMITH. I have no knowledge of it. I have never consulted Mr. Joseph F. Smith or anybody else in regard to my——

Senator DUBOIS. You never saw it in the newspapers at the time?

Mr. SMITH. I do not remember it.

Senator DUBOIS. You do not recollect that a representative of the Democratic State committee went to Salt Lake City and had a conference——

Mr. SMITH. Since you call it up, I believe I do recollect that there was something of that sort. But I was not by. I know nothing about it.

Senator DUBOIS. Do you not recollect that it created a very considerable stir and was published in all the newspapers, and that you and Mr. Cowley were mentioned by name?

Mr. SMITH. Sometimes, Senator, a man is far removed from centers of information, and he may not see the papers for some time. Many a one has been missed by me.

Senator DUBOIS. You do not recollect that this was before the meeting at Oxford and at Teton?

Mr. SMITH. I know nothing about it as an occurrence, only as I may have read it in the newspapers or hear you tell it now.

Senator DUBOIS. That is all.

Mr. TAYLER. Mr. Smith, you have made some reference to Mr. McDonald. What was his position? Was he president of a stake?

Mr. SMITH. No, sir; he was what is known as a high priest in our church.

Mr. TAYLER. Had he anything to do with the secular affairs of the people?

Mr. SMITH. He was located in Mexico, and I believe was a citizen of Mexico—I am not certain as to that—and was a business agent there at that time, securing lands for Mormon colonization.

Mr. TAYLER. Under whose immediate direction was he?

Mr. SMITH. As far as colonization was concerned, he was directly under my supervision.

Mr. TAYLER. As to the exercise of the priestly functions, who was his immediate superior?

Mr. SMITH. If he exercised any, he would have to be directly under the president of the church.

Mr. TAYLER. There would then be no intervening authority in secular matters between you and him, nor in spiritual matters between him and the president of the church?

Mr. SMITH. I do not know that I quite understand your remark.

Mr. TAYLER (to the reporter). Read the question.

The reporter read as follows:

“Mr. TAYLER. There would then be no intervening authority in secular matters between you and him, nor in spiritual matters between him and the president of the church?”

Mr. SMITH. No, sir.

Mr. TAYLER. As a priest of the church, unless some special limitation was put upon him by the president of the church, he was qualified to perform the marriage ceremony?

Mr. SMITH. Yes, sir.

Mr. TAYLER. He was in Mexico for a number of years, was he not?

Mr. SMITH. I should judge he was there possibly twenty years.

Mr. TAYLER. Now, the conversation that you had with President Snow was shortly after his accession to the presidency?

Mr. SMITH. Yes, sir.

Mr. TAYLER. He became president October 13, 1898, did he not? Is not that about right?

Mr. SMITH. I could not speak as a fact. The records will show.

Mr. TAYLER. I take that date from the Latter-Day Saints' genealogy or chronology, whichever it is.

Mr. SMITH. I presume that would be correct.

Mr. TAYLER. And that is about the time, as you remember it, when he became president?

Mr. SMITH. Yes, sir.

Mr. TAYLER. He succeeded Wilford Woodruff?

Mr. SMITH. Yes, sir.

Mr. TAYLER. And preceded Joseph F. Smith?

Mr. SMITH. Yes, sir.

Mr. TAYLER. What was it President Snow directed you to do. What did he say in respect to this intimation that McDonald had been performing plural marriages?

Mr. SMITH. He did not make any explanation to me in regard to the proposition.

Mr. TAYLER. What did he say?

Mr. SMITH. He simply said, “No man in this earth to-day is authorized to exercise the keys but myself, and if A. F. McDonald or any other man is doing it and you find out that fact, you are authorized to

deal with him or to have the church dignitaries of that section deal with him in his fellowship." That was all.

Mr. TAYLER. What did he say about any rumor?

Mr. SMITH. He did not explain anything to me about it.

Mr. TAYLER. Did you not say something in your former examination about some reference to the manifesto?

Mr. SMITH. I said he had evidently received some information.

Mr. TAYLER. He did not say what?

Mr. SMITH. No.

Mr. TAYLER. But the direction to you was to see McDonald?

Mr. SMITH. Yes, sir.

Mr. TAYLER. And you did see McDonald?

Mr. SMITH. I did see McDonald.

Mr. TAYLER. Did he tell you that he knew something about the marriage of Mabel Kennedy as a plural wife to some man in 1896?

Mr. SMITH. He never told me anything about it. He never made an explanation to me; and I notified him that should it come to me that he solemnized any marriage in the future he would be dealt with, and I would take the steps myself.

Mr. TAYLER. To what other persons did you give this warning?

Mr. SMITH. I do not remember that I have ever given it to anybody else. I may have.

Mr. TAYLER. You may have?

Mr. SMITH. Yes, sir.

Mr. TAYLER. But McDonald is the only one you have——

Mr. SMITH. That I have any remembrance of.

Mr. TAYLER. That you have any remembrance of having given that notice?

Mr. SMITH. Yes, sir.

Mr. TAYLER. And you have no recollection that your giving that notice to him grew out of his participation in the marriage of Mabel Kennedy as a plural wife——

Mr. SMITH. I do not know anything about that.

Mr. TAYLER. To some man down in Mexico?

Mr. SMITH. I do not know anything about that.

Mr. TAYLER. You do not remember that?

Mr. SMITH. I do not remember it.

Mr. TAYLER. Did you hear of Apostle Brigham Young performing any plural-marriage ceremony down there?

Mr. SMITH. No, sir; only as I read it in the testimony.

Mr. TAYLER. I mean before that time?

Mr. SMITH. No, sir. Apostles usually marry young people as they go through the country, at their solicitation, when they come with their licenses.

Mr. TAYLER. You say that Lorenzo Snow said that he held the keys of heaven?

Mr. SMITH. No, sir; I did not say that.

Mr. TAYLER. What?

Mr. SMITH. That he held the keys of sealing.

Mr. TAYLER. The keys of sealing?

Mr. SMITH. Yes.

Mr. TAYLER. Was there any limitation on the power of the person authorized to perform marriage ceremonies that extended to a denial to him of the right to perform plural-marriage ceremonies?

Mr. SMITH. Men have been authorized to solemnize marriages by every president of the Mormon Church. To what extent that goes I am not prepared to say.

Mr. TAYLER. Anybody who was a priest could perform the ceremony?

Mr. SMITH. Any elder in the Mormon Church could marry, but that would not be what is known as a sealing.

Mr. TAYLER. Not what is known as a sealing?

Mr. SMITH. No.

Mr. TAYLER. What is the difference between marrying and sealing?

Mr. SMITH. The difference is simply this: One is a temple ordinance. Marrying may occur anywhere.

Mr. TAYLER. Almost all the adult male members of the Mormon Church are elders, are they not?

Mr. SMITH. Yes, sir; the larger proportion of them.

Mr. TAYLER. I asked you yesterday a question or two about the suggested or claimed marriage of Apostle Abram Cannon.

Mr. SMITH. Yes, sir.

Mr. TAYLER. I think you said that you heard some rumors about it at the time.

Mr. SMITH. I stated that Mr. Lannon, the owner and editor of the Salt Lake Tribune, the organ of Senator Kearns, told me that he had heard of such a matter.

Mr. TAYLER. When was it?

Mr. SMITH. I could not tell you as to the time.

Mr. TAYLER. That was some time ago?

Mr. SMITH. Yes, sir.

Mr. TAYLER. Before this testimony?

Mr. SMITH. Way back in the past. It would be after Mr. Cannon was dead, too.

Mr. TAYLER. You have heard the charge made that President Smith had performed that ceremony?

Mr. SMITH. Yes, sir; I heard that charge made.

Mr. TAYLER. That has been charged—not proved—for some years, has it not?

Mr. SMITH. I could not say. I remember going to him myself and asking him the question whether he did that marrying, and he simply said "No, sir."

Mr. TAYLER. Why did you go to him and ask him that question?

Mr. SMITH. I did that because Mr. Lannon had told me that such a thing had occurred, and the story was that Mr. Smith had done it.

Mr. TAYLER. So that you were in a state of doubt until you could consult President Smith about it?

Mr. SMITH. Necessarily.

Mr. TAYLER. If the president of the church wanted to perform such a ceremony he could do it?

Mr. SMITH. Yes, sir. Any man might take the liberty to do things that he ought not to do, even the president of the church.

Mr. TAYLER. When President Smith said he had not, did you make any further inquiry?

Mr. SMITH. I believed him absolutely.

Mr. TAYLER. Oh, yes. I am not making any inquiry further about that. Did you make any inquiry as to who did perform it?

Mr. SMITH. I have made inquiries; yes, sir.

Mr. TAYLER. Do you know who did perform it?

Mr. SMITH. I never gained any information on that subject which was tangible.

Mr. TAYLER. You, as an apostle of the church, have never had the slightest doubt that Abram Cannon did marry Lillian Hamlin in 1896?

Mr. SMITH. I have had the most serious doubts.

Mr. TAYLER. You have had the most serious doubts?

Mr. SMITH. I have had.

Mr. TAYLER. Then, as an apostle of the church, what was the explanation that you gave to yourself for the status in which he appeared to be upon his return from California?

Mr. SMITH. I have never made any explanation to myself that was at all satisfactory.

Mr. TAYLER. You knew, did you not, as well as most men know anything, that he returned from California with Lillian Hamlin and proclaimed her as his wife?

Mr. SMITH. Never, sir; not to my knowledge. I never knew of his proclaiming her as his wife.

Mr. TAYLER. Did not President Smith tell you——

Mr. SMITH. No, sir.

Mr. TAYLER. That Abram Cannon——

Mr. SMITH. He made no explanation to me in regard to the matter; only that he did not do it.

Mr. TAYLER. You therefore are still in doubt——

Mr. SMITH. Absolutely.

Mr. TAYLER. Wait until I ask you the question. You are therefore still in doubt as to whether Apostle Abram Cannon did believe or did present Lillian Hamlin as his wife?

Mr. SMITH. I know nothing absolutely about it, so far as the explanation——

Mr. TAYLER. Mr. Smith, I am not asking you for things you know absolutely. I am talking about things as men know them in this world. If you do not want to discuss the subject, and will so express yourself, then I will know how to proceed about it.

Mr. WORTHINGTON. I suggest that there is nothing in what the witness has said to justify any reflection of that kind.

Mr. TAYLER. I do not intend to reflect upon the witness.

The CHAIRMAN. Mr. Smith will answer the question.

Mr. SMITH. I am here to answer anything I know.

The CHAIRMAN. Certainly.

Mr. TAYLER. Will the reporter read the question?

The reporter read the question, as follows:

“You are therefore still in doubt as to whether Apostle Abram Cannon did believe or did present Lillian Hamlin as his wife?”

Mr. TAYLER. You stated that you had doubt as to whether she was his wife.

Mr. SMITH. I have had doubt and have doubt now.

Mr. TAYLER. Has it interested you at all—the consideration of the question whether——

Mr. SMITH. No, sir.

Mr. TAYLER. Not at all?

Mr. SMITH. Not at all.

Mr. TAYLER. Although a brother apostle, and you knew him well?

Mr. SMITH. I knew him as a child. I was his bishop.

Mr. TAYLER. You knew him as a man better than as a child?

Mr. SMITH. Very limited as a man. I was largely away from home and so was he.

Mr. TAYLER. He was a member—

Mr. SMITH. Mr. Tayler, there may be this explanation made in regard to us. The world is our home. Take us men. We are everywhere. I know little of conditions in Utah or in any other section.

Mr. TAYLER. That does not change the aspect of this particular inquiry I am pursuing. You had no interest, then, in the question as to whether Abram Cannon had taken a plural wife or not?

Mr. SMITH. He was dead.

Mr. TAYLER. He was dead?

Mr. SMITH. Yes.

Mr. TAYLER. And all the interest that you ever could have had in the question as to whether Abram Cannon had taken a plural wife was as to its effect upon him personally in life?

Mr. SMITH. Yes, sir.

Mr. TAYLER. The fact that it might reflect upon the good faith of your church was wholly without interest to you?

Mr. SMITH. I may say, yes.

Mr. TAYLER. It did not make any difference to you whether it was thought that the church had broken faith through the plural marriage of one of its apostles?

Mr. SMITH. I can simply say in regard to that proposition that I have never interested myself in looking up criminals. I have never taken any part in it. It has never been my business, whether as to polygamists, thieves, or murderers, or any other class of criminals. I have never taken any part in that work.

Mr. TAYLER. I suppose your answer is intended to be responsive to the spirit of my question?

Mr. SMITH. Yes, sir; I intended it should be.

Mr. TAYLER. I think you meant it to be.

Mr. SMITH. Yes.

Mr. TAYLER. And so I see that you do not apprehend the spirit of my question. If it was learned to-day that yesterday Joseph F. Smith, in the city of Salt Lake, had taken a plural wife—which I do not conceive to be possible, but let us assume the strong case—I gather from the way in which you have answered my questions that your interest in that subject would be confined to its personal aspect as applied to Joseph F. Smith and what penalties might be laid upon him for it?

Mr. SMITH. If I knew that Joseph F. Smith had married a wife yesterday, and there was a grand jury assembled in Salt Lake City, I would go before that grand jury and give my testimony.

Mr. TAYLER. And that is all you would care about it—to see that he was personally prosecuted for it?

Mr. SMITH. Yes, sir.

Mr. TAYLER. Its effect upon the church—

Mr. SMITH. The church has to take care of itself.

Mr. TAYLER. The discredit that might follow in consequence of that act of the president of the church, you would consider as apart from the consideration of it, and of no consequence?

Mr. SMITH. Yes, sir.

Mr. TAYLER. Exactly. That is what I supposed.

The CHAIRMAN. Please read those questions and answers.

The reporter read as follows:

"Mr. TAYLER. * * * If it was learned to-day that yesterday Joseph F. Smith, in the city of Salt Lake, had taken a plural wife—which I do not conceive to be possible, but let us assume the strong case—I gather from the way in which you have answered my questions, that your interest in that subject would be confined to its personal aspect as applied to Joseph F. Smith and what penalties might be laid upon him for it?

"Mr. SMITH. If I knew that Joseph F. Smith had married a wife yesterday, and there was a grand jury assembled in Salt Lake City, I would go before that grand jury and give my testimony.

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"Mr. SMITH. Yes, sir.

"Mr. TAYLER. Exactly. That is what I supposed."

Mr. TAYLER. Why would you go before the grand jury and prosecute him?

Mr. SMITH. I would go before the grand jury just as I would give information of any other crime of extreme moment where the public was interested.

Mr. TAYLER. Do you not understand that President Smith is daily violating the law?

Mr. SMITH. Yes, sir. I would say, no, sir; I do not. [To the stenographer:] Change that, please. My answer is "No, sir."

Mr. TAYLER. Why do you say "no, sir."

Mr. SMITH. Because I do not know that he is daily violating the law.

Mr. TAYLER. You do not?

Mr. SMITH. No, sir.

Mr. TAYLER. In order for you to speak with any positiveness, you must have such a degree of knowledge—

Mr. SMITH. I must know.

Mr. TAYLER. As you do not possess in the case of Joseph F. Smith, in his relations to his present wives?

Mr. SMITH. Yes, sir.

Mr. TAYLER. What kind of knowledge would you want to have of his having married another wife if you do not know enough about his present status?

Mr. SMITH. I should want to have seen it.

Mr. TAYLER. So that if Joseph F. Smith yesterday in Salt Lake was married, it would not be possible for you ever to take steps to prosecute him, would it, because you did not see it?

Mr. SMITH. No, sir.

Mr. TAYLER. Another question, Mr. Smith. The provisions of the Idaho constitution, I believe, were read here in your hearing Saturday, perhaps. You have a general familiarity with the scope of them. There was also a statute which contained a test oath. Do you recall that?

Mr. SMITH. Yes, sir.

Mr. TAYLER. Perhaps there is a statute now?

Mr. SMITH. I think not.

Mr. TAYLER. None at all?

Mr. SMITH. I think it has been repealed. The Senator from Idaho may know. I do not.

Senator DUBOIS. It is repealed.

Mr. TAYLER. Wholly repealed?

Mr. WORTHINGTON. Yes, sir.

Mr. TAYLER. The first step in the repeal of that statute was the repeal of that portion of it which disfranchised any person who had ever been a member of the Mormon Church, in order to characterize it, although the word "Mormon" was not in the act.

Mr. SMITH. Yes.

Mr. TAYLER. Then, I understand, later the whole act was repealed. Do you remember when?

Mr. SMITH. No. All I know, Mr. Tayler, in regard to the repeal of the test oath, following the suggestion of the Senator at the Moscow convention, of which I was not a member but at which I was a visitor on the invitation of General Roberts, is that the Republican convention, if I remember aright, passed a resolution that steps should be taken looking to the repeal of the law disfranchising the Mormons.

Senator DUBOIS. That was in 1892, was it not?

Mr. SMITH. I think so. Although on the question of dates I have the poorest memory in the world.

Senator DUBOIS. The manifesto was issued in 1890, was it not?

Mr. SMITH. I think so.

Senator DUBOIS. And sustained by the Mormon people, pledging to the people of the United States that polygamy and polygamous living should cease, and dictation in political affairs should cease? And after that two pleas for amnesty were sent to the President, those pleas for amnesty being signed by you among others. All of those acts on the part of your church were prior to 1892, were they not?

Mr. SMITH. I presume they were. My memory does not tell of dates. You may have them in your mind. I have them not in mine.

Senator DUBOIS. Was not the argument put forth by myself and others that inasmuch as the church had abandoned polygamy and polygamous living, and had ceased dictation in politics, the necessity for the disfranchisement of the Mormons had passed?

Mr. SMITH. I believe that was the nature of your communication to the convention.

Senator DUBOIS. Were we not assured by you and other leaders that the manifesto and the pleas for amnesty would be lived up to in good faith?

Mr. SMITH. I think I have made all manner of assurances in that matter, so far as I could.

Senator DUBOIS. I had been elected to a six-year term in the United States Senate immediately prior to this convention, had I not?

Mr. SMITH. I believe so.

Mr. TAYLER. The Supreme Court, in 1878, passed upon the question which arose between the Mormon Church and the country as to whether or not the law forbidding bigamy or polygamy violated the right of the Mormons freely to worship God according to the dictates of their own conscience.

Mr. SMITH. There were several laws.

Mr. TAYLER. I know there were several laws.

Mr. SMITH. And several passages upon laws by the Supreme Court. But the full question, I think, in all its bearings, has never yet been fully touched.

Mr. TAYLER. It has not?

Mr. SMITH. The lawyers may know. I think not.

Mr. TAYLER. As an apostle of the Mormon Church, in what aspect do you understand that the Supreme Court has not fully settled the religious rights of the Mormon people?

Mr. SMITH. My own thought—it may not be a correct one—is that the question itself in all its bearings has never been settled—there are gentlemen here who may be able to tell—before the Supreme Court, so as to pass upon its religious merits.

Mr. TAYLER. But this is not a question of law that I am asking you. It is a question that you, as a layman, so far as the law is concerned, and as a high official of the Mormon Church would know about. What is it that you and your people understand is not settled?

Mr. SMITH. My people understand that it is virtually determined, and have accepted the situation so far as that is concerned, and yet there are questions in regard to that matter, even in the minds of many men.

Mr. TAYLER. Now; what questions?

Mr. SMITH. The question as to religious liberty, whether it has been infringed.

The CHAIRMAN. As to what?

Mr. SMITH. The question as to religious liberty, whether in our case it has been infringed. But we have accepted the situation absolutely, Mr. Chairman, and have made our efforts, in all honor, before God and man, so far as that is concerned, to fulfill our obligations to the best of our ability.

Mr. TAYLER. But you deem the question still unsettled?

Mr. SMITH. It would hardly be correct, Mr. Tayler, for me to say that, and yet in my soul I feel that.

Mr. TAYLER. And until it is settled, however, I suppose it is just to you to say that you propose to abide by such settlement as has been made of it?

Mr. SMITH. Yes, sir; carrying my own responsibility as bearing upon my own family.

Mr. TAYLER. Exactly. That is to say, in your own case, you understand that the rule of the church is against polygamous cohabitation, do you?

Mr. SMITH. Yes, sir.

Mr. TAYLER. And the law of the land is against it?

Mr. SMITH. Yes, sir.

Mr. TAYLER. But you propose to continue to violate the law of the land and the rule of the church as a purely personal matter with yourself and to take such consequences as may be imposed upon you for it?

Mr. SMITH. Neither the law of the land nor of church can take away obligations and contracts and relieve me of them as made between me and my God.

Mr. TAYLER. Precisely. And that is the interpretation that you and the apostles put upon those relations?

Mr. SMITH. So far as all of those obligations coming up to the date of the manifesto, formed previously——

Mr. TAYLER. And formed previously?

Mr. SMITH. Yes, sir.

Mr. TAYLER. That the relation that you contracted, and others like you, prior to the manifesto, to your several wives, was a relation which you contracted with the approval of God?

Mr. SMITH. That is it.

Mr. TAYLER. And that no law of the land can dissolve that?

Mr. SMITH. No, sir.

Mr. TAYLER. Or interfere with that?

Mr. SMITH. No, sir.

Mr. TAYLER. You recall—you must have known at the time, I assume, since you were elected an apostle in 1880—the decision of the Supreme Court in the Reynolds case. Of course you knew of the Reynolds case, did you not?

Mr. SMITH. Yes, sir.

Mr. TAYLER. You were in this country some time after 1881, before you went on your mission?

Mr. SMITH. I was in this country in 1881.

Mr. TAYLER. You were elected to the legislature of Utah, I think, in 1881?

Mr. SMITH. I think so.

Mr. TAYLER. The year previous to that you had been elected an apostle?

Mr. SMITH. Yes, sir.

Mr. TAYLER. And you were, I think you said, familiar with the Reynolds case?

Mr. SMITH. I was not familiar with it. That would be stating an untruth.

Mr. TAYLER. I do not mean with its details, but you knew, did you not, that that was the first great case in which the question was raised as to the right of the General Government to interfere in any way with the religious rights of the Mormon Church?

Mr. SMITH. I think that was the first case.

Mr. TAYLER. You remember that in 1882, or subsequent to the decision of the Reynolds case, as we all know, what is called the Edmunds Act was passed?

Mr. SMITH. Yes, sir.

Mr. TAYLER. That imposed more serious penalties?

Mr. SMITH. Yes, sir.

Mr. TAYLER. And provided the machinery for the execution of the law, and also forbade polygamous cohabitation, which the previous law, I believe, had not touched. That is correct, is it not?

Mr. SMITH. I believe that is the case.

Mr. TAYLER. I do not want to lead you into——

Mr. SMITH. There are two laws, and I am a little mixed. One was the Edmunds-Tucker law; the other was the Edmunds law.

Mr. TAYLER. I merely put it in here so that we may understand what we are talking about. The Edmunds Act, passed in 1882, provided certain penalties, and the Edmunds-Tucker law was passed in 1887. In so far as it related to the subject of polygamy and polygamous cohabitation I think it is fair to say that it merely contained a little more effective machinery for enforcing the law.

Now, the Reynolds case, however, was prosecuted not under the Edmunds Act at all, as you doubtless know, but under the old act of 1862, which is very short, and I will read the provision that the court had before it.

Section 5352 of the Revised Statutes, passed, I am sure, in 1862, although it is not so stated here, reads as follows:

"Every person having a husband or wife living, who marries another, whether married or single, in a Territory or other place over which the United States have exclusive jurisdiction, is guilty of bigamy and shall be punished by a fine of not more than \$500 and by imprisonment for a term of not more than five years."

That was the law enacted in 1862, and between the time that that law was enacted and at least until the time the Supreme Court rendered the decision in the Reynolds case you and all others like you believed that in so far as it interfered with the religious propriety of a Mormon taking a second or other wife it was in violation of the Constitution of the United States?

Mr. SMITH. Yes, sir.

Mr. TAYLER. You sincerely believed that it was an infraction of the Constitution to interfere thus with your religious belief?

Mr. SMITH. Yes, sir.

Mr. TAYLER. Now; you doubt less remember that in the Reynolds case the Supreme Court overthrew that contention, did it not?

Mr. SMITH. As affecting the question of bigamy?

Mr. TAYLER. As affecting the question of polygamy, yes.

Mr. WORTHINGTON. He said as affecting the question of bigamy.

Mr. TAYLER. Oh, as affecting the question of bigamy?

Mr. WORTHINGTON. A very different thing.

Mr. SMITH. Our——

Mr. TAYLER. Go on.

Mr. SMITH. I thought you were going to ask another question.

Mr. WORTHINGTON. The act of 1862 applied to bigamy only, not to polygamy.

Mr. TAYLER. You discover a distinction there that my mind is too weary this morning to perceive.

Mr. WORTHINGTON. It is quite a distinction.

Mr. SMITH. Our contention in regard to that was that bigamy and polygamy were two different offenses in every way; that the essence of bigamy was that a man deceived two women, he deceived his wife and another, the woman that he married. In our case a man married a second wife with the consent of his wife, and that on that ground the statute did not affect our case.

Mr. TAYLER. Undoubtedly, prior to 1878; I agree with you that was your contention, but the Supreme Court did not hold in such way.

Mr. SMITH. No, sir; I do not think it did.

Mr. TAYLER. Did not the Supreme Court hold this way: "A party's religious belief can not be accepted as a justification for his committing an overt act made criminal by the law of the land?"

Mr. SMITH. Yes.

Mr. TAYLER (reading):

"Where, therefore, the prisoner knowing that his wife was living, married again in Utah, and, when indicted and tried therefor, set up that the church whereto he belonged enjoined upon its male members to practice polygamy, and that he, with the sanction of the recognized

authorities of the church, and by a ceremony performed pursuant to its doctrines, did marry again—”

The court held—

“That the court properly refused to charge the jury that he was entitled to an acquittal, although they should find that he had contracted such second marriage pursuant to, and in conformity with, what he believed at the time to be a religious duty.”

That is what you understand to be the purport of the decision in the Reynold’s case?

Mr. SMITH. Yes, sir.

Mr. TAYLER. Now, as a matter of fact, Mr. Smith, your people did not accept that judicial determination of the Supreme Court, did they—

Mr. SMITH. Not until there were many other contentions—

Mr. TAYLER. As settling the question of the right of a man, if his church permitted it, to take plural wives—one or more?

Mr. SMITH. There was considerable contention afterwards in regard to that matter; just what length I do not remember now.

Mr. TAYLER. And they continued to do that until the manifesto declared that the law commanding or enjoining the taking of plural wives was suspended. Is that right?

Mr. SMITH. Yes, sir; I think that is correct.

Mr. TAYLER. And you did not recognize that there was any control over your taking plural wives until the manifesto was issued. Is that right?

Mr. SMITH. That is correct, I guess.

Mr. TAYLER. And prior to the issue of the manifesto you deemed it lawful and proper to take plural wives, although you yourself did not take any after 1880?

—Mr. WORTHINGTON. What do you mean by “lawful”—lawful according to the law of the land, or the law of the church?

Mr. TAYLER. Yes; lawful according to the law of the land.

Mr. SMITH. I should say yes.

Mr. TAYLER. That is all.

Mr. WORTHINGTON. You have said that any elder of the church could perform the marriage ceremony. Is not that confined to Utah?

Mr. SMITH. No; anywhere, I guess, a Mormon elder would have that right under the law of the land.

Mr. WORTHINGTON. That matter is regulated in Idaho and Arizona and Utah by the laws of those places?

Mr. SMITH. Of course; but he would as a minister.

Mr. TAYLER. His ministerial power exists wherever he may be?

Mr. SMITH. Yes, sir.

Mr. WORTHINGTON. And if the law of the place authorizes a minister to perform the marriage ceremony, then he would be authorized; otherwise he would not be?

Mr. SMITH. Yes; provided that a license is issued. He would be governed by the license.

Mr. WORTHINGTON. You said to Mr. Tayler that any elder could perform the marriage ceremony, was authorized to perform it, unless there was some restriction placed upon him; that McDonald, as a priest, would be authorized to perform a marriage ceremony unless there was some special restriction upon him. Do you mean that

McDonald or anybody else, after the manifesto, was authorized to perform plural marriage ceremonies?

Mr. SMITH. No; not unless he presumed upon it in John Taylor's day.

Mr. WORTHINGTON. If he presumed upon it, was the presumption well founded?

Mr. SMITH. No, sir; he should not have done it.

Mr. WORTHINGTON. About apostles going to Idaho—I will ask you whether Mr. Thatcher was a Democrat?

Mr. SMITH. Yes, sir.

Mr. WORTHINGTON. If he went there and engaged in politics he did it as a Democrat?

Mr. SMITH. He would do it as a Democrat. He is a most intense one. He is a nice gentleman.

Senator DUBOIS. When did he go there?

Mr. SMITH. I can not tell you anything about that.

Senator DUBOIS. Did he ever go there?

Mr. SMITH. I presume he did. He has been at Franklin quite frequently, as I understand.

Senator DUBOIS. Did he ever make a political speech in Idaho?

Mr. SMITH. I presume he did; I do not know.

Senator DUBOIS. If he ever did, when did he?

Mr. SMITH. I can not say.

Senator DUBOIS. Did he when he was in full fellowship with the church? If he did, was it not when he was in controversy with the church and had no standing with the church as an apostle?

Mr. SMITH. I can not answer the question. I do not know.

Senator DUBOIS. If he made a political speech was it not when he was under the ban of the church?

Mr. SMITH. I do not know whether he was under or out.

Senator DUBOIS. You do not know whether he ever made a political speech?

Mr. SMITH. Yes; I have been scorched by him myself pretty thoroughly.

Senator DUBOIS. I mean in Idaho.

Mr. SMITH. He has a desperate tongue, and when he uses it he skins his friends or his enemies.

Mr. WORTHINGTON. Did he scorch you when you were an apostle in full fellowship?

Mr. SMITH. Yes, sir.

Mr. WORTHINGTON. You were scorching each other?

Mr. SMITH. Yes, sir.

Mr. WORTHINGTON. You said that McDonald was the only one, so far as you could recollect, to whom you had given this warning?

Mr. SMITH. Yes, sir.

Mr. WORTHINGTON. Was that because you made an exception in his case, or is it the only case—

Mr. SMITH. It is the only case called to my attention, and I was instructed to do it by the man who said McDonald was not authorized to do that thing.

Mr. WORTHINGTON. So that you did give the warning in the only case in which you understood there was a violation of the manifesto going on?

Mr. SMITH. So far as I remember, yes.

Mr. WORTHINGTON. I want the stenographer to read a question and an answer. I want to have a question and an answer read to you in the course of Mr. Tayler's examination just now, and I wish you to pay attention to it and see whether you want your answer to stand for yourself only or for other apostles.

The reporter read as follows:

"Mr. TAYLER. * * * And that is the interpretation that you and the apostles put upon those relations?"

"Mr. SMITH. So far as all of those relations coming up to the date of the manifesto, formed previously"—

Mr. WORTHINGTON. I wish to know whether you speak for what is the interpretation of the manifesto by the other apostles, or whether you speak only for yourself?

Mr. SMITH. I can speak only for myself.

Mr. WORTHINGTON. I thought you did not understand the question. Something has been said by a prior witness that may throw some light upon your redirect examination, and that is about the continuance of relations with plural wives, where the plural wives were taken before the manifesto. Were you at the Utah constitutional convention?

Mr. SMITH. Yes, sir; I was its president.

Mr. WORTHINGTON. Were you?

Mr. SMITH. Yes, sir.

Mr. WORTHINGTON. Was there anything that went on there in reference to the understanding on the part of the people who participated in that convention, Mormons and gentiles, as to what should or should not be allowed in respect of people who had married plural wives prior to the manifesto continuing their relations?

Mr. SMITH. The Congress passed an enabling act, and in it was a sentence like this, that polygamous or plural marriages are forever prohibited, from which occurred some very intense discussion in the constitutional convention upon the nature of the provision that should be put in the constitution, as to how it should be made operative, whether those existing family conditions should be proscribed in the constitution, or whether the question of polygamy should be the sole proposition, as the action of Congress might seem to imply. I think the leading non-Mormons in the constitutional convention took the ground—and I believe every one of them who is living to-day would say so—that it was not their intent nor their purpose that anything should occur to destroy those relations; that men were obligated morally and in every way to see that the mothers of their children and their children should be legitimately and properly cared for. That was the spirit of the discussion, and the result of it was the passage of the provision as presented by Congress, with a provision that would make the thing operative under the constitution without the necessity of the passage of any law, and there it stands to-day.

Mr. WORTHINGTON. That perhaps answers it, but I will ask whether there was or was not an understanding among all the members of that convention, practically——

Mr. SMITH. I should say, if anyone was asked, that they would say that is the explicit understanding.

Mr. WORTHINGTON. That the men who had married plural wives before the manifesto should continue to live out their lives with them.

Mr. SMITH. Yes, sir. That has led our juries and a class of men to

accept the situation, and that is why such men as President Smith have not been punished.

Senator DUBOIS. Was it not the distinct understanding in the minds of all these men whom you quote, in the minds of all of the men who were engaged in that early controversy, that you who had plural wives should maintain them and their families, and take care of them and see that they were properly protected, etc., but that the polygamous living with them should cease?

Mr. SMITH. No, sir. I submitted the question, Senator, I presume personally to every non-Mormon member of that convention as to my own case. I had taken my family from the State of Utah that I might not be under the ban of the law of the United States, and I never brought them back there until with that tacit understanding with these men.

Mr. TAYLER. You never brought them back until statehood was accomplished?

Mr. SMITH. No, sir.

The CHAIRMAN. Is that all?

Mr. TAYLER. That is all.

Mr. WORTHINGTON. That is all.

The CHAIRMAN. I wish to ask a question or two. Several times in your answers you have spoken of the adherents of your church, or of the church over which you preside, as "my people."

Mr. SMITH. Yes, sir.

The CHAIRMAN. You sustain peculiar relations, I suppose, to—

Mr. SMITH. Senator, I presume that I should not speak of them in that way, for all the American people are my people.

The CHAIRMAN. It is not objectionable. I simply wanted to know what you meant by it. You meant the Mormon people when you said "my people?" That is all you meant by it. You speak of colonization. Have you had your duties particularly in that line?

Mr. SMITH. I am president of what is known as the Mexican Colonization and Agricultural Company, and upon their land a large body of Mormons or Latter-Day Saints are located, in the States of Chihuahua and Sonora, in Old Mexico.

The CHAIRMAN. Under that organization, or through the instrumentality of it, a large body of your people have been located?

Mr. SMITH. Yes, sir; that is, on those lands of that company of which I am the president.

The CHAIRMAN. I understand that your responsibility is world-wide?

Mr. SMITH. Yes, sir.

The CHAIRMAN. And that Joseph Smith is president of the Church of Jesus Christ of Latter-Day Saints the world over?

Mr. SMITH. Yes, sir.

The CHAIRMAN. His jurisdiction is as broad as the earth?

Mr. SMITH. Yes, sir.

The CHAIRMAN. Have you a register, or is there a register, of the adherents of the Mormon faith, so that you could tell the committee the number, or about the number?

Mr. SMITH. I could not do so. There are, I presume, registers kept in the various stakes—what we call stakes—and with considerable effort it might be possible to secure that information, but I have it not?

The CHAIRMAN. There is not a consolidated register?

Mr. SMITH. Not that I know of.

The CHAIRMAN. Some of the adherents of your church come from abroad—are foreigners—I suppose?

Mr. SMITH. Yes, sir.

The CHAIRMAN. Very largely?

Mr. SMITH. I presume possibly an examination would show that one-third of them to one-half are from——

The CHAIRMAN. Foreign countries?

Mr. SMITH. Foreign countries; largely from England, Scandinavia, and Germany.

The CHAIRMAN. Your people, as a rule, I should judge from what I have seen and read of them, are frugal and industrious people?

Mr. SMITH. Yes, sir. We have all kinds, like every other people.

The CHAIRMAN. But generally they do not locate in cities.

Mr. SMITH. They locate in villages as a rule, Senator.

The CHAIRMAN. But it is more in the country, a farming community?

Mr. SMITH. I should say in explanation of our condition in these matters——

The CHAIRMAN. I merely want to know the fact, whether they locate in or drift to cities.

Mr. SMITH. They go to farms. They are farmers generally.

The CHAIRMAN. They are industrious people as a rule?

Mr. SMITH. Fairly.

The CHAIRMAN. You speak of having a large colony in Idaho. About how many, do you think?

Mr. SMITH. I should presume——

The CHAIRMAN. Men, women, and children.

Mr. SMITH. I should presume in Idaho there would be one-third of the population, nearly; I do not know. I can not say as to that.

The CHAIRMAN. Then you spoke of a colony in Wyoming?

Mr. SMITH. Yes, sir.

The CHAIRMAN. How large is that?

Mr. SMITH. I should presume that probably a quarter of the people of Wyoming; I do not know.

The CHAIRMAN. What other States adjacent to Utah——

Mr. SMITH. There are some in Nevada, some in California.

The CHAIRMAN. How many in Nevada, if you can tell?

Mr. SMITH. It would be an absolute guess. Of course, the population of Nevada is very small at best.

The CHAIRMAN. You have visited Nevada?

Mr. SMITH. I have not been in Nevada—across the line in Nevada—for a good many years.

The CHAIRMAN. But there is a colony located in Nevada?

Mr. SMITH. Yes, sir; there are some colonies in Nevada.

The CHAIRMAN. In what other States?

Mr. SMITH. There are quite a proportion of Mormon people in California; in the Territory of Arizona; Colorado has considerable; lots of them in the State of New York; many of them in the State of Iowa. Largely the element in Iowa is not of what is known as the orthodox Mormon Church, but the reorganized church.

The CHAIRMAN. That is, a reorganized Church of Jesus Christ of Latter-Day Saints?

Mr. SMITH. Yes; but we are believers in about the same propositions.

The CHAIRMAN. You believe in the same propositions?

Mr. SMITH. Nearly in the same propositions. There are some differences.

The CHAIRMAN. The difference is on the question of polygamy?

Mr. SMITH. I think not to-day. I think we are under the same law on that subject. Our beliefs may be different.

The CHAIRMAN. When you separated was there a difference of opinion on that question?

Mr. SMITH. Yes, sir; they always held a different view.

The CHAIRMAN. They did not hold to the doctrine of polygamy?

Mr. SMITH. No, sir.

The CHAIRMAN. And your church did?

Mr. SMITH. Yes, sir.

The CHAIRMAN. Now let me ask you this question: You have, then, adherents of your church in the States you have mentioned. Are there any others?

Mr. SMITH. They are in every State of the American Union.

The CHAIRMAN. I do not mean that. You know what I mean—whether you locate and colonize—

Mr. SMITH. We are not colonizing in any State, only as people drift there. We formerly colonized in Wyoming, in Utah, and in Idaho largely. But the Mormon people drift wherever they please.

The CHAIRMAN. Some foreigners when they come here are adherents of the church. Do they get any direction from anybody where to go?

Mr. SMITH. They settle to please themselves. In former days, when there were little chances of employment and all that sort of thing, we used to look after them very carefully and place them in a neighborhood where they could provide for themselves.

The CHAIRMAN. The growth of this organization is in Utah and in the States adjoining, and in the Territories, is it not?

Mr. SMITH. We hope, Senator, all over the earth.

The CHAIRMAN. That is not my question. I say it is increasing particularly in Utah and the States adjacent?

Mr. SMITH. No greater than anywhere else in proportion.

The CHAIRMAN. No greater than in Massachusetts or Vermont?

Mr. SMITH. No greater than any place where we can make converts.

The CHAIRMAN. When was Utah admitted?

Mr. SMITH. It does not come to my mind.

The CHAIRMAN. In 1896?

Mr. SMITH. I think so.

The CHAIRMAN. There was an effort, was there not, for the admission of Utah long before that?

Mr. SMITH. There had been several efforts. I do not know how many constitutions Utah formed in an effort to get into the Union.

The CHAIRMAN. That is what I asked you, if there had not been several efforts?

Mr. SMITH. I was myself president of the last constitutional convention which framed the constitution under which Utah was admitted.

The CHAIRMAN. Do you know why Utah was not admitted until 1896?

Mr. SMITH. I think Utah was not admitted until the time designated under the theory, if I remember aright, that Mr. Hamilton laid

down in the Federalist, that a section of country consisting of a large body of people of one religious element, having so great an ascendancy that other peoples would be in jeopardy, should never be admitted into the Union. I think I remember that theory when I was studying law.

The CHAIRMAN. Was not admission withheld, Mr. Smith, to answer my question, because your people practiced and believed in polygamy?

Mr. SMITH. Not to my knowledge. I presume that may have been the case.

The CHAIRMAN. You think that was the case?

Mr. SMITH. I think so.

The CHAIRMAN. Otherwise the law of 1862 and the law of 1882 and the law of 1887 prohibiting polygamy would not have been passed?

Mr. SMITH. I think, Senator, that is the case; that there was quite an element in our State that objected and raised that objection, and the country took it up.

The CHAIRMAN. Notwithstanding the laws of 1862, 1882, and 1887, and the decisions of the courts against polygamy, I understand you are still living in polygamous cohabitation?

Mr. SMITH. I am; yes, sir.

The CHAIRMAN. You still believe in the doctrine of a plurality of wives?

Mr. SMITH. I expect, Senator, while breath shall remain in this body to believe that the principle itself is correct; but I shall obey the law of my country.

The CHAIRMAN. I understand that. It is apparent that you do. Is that one of the tenets of your religious faith?

Mr. SMITH. Yes and no. The doctrine itself was a revelation from God.

The CHAIRMAN. That is, the doctrine of polygamy?

Mr. SMITH. Yes; it was stopped in its practice by a revelation of God, or under the inspiration of the Almighty, in other words.

The CHAIRMAN. The doctrine of polygamy, if I remember rightly, is not embodied in the Book of Mormon.

Mr. SMITH. The Book of Mormon has but one provision in regard to marriage, as I remember, and I can not quote that myself; but there is no provision made for polygamy in the Book of Mormon.

The CHAIRMAN. The Book of Mormon corresponds to the Old Testament, I believe, of our Bible, and the Book of Doctrine and Covenants has the doctrine of polygamy in it.

Mr. SMITH. The Doctrine and Covenants as published by the orthodox church, as we claim. The Doctrine and Covenants published by the reorganized church I believe has not. There is a great variety of doctrines and covenants.

The CHAIRMAN. The one that you use in your church contains the doctrine of polygamous marriage; the plurality of wives?

Mr. SMITH. Yes, sir.

The CHAIRMAN. And that is not in the Book of Mormon?

Mr. SMITH. No, sir; the Book of Mormon is another thing entirely.

The CHAIRMAN. I understood you to say that one of your wives is living in Colorado.

Mr. SMITH. One of my wives lived in Colorado for ten years. She lives in Salt Lake City.

The CHAIRMAN. Now?

Mr. SMITH. Now; yes, sir.

Mr. TAYLER. You referred to the manifesto a moment ago, to the inspiration or revelation——

Mr. SMITH. Yes.

Mr. TAYLER. Involved in that manifesto? That was a declaration by the head of the church——

Mr. SMITH. Yes, sir.

Mr. TAYLER. That the law commanding polygamy was thenceforth suspended?

Mr. SMITH. Yes, sir.

Mr. TAYLER. That is all it amounted to?

Mr. SMITH. It would take another revelation to put it into operation.

Mr. TAYLER. Exactly. So that another revelation, coming under conditions similar to those which surrounded Wilford Woodruff at that time, would put into force again the law that he there referred to?

Mr. SMITH. Provided the people would receive it when submitted to them.

Mr. TAYLER. That is to say, the head of the church does not receive revelations?

Mr. SMITH. Yes, sir; he receives revelations; but the revelations must be accepted by his church by vote.

Mr. TAYLER. So that what the Almighty orders depends on whether the people who are ordered want to do it or not?

Mr. SMITH. Yes, sir; there is no force on the Mormon people.

Mr. TAYLER. That is all.

Mr. WORTHINGTON. That is all.

TESTIMONY OF ISAAC BIRDSALL.

ISAAC BIRDSALL, being duly sworn, was examined and testified as follows:

Mr. TAYLER. Mr. Birdsall, where do you live?

Mr. BIRDSALL. I live about 3 miles from Elsinore, Sevier County, Utah.

Mr. TAYLER. How old are you?

Mr. BIRDSALL. I was 65 last March.

Mr. TAYLER. How long have you lived in Utah?

Mr. BIRDSALL. Since 1881.

Mr. TAYLER. Where did you live before you went to Utah?

Mr. BIRDSALL. In Nebraska.

Mr. TAYLER. Were you a Mormon before you went to Utah?

Mr. BIRDSALL. I was not.

Mr. TAYLER. Did you become a Mormon there?

Mr. BIRDSALL. I did.

Mr. TAYLER. When did you become a Mormon?

Mr. BIRDSALL. About 1883.

Mr. TAYLER. Shortly after you went there you became a Mormon?

Mr. BIRDSALL. Yes, sir; about two years.

Mr. TAYLER. Who is Cora Birdsall?

Mr. BIRDSALL. My daughter.

Mr. TAYLER. How old is she?

Mr. BIRDSALL. I do not know that I can tell exactly, between 33 and 34, somewhere along there.

Mr. TAYLER. After you had gone to Utah, did your daughter undertake to acquire title to a piece of land out there?

Mr. BIRDSALL. She did.

Mr. TAYLER. And so far as you understand she did acquire title to it?

Mr. BIRDSALL. She did.

Mr. TAYLER. Did she get a deed for it?

Mr. BIRDSALL. She did.

Mr. TAYLER. Did she get a deed from the Government or from some private individual?

Mr. BIRDSALL. From the Government of the United States.

Mr. TAYLER. You understand that she proved up, so to describe it?

Mr. BIRDSALL. I have seen the deed.

Mr. TAYLER. How much was there in the tract?

Mr. BIRDSALL. A hundred and sixty acres, or a quarter-section.

Mr. TAYLER. Is that where you live now?

Mr. BIRDSALL. That is where we live now, not on that quarter. We are residing upon another 40, belonging to my wife.

Mr. TAYLER. Now, three or four years ago a claim was made by a man named Leavitt that he was entitled to a part of this property which your daughter proved up.

Mr. BIRDSALL. Yes, sir.

Mr. TAYLER. How much did he claim to own?

Mr. BIRDSALL. Well——

Mr. TAYLER. Never mind going into details.

Mr. BIRDSALL. He claimed the piece on the opposite side of the river; the land that came on the opposite of the river, which would perhaps be—of course I never had it surveyed—somewhere about 60 acres.

Mr. TAYLER. This man Leavitt claimed that in some way he was entitled to that land.

Mr. BIRDSALL. Yes.

The CHAIRMAN. Was the 60 acres a part of——

Mr. TAYLER. Part of the 160 acres which the witness's daughter had proved up.

Mr. BIRDSALL. That is, in her entry.

Mr. TAYLER. There was no claim made that there was any defect in her entry, but that by some arrangement with her he was entitled to it?

Mr. BIRDSALL. No; he claimed it by way of a former arrangement.

Mr. TAYLER. Was the question of what right he had in that land as against your daughter ever tried anywhere, in any court?

Mr. BIRDSALL. It was tried before the bishop's court at Monroe, and then appealed and tried before the high council at Richfield. It was then appealed again in an endeavor to take it before the first presidency; but in that, I suppose, I may say we failed, and they simply——

Mr. TAYLER. Refused to do anything. Is that it?

Mr. BIRDSALL. Yes.

Mr. TAYLER. We will refer to that later on. How was this proceeding against your daughter commenced in the bishop's court? How did you first know about it? Tell us what happened.

Mr. BIRDSALL. We were notified by them; that is, a notice was brought and read to us.

Mr. TAYLER. Read to you?

Mr. BIRDSALL. Yes, sir.

Mr. TAYLER. To what effect?

Mr. BIRDSALL. The first notice we received was—not this notice we were tried upon——

Mr. TAYLER. I understand.

Mr. BIRDSALL. The first notice we received was that we were charged with conspiracy.

Mr. TAYLER. You were joined with your daughter?

Mr. BIRDSALL. That I and her joined in a conspiracy to defraud Mr. Leavitt. That was the charge made and read to us.

Mr. TAYLER. To defraud him of what?

Mr. BIRDSALL. Of this land.

Mr. TAYLER. At this time your daughter had the deed for it?

Mr. BIRDSALL. She had the title.

Mr. TAYLER. Who gave you this?

Mr. BIRDSALL. It was first brought by the bishop of Monroe. Then one of the teachers read it. That was Mr. Gay. He read it to us, and my understanding right then—it was on Sunday—was that he left from there to go to Monroe to deliver, probably—that was my understanding—to deliver this.

Mr. TAYLER. What did you do about that? Did you obey it?

Mr. BIRDSALL. We went there eventually.

The CHAIRMAN. Went where?

Mr. BIRDSALL. To Monroe, at the trial.

The CHAIRMAN. Before whom?

Mr. BIRDSALL. Before the bishop's court. That is, Orson Magleby was the bishop.

Mr. TAYLER. I thought you were still on the first notice. Did you receive a first notice, which was not the notice on which the trial was based?

Mr. BIRDSALL. We received the former notice from Joseph and refused to accept or even read it.

Mr. TAYLER. You refused to accept or read it?

Mr. BIRDSALL. Or her either.

Mr. TAYLER. Was Joseph the ward in which you lived?

Mr. BIRDSALL. No, sir.

Mr. TAYLER. And you refused to recognize a notice that came requiring you to appear before a bishop's court in a ward in which you did not live?

Mr. BIRDSALL. Yes, sir.

Mr. TAYLER. That was the notice that charged you and your daughter with conspiracy?

Mr. BIRDSALL. It was.

Mr. TAYLER. Conspiring to defraud Leavitt of this piece of land, is that right?

Mr. BIRDSALL. That is it.

Mr. TAYLER. To that notice you paid no attention.

Mr. BIRDSALL. We paid no attention whatever.

Mr. TAYLER. Then later, on a Sunday—

Mr. WORTHINGTON. I submit that the witness be allowed to state the facts.

Mr. TAYLER. I am only undertaking to state what he has already said.

Mr. WORTHINGTON. I submit that if he has said it, it is unnecessary for counsel to repeat it.

The CHAIRMAN. Mr. Tayler will not lead the witness.

Mr. TAYLER. I am not undertaking to lead the witness. I am merely repeating what he has already said.

Mr. WORTHINGTON. If he has already said it, it is unnecessary to repeat it.

Mr. TAYLER. Then, later, on a Sunday, you received another notice——

Mr. WORTHINGTON. I object to that form of question. Let the witness be asked what he received and when he received it, instead of counsel giving a history of the matter and have the witness say "Yes," as he goes along.

Mr. TAYLER. That is what I understood he said. If he did not say so, the record will show that fact.

The CHAIRMAN. It is not a matter of very great concern that Mr. Tayler says it was on a Sunday.

Mr. TAYLER. I am not undertaking to lead him at all, except over the ground over which he has gone. I supposed he was speaking of the first order, to which he paid no attention, and I discovered later that he was proceeding to the particular point I am undertaking to prove.

The CHAIRMAN (to the witness). Do you understand the question now?

Mr. TAYLER. You stated a while ago that you had received some notice on a Sunday.

Mr. BIRDSALL. Yes, sir.

Mr. TAYLER. Was that the notice which you obeyed and in response to which you appeared before the bishop's court?

Mr. BIRDSALL. It was.

Mr. TAYLER. That was in the ward in which you lived—Monroe Ward?

Mr. BIRDSALL. This is the second notice.

Mr. TAYLER. The second notice?

Mr. BIRDSALL. Yes, sir. It was brought by the same parties who brought the first, only that it was read the second time——

Mr. TAYLER. Who was it that brought it?

Mr. BIRDSALL. Adelbert Gay and John Ross.

Senator PETTUS. Who are the people who brought the notice?

Mr. TAYLER. I was going to ask him, Senator. [To the witness.] Who were these men who brought the notice—not their names, but what was their position?

Mr. BIRDSALL. Position in the church?

Mr. TAYLER. Yes.

Mr. BIRDSALL. I believe they were first and second counselors to the bishop of the district.

Mr. TAYLER. There is a president of the stake, and then under him are the several bishops of the wards, and each bishop of a ward has two counselors?

Mr. BIRDSALL. Yes.

Mr. TAYLER. And you think these two men were the two counselors to the bishop of your ward?

Mr. BIRDSALL. If I remember rightly, they stated that to be the fact. They came in that capacity.

Mr. TAYLER. That summons you and your daughter obeyed?

Mr. BIRDSALL. We did.

Mr. TAYLER. What consent in form otherwise than by going to the court at the time and place appointed did you or your daughter give to the trial of that controversy.

Mr. BIRDSALL. None at all. I should say we went with reluctance on my part, because I did not think it would be of any use. I did not think we would get justice.

Mr. TAYLER. Why did you not refuse to go at all?

Mr. BIRDSALL. So far as I was concerned I would have refused, but, of course, my daughter wished to go.

Mr. TAYLER. Why did she wish to go?

Mr. BIRDSALL. To keep from being cut off the church.

The CHAIRMAN. She was a member of the church at that time?

Mr. BIRDSALL. She was and I was.

The CHAIRMAN. You were, too?

Mr. BIRDSALL. Yes.

Mr. TAYLER. Is she now a member of the church?

Mr. BIRDSALL. That is a difficult question for me to answer. She has been rebaptized.

Mr. TAYLER. Mr. Birdsall, you went with your daughter to Monroe. How far is Monroe from where you live?

Mr. BIRDSALL. About 4 miles.

Mr. TAYLER. And on that day, when you and your daughter appeared, who were present?

Mr. BIRDSALL. The bishop, Orson Magleby, and Joseph Smith and Samuel Goold, his first and second counselors.

Mr. TAYLER. Who else was there?

Mr. BIRDSALL. I do not think there was anyone else, but Mr. Leavitt and his wife, and his brother, Charles Leavitt.

Mr. TAYLER. Was there a clerk there?

Mr. BIRDSALL. William A. Warnock, the clerk.

Mr. TAYLER. What happened when you went there, Mr. Birdsall?

Mr. BIRDSALL. They called upon Mr. Leavitt to make a statement, and each one upon that side of the question, and after that called upon me, and then my wife, and then my daughter.

Mr. TAYLER. I want to show you a paper, Mr. Birdsall, and ask you where you got it, and how you came to get it.

Mr. BIRDSALL (examining paper). I got it from the secretary of the bishop's court, Mr. Warnock.

Mr. TAYLER. How did you come to get it?

Mr. BIRDSALL. I requested it.

Mr. TAYLER. What did you request of Mr. Warnock, the clerk of the bishop's court?

Mr. BIRDSALL. I requested the minutes of the proceedings in the trial against me.

Mr. TAYLER. This is the paper he gave you in response to that request?

Mr. BIRDSALL. That is the paper he wrote while I was sitting there.

Mr. TAYLER. When was it that you got this from him?

Mr. BIRDSALL. At what date do you mean?

Mr. TAYLER. About when?

Mr. BIRDSALL. It was shortly after the trial, whatever the date on the paper is. I made no note of it.

Mr. TAYLER. I offer it in evidence. It was about three years ago when the first trial occurred?

Mr. BIRDSALL. About that, I should say, as near as I can remember.

Mr. TAYLER. This was furnished to the witness by the clerk of the bishop's court. I will read it:

"BISHOP'S COURT, *October 29, 1901--2 p. m.*

"The case of James E. Leavitt against Isaac Birdsall and Cora Birdsall, his daughter.

"Bishop Orson Magleby and Councilors Samuel W. Goold and Joseph A. Smith present. Also both parties and witnesses present.

"Prayer was offered by Samuel W. Goold.

"Bishop Magleby instructed the parties of the nature of a bishop's court, that proper decorum should be preserved and proper methods used to bring out truthful evidence.

"The following complaint was read by Wm. A. Warnock, ward clerk:

"'JOSEPH, SEVIER COUNTY, UTAH, *June 10, 1901.*

"'To the honorable bishopric of Monroe Ward, Brethren: I hereby prefer a charge of unchristianlike conduct against Isaac Birdsall and Sister Cora Birdsall, his daughter, which consists of this:

"'First. That Isaac Birdsall has defrauded me, by agreeing to furnish me the deed for about 60 acres of meadow and pasture land that I bought of Kent and Frank W. Farnsworth, which was in Birdsall's entry. It is in the S. E. $\frac{1}{4}$ of Tp. 25, S. R. 4 West, known as the Jerico pasture, in the Joseph precinct, for which he has received from me \$50.00 (fifty dollars) in part payment. That he has failed to deed me any land and has relinquished his claim to his daughter Cora.

"'2nd. That Cora proved up on said land and in April, 1896, forbid me the use of my land and improvements and has appropriated the same to her own use, and refuses to deed to me the land that she knew belonged to me, that I had fenced and improved and possessed in peace from 1883 until 1896. I consider that I have been damaged to the amount of five hundred dollars (\$500) by being deprived of the use of said land. I therefore ask for the title to my land and damage. I therefore appeal to you in the matter and I ask that your court shall judge the matter between us and grant me the just equities of the case.

"'Respectfully, your bro.,

"'JAS. E. LEAVITT.'

"James E. Leavitt testified he bought the land in question from Kent Farnsworth and his bro. in 1883; was to get the land from Farnsworth's Bros. Later Bro. Birdsall entered upon the land. I went to the Farnsworth Bros. about it and I agreed with Birdsall to purchase the land for \$150.00. I paid him two cows valued at \$50.00. In the fall of '93 I tried to get money at the bank, but could not. It was the year of the panic. Bro. Birdsall relinquished the land in favor of his daughter in the year 1896. Three years ago she told me to leave all improvements and not put any cattle on the land.

"Wm. Parker, witness for Jas. E. Leavitt, testified:

"'In '86 Mr. Leavitt had use of the pasture. F. Farnsworth was there also. Fence was put up at that time. Farming land was not fenced at that time. I saw the land fenced; done some of it. The land was fenced and used by James E. Leavitt, unmolested. Mr. Leavitt left for Arizona. I used the pasture, which is the land in question.'

"Charles Leavitt, witness for Jas. E. Leavitt, stated: 'During the summer of 1892 I had the use of the land in question. While I was on the land Mr. Birdsall came to me and said he needed \$100 to pay in proving up the land. I was not molested or objected to while I was

on the land by Mr. Birdsall. I have known of my brother using and claiming the land for the past 18 years. I helped my brother drive 2 cows over to Mr. Birdsall's. They were turned over to him on payment of the land.'

"Mrs. James E. Leavitt said:

"I remember very distinctly the two cows being taken over to Mr. Birdsall, as one of them was given me by my father.'

"Mr. JAMES LEAVITT. 'I traded for one of the cows back for a set of harness to Mr. Birdsall. The other cow I remember Mr. Birdsall either sold for beef or beefed it for himself. My agreement with Birdsall was in 1888. I made a 3-wire fence, posts one rod apart, with pole on top. Cora called me out of the meetinghouse at one time. We went to one side and she said to me: "I may be a little long about the matter, but I will make it all right." The land has cost me a great deal—including the improvements, about \$800.00.'

"Isaac Birdsall acknowledged the receiving of only one cow and it was given upon the rent of the land and not in payment of the land; denied ever having agreed definitely to let Mr. Leavitt have the land, but acknowledged the land in dispute was 55 acres in place of 60 acres.

"Cora Birdsall denied ever getting anything from Mr. Leavitt on payment of land, but only on rent of land; denied ever having the conversation with Mr. Leavitt as stated by him or at any time agreed to let him have the land. Showed a paper on which Mr. Leavitt acknowledged payment for rent of land.

"Mr. Leavitt acknowledged to the paper, but stated it was given with the understanding to protect Cora's rights in the land office.

"WM. A. WARNOCK, *Clerk.*"

Senator PETTUS. What is the signature?

Mr. TAYLER. It is signed "Wm. A. Warnock, clerk."

Senator PETTUS. Of whom does he say he purchased?

Mr. WORTHINGTON. From them.

Mr. TAYLER. He claims he made the arrangement with Isaac Birdsall, but not "that he has failed to deed me my land and has relinquished his claim to his daughter Cora." [To the witness:] I hand you another paper and ask you where you got it.

Mr. BIRDSALL (examining paper). That came through the mails to my daughter.

Mr. TAYLER. I will offer in evidence this paper, which reads as follows:

"Bishop's office of Monroe Ward, Sevier Stake.

"MONROE, SEVIER CO., UTAH, Nov. 1, 1901.

"Sister CORA BIRDSALL:

"Bishop's court, held to decide in the case of James E. Leavitt against Isaac Birdsall and Cora Birdsall, his daughter, as presented at the Bishop's court held Oct. 18, 1901.

"After duly considering the matter as presented by both parties, our decision is—

"That Cora Birdsall shall deed unto James E. Leavitt the northwest forty (40) acres of the SE. $\frac{1}{4}$ of sec. 1, Tp. 25 S., R. 4 W., of Salt Lake meridian, and that James E. Leavitt pay to Cora Birdsall the sum of one hundred dollars upon receipt of said deed.

"You are hereby required to comply with this decision in writing, or on appeal taken to the High Council on or before the 15 day of November, 1901.

"ORSON MAGLEBY.

"SAMUEL W. GOULD.

"JOSEPH A. SMITH."

Now, Mr. Birdsall, your daughter was living with you?

Mr. BIRDSALL. She was when I left home.

Mr. TAYLER. I mean at this time.

Mr. BIRDSALL. She has been for about two months.

Mr. TAYLER. Is she living at your house now?

Mr. BIRDSALL. Yes, sir.

Mr. TAYLER. Do you remember if she received about this time a letter from the first presidency respecting this case?

Mr. BIRDSALL. I do; that is, in answer to one that was written by her.

Mr. TAYLER. Exactly. Look at this [handing witness letter] and tell me if that is the letter which about that time was received from the first presidency of the church?

Mr. BIRDSALL (examining letter). Yes, sir; we received it in answer to a letter we had written. Well, I wrote it for her, perhaps, at her direction.

Mr. TAYLER. That is the letter to which this is an answer?

Mr. BIRDSALL. Yes, sir.

Mr. TAYLER. I will read it:

"Office of the first presidency of the Church of Jesus Christ of Latter Day Saints. P. O. box B.

"SALT LAKE CITY, UTAH, Nov. 12, 1901.

"Miss CORA BIRDSALL, *Monroe*.

"DEAR SISTER: This is in answer to yours of the 10th inst., in which you express a desire to appeal your case direct to us from the bishop's court or go to law.

"In answer we would say that in all such matters all members of the church are expected to follow the order of the church governing them, and that order provides that an appeal may be taken from the bishop's court to the high council and from the high council to the first presidency.

"We would advise you to follow the order provided of the Lord to govern in your case.

"Your brethren,

"JOS. F. SMITH,

"JOHN R. WINDER,

"ANTHON H. LUND,

"*First Presidency.*"

Now, Mr. Birdsall, was the case then appealed to the high council?

Mr. BIRDSALL. It was.

Mr. TAYLER. That is the next court?

Mr. BIRDSALL. That is the next court.

Mr. TAYLER. The high council of Sevier stake? Is that right?

Mr. BIRDSALL. Sevier stake.

Mr. TAYLER. Your ward being one of the wards in Sevier stake?

Mr. BIRDSALL. Yes, sir.

Mr. TAYLER. And who is the president of Sevier stake?

Mr. BIRDSALL. William H. Seegmiller.

Mr. TAYLER. Your daughter did not obey this order to make a deed at once?

Mr. BIRDSALL. She did not.

Mr. TAYLER. And later an appeal was taken?

Mr. BIRDSALL. It was, to the high council.

Mr. TAYLER. And did you write a letter, or your daughter with your knowledge, to the president of Sevier stake, Mr. Seegmiller?

Mr. BIRDSALL. We did.

Mr. TAYLER. I want to know if you have a copy of the letter you wrote?

Mr. BIRDSALL. To the president of the stake?

Mr. TAYLER. Yes.

Mr. BIRDSALL. That letter was written by my wife.

Mr. TAYLER. In your presence?

Mr. BIRDSALL. I was present and read it. She handed it to me to read.

Mr. TAYLER. Is this (handing witness a letter) the answer to it?

Mr. BIRDSALL (after examining letter). It is.

Mr. TAYLER. I will read it.

"OFFICE OF SEVIER STAKE PRESIDENCY,
"Richfield, Utah, 6 Sept., 1908.

"Miss CORA BIRDSALL, *Joseph.*

"DEAR SISTER: Yours of 4th ult. received.

"I am sorry you have failed on meeting me as per instructions received from President Jos. F. Smith at our last conference. I am quite busy, but I can be found at home most of the time. I suppose you want to get matters adjusted relative to the land dispute between James Leavitt and yourself.

"According to the ruling of President Jos. Smith, James Leavitt has a right to have a hearing before our church tribunals where a church member is concerned with him, providing he will agree to abide the decision rendered. I understand to this he is willing to agree.

"The Monroe bishopric has rendered a decision in the case brought before them against you by James Leavitt. Your only alternative now is to comply with that decision or inform Bishop S. W. Goold that you want to appeal the case to the high council. It will convene on 20th Sept. next. If you conclude to abide the decision of bps. court, that ends the matter; if you want to appeal, you can inform Bp. Goold, and he will forward the minutes of trial with complaint and decision and you will request a hearing before the high council in a letter addressed to Jacob Lauritzen, Richfield, clerk of high council. This request should be made within a few days, so the matter can be gotten in shape for the council session, 20th Sept. next.

"Trusting that these directions will enable you to come to such conclusion as will be best. It will be well for you to carefully consider the bishop's decision in your case before appealing, as the high council considers very closely the equities in cases brought before them.

"With kind regards, I am your brother,

"WILLIAM H. SEEGMILLER."

Mr. BIRDSALL. If you please, I should like to make a correction in an answer I made with respect to that letter. It was my daughter who wrote it. It was my daughter's letter, and it is in answer to hers.

Mr. TAYLER. This is the answer to it?

Mr. BIRDSALL. Yes, sir; that is the answer to it.

Mr. TAYLER. The case was appealed to the high council?

Mr. BIRDSALL. Yes.

Mr. TAYLER. And there was a trial, was there?

Mr. BIRDSALL. There was.

Mr. TAYLER. This was held where?

Mr. BIRDSALL. In Richfield.

Mr. TAYLER. And the high council found the same as the bishop's court?

Mr. BIRDSALL. They did.

Mr. TAYLER. And did you call upon Mr. Jacob M. Lauritzen, clerk of the high council, for a copy or transcript of the proceedings of that council?

Mr. BIRDSALL. I did.

Mr. TAYLER. And is this [handing the witness a paper] the paper that he gave you in answer to that request?

Mr. BIRDSALL (after examining paper). That is the paper.

Mr. TAYLER. Now I offer in evidence this transcript of the proceedings of that trial:

"Transcript of record in the case of James E. Leavitt v. Isaac Birdsall and Cora Birdsall, his daughter. Appealed by Cora Birdsall from the bishop's court of the Monroe ward of the Sevier stake of Zion to the high council of said stake.

"Names of high councilors sitting in this case:

"1. O. A. Andelin.

"2. Andrew Poulsen.

"3. Hans Christensen.

"4. Poul Poulsen.

"5. Thomas Ogden.

"6. Simon Christensen.

"7. Lauritz Lauritzen.

"8. Peter E. Westman.

"9. Morten Jensen.

"10. Joseph H. Thurber.

"11. Niels P. Petersen.

"12. Gottlieb Ence.

"WILLIAM H. SEEGMILLER,

"JOSEPH S. HORNE,

"JAMES CHRISTIANSEN,

State Presidency.

"JACOB M. LAURITZEN,

Clerk of the High Council.

"*Minutes of a special session of the high council of Sevier stake of Zion held at the tabernacle, Richfield, Utah, October 21, 1902, at 4 p. m.*

"President William H. Seegmiller presiding.

"Roll called, showing the high councilors in attendance whose names appear upon the preceding page.

"Prayer was offered by Hans Christensen.

"The case of James E. Leavitt v. Isaac Birdsall and Cora Birdsall, his daughter, appealed from the bishop's court of the Monroe ward, by Cora Birdsall, was called for trial; both parties with their witnesses were present.

"President Seegmiller read the complaint, as also the decision rendered in the bishop's court, from which the appeal was taken.

"Upon motion of Simon Christensen it was decided that this be considered a difficult case.

"Councilors number 7, 8, 9, and 10 were appointed speakers.

"The question as to whether or not Isaac Birdsall was a necessary party to this case was discussed, and it was finally decided on motion of O. A. Andelin to proceed with the case.

"James E. Leavitt, the accuser, made a statement of what he expected to prove, and upon being asked as to whether or not he was willing to abide the decision of the high council, he replied in the affirmative.

"Sister Cora Birdsall made a statement of what she expected to prove in this case.

"Hulda J. Leavitt, witness on the part of the accuser, testified:

"Leavitt turned out two cows to apply on the deed. I knew the cows. The pasture was fenced and we lived there and used the pasture since 1883."

"Question by Morten Jensen: 'Did you live on the land or adjoining it?—Answer. We lived near the land.'

"Did you know that the land was in Birdsall's entry and that he was to deed it to Leavitt?—Answer. Yes."

"Do you know if you had the use of the land after Cora Birdsall filed on it?—Answer. I think we did."

"Was Leavitt allowed to move the fence?—Answer. No."

"Was he allowed to move a certain ice house on the land?—Answer. He was not."

"Question by Joseph H. Thurber: 'What kind of a house was it that Bro. Leavitt was to have moved?—Answer. It was an ice house built of logs.'

"Was there any corrals on the land which Leavitt got from Birdsall?—Answer. I am not sure."

"Question by Simon Christensen: 'Did you ever hear a conversation between Leavitt and Birdsall about the land?—Answer. I heard them talk about the cows.'

"J. W. Parker, witness on the part of the accuser, testified:

"I remember when Leavitt bought the land from Kent Farnsworth. Farnsworth went on the land and lived there till the fall of 1885. In the spring of 1886 I moved on the land and lived there during the summer. Leavitt let me have the use of the land for fencing part of it. It was good pasture land, being part meadow. I had the use of the farming land and pasture for sowing lucern and fencing. In 1895 Leavitt was using the land. Isaac Birdsall first took the land under the timber-culture act. The river runs on the east side of the land. The corral is on the land next to the road. There is an ice house on the land. While Isaac Birdsall had the land entered James E. Leavitt was in possession. Leavitt put up on one side 80 rods of fence and on the north end 60 rods and an additional 60 rods. The fence consisted of three wires and one pole. Leavitt used the land for pasture—cut no hay."

"Question by Morten Jensen. 'You understood that the land was in the Birdsall entry?—Answer. Yes; Cora set out some trees about three years ago and she told me she expected to do what was right about the land. Isaac Birdsall had permitted his entry to lapse and his daughter Cora had entered the land at that time. By agreement the river was on the line and the land on the west was Leavitt's and that on the east was Birdsall's. When cattle belonging to either party got across the line they would be driven back.'

"Question by Jos. H. Thurber. 'Were the cattle turned out by Leavitt to pay for the use of the land or to apply on the deed?—Answer. I understood that the cattle were to apply on the deed.'

"Question. 'What would the fence be worth put up, Leavitt?—Answer. About 40 cents per rod. The ice house and part of the corral was on the land in dispute. The corral and ice house were put up by Leavitt.'

"CHARLES A. LEAVITT, witness on the part of the accuser, testified:

"I have been personally acquainted with this land for fourteen years. James E. Leavitt had the use of the land. Birdsall and Leavitt kept cattle each on his own land. In 1892 I rented the pasture and used it. Birdsall never questioned my right. Leavitt was away from home and Birdsall asked me when he would return, as he (Birdsall) needed money to prove up. Leavitt wrote me to raise the money at the bank, and I reported to Birdsall. I helped my brother drive two cows to Birdsall and deliver them to him, and my brother told me he was turning them out on a deed to the land. One cow returned and Leavitt traded a harness to Birdsall for the cow.

"I never knew about any dispute regarding the land till Cora Birdsall got possession of the land. My brother told me that Cora Birdsall forbid him taking the ice house and the corral off the land.'

"Question by Morten Jensen. 'When were the cows delivered to Birdsall?—Answer. Eleven or twelve years ago. In 1892 Birdsall came and asked me for money to prove up.'

"Question by P. E. Westman. 'Were the cows turned out in payment of the land or as rent for the use of the land?—Answer. I don't know. I understood that it was in payment of the land. The land in dispute was claimed at first by Frank and Kent Farnsworth, who sold it to James E. Leavitt. Birdsall got possession of the land by filing on it.'

"Question by O. A. Andelin. 'Why did your brother desire to remove the improvements from the land?—Answer. I don't know. Did he ever remove the fence?—Answer. No.'

"At this time the council took a recess until 8 p. m.

"At 8 p. m. the council reconvened, and Mary Birdsall, witness on the part of the accused, testified as follows:

"When we came to Utah we were not Mormons. We came in 1881. We did not know it was the custom for one person to take up land for another. We wrote to the land office in 1881 or 1882 and found that the land was vacant. We took the land under the timber-culture act. Leavitt never made any arrangements with Isaac Birdsall for the land. Isaac Birdsall needed money to prove up, and he offered to give Leavitt some land for the amount needed, which was about \$225. I remember of one cow being found on the premises, but it was returned. The harness was given in payment of pasturage.

"Leavitt was notified by Birdsall not to put any improvements on the land. I don't think the corral is on the ground. The only offer that was ever made was to give land for money to prove up.

"My husband's time to make proof expired without proof being made. Cora Birdsall paid Leavitt for the fence on the north side of the land. She then told Leavitt to take his other improvements off the land. The fence on the east side was put up while Birdsall was away and without his knowledge. Leavitt did not occupy the land, as it was used by other people just the same as by him.

"Other people who had occupied the land as squatters were intimidated and Birdsall was not inclined to be very strict about the use of the land. Isaac Birdsall first entered the land under the timber-culture act ten years ago, but the trees would not grow, and he then entered the land under the preemption act, but never made proof under either act. Leavitt and another party came to see about getting the land, but my husband told me that he never made any arrangement with them."

"Question. 'Is it not a fact that Leavitt had exclusive control of the land on the west side of the river?—Answer. Not with our consent. Leavitt's brother talked with Birdsall about furnishing money to prove up and Birdsall agreed to accept the money and deed him the land, but Leavitt never furnished any money.'

"Question. 'Did Leavitt's horses ever come over on the east side of the river?—Answer. Yes; and other animals.'

"Question. 'Did you not tell him to keep them on the west side?—Answer. We told him to keep them off the trees.'

"Question by Simon Christensen. 'How much did Cora Birdsall pay for the fence?—Answer. Fifteen dollars.'

"Question. 'Is it not possible that your husband might have made an agreement with Leavitt that you have not heard of?—Answer. He told me he had not.'

"Question by Poul Poulsen. 'When did you learn that? Did your husband tell Leavitt when he needed the money?—Answer. Yes; he told him the time was short.'

"Question. 'Do you know how many acres of land Leavitt wanted?—Answer. They did not settle on anything, because Leavitt did not have the money. Cora Birdsall filed on the land, I think, in 1893.'

"Question. 'When did Birdsall send the note to Leavitt to not put improvements on the land?—Answer. In 1883.'

"Question. 'Were improvements placed on the land after that?—Answer. Yes; a fence was put up by Leavitt to keep the cattle from the trees.'

"Question by Jos. S. Horne. 'If the land was public pasture did anyone ever pay for the use of the land except Leavitt?—Answer. One man offered to do so.'

"Question. 'Who was that man?—Answer. Mr. Barney. But we did not claim anything.'

"Question by Andrew Poulsen. 'How much was the harness worth?—Answer. About \$25.00.'

"Question by Simon Christensen. 'What land was Leavitt to have for furnishing the money to prove up?—Answer. The land on the west side of the river.'

"Question by Hans Christensen. 'What kind of land is it?—Answer. Good land.'

"Question. 'And you only charged one set of harness for the use of it?—**Answer.** We never considered he had the use of the land.'

"Question. 'Why did you fence along the river and not around all the land?—**Answer.** We just fenced what we were cultivating.'

"Question. 'Is it not a fact that Leavitt had the use of the land for twelve years?—**Answer.** I don't know that he had possession of the land at all.'

"Question. 'He was not ordered off, nor were his cattle strayed on the west side of the river?—**Answer.** I can't call to mind that they were.'

"Question by William H. Seegmiller. 'Were you present when Leavitt came over to see about furnishing money to prove up the land?—**Answer.** Yes; I was in the house when Birdsall went to see about the money. He wanted me to go with him to see what was said. He might have had an understanding with Leavitt and I not know it.'

"Question by Jas. Christiansen. 'How much money would it take to prove up on the land?—**Answer.** About \$125.00.'

"Question. 'Did Leavitt agree to furnish this?—**Answer.** I so understood.'

"Question. 'And yet the amount of the land he was to have was not agreed upon? **Answer.** Not that I know of, only that it was to be land on the west side of the river. We settled on land near Monroe and also at Salt Lake City, and moved off because others claimed it, while we might have filed on it.'

"ELSIE TAYLOR, witness on the part of the accused, testified as follows: 'When we came to the place it was used for pasture by people all around there—used as a common herd ground. We did not know that anyone claimed it. I left home in 1890, and since then I know nothing about it. I don't know Leavitt. I know my father entered the land under the timber-culture act. He settled on the land in 1881 or '2.'

"Question by Jos. S. Horne. 'Have you ever heard anything about Leavitt having any claim on this land?—**Answer.** No, sir.'

'The witnesses on both sides having testified, the speakers appointed proceeded to make their arguments in the case.'

'When the speakers had concluded, James E. Leavitt was asked if he had anything further to say and, in response, made the following statement:

"I bought Kent Farnsworth's half interest in the south forty for \$200.00 in 1888. A short time after I got notice from Birdsall that he claimed the land. I talked with Birdsall, and we decided on the east bank of the river for a line. Birdsall was to get forty acres in the Butler entry for eighty acres on the west side of the river. After this, Butler bought ten acres of the forty he was to deed to Birdsall from Birdsall. Butler and Birdsall had a falling out and Birdsall came to me and stated that he did not want the Butler forty, but if I would give him \$150.00 I could have the land across the river on the west side. We agreed that the fence should be on the west side of the river.

"I put up 160 rods of fence, three wires, and a pole. After the line was decided on I bought the other forty of Kent Farnsworth and later bought the other half of the first forty from Frank Farnsworth. I fenced on the east side of the river with a pole fence and it was partly washed away. I put up a wire fence on the west side of the

river. The fence I sold to Cora Birdsall was on the north of the land. The south fence is about 37 rods long. Robert Ross has an interest in it. I was away when Birdsall wanted money to prove up. I wrote my brother and told him I was under no obligations to furnish money only for the deed, but I tried to raise the money anyway but could not. I offered to file on the land and deed him his if he would relinquish his entry, but he would not. Later Cora Birdsall filed on the land.

"The money I paid to Cora Birdsall was paid as lease money in order not to invalidate her claim against the Government. This was done by agreement. In 1897 I was moving an ice house and she forbid me to move any of my property off the land. Some words followed. Later, Cora Birdsall came to my place and wanted to know how I felt about the land matter, and I told her that I felt that I had been robbed. She asked me to wait awhile. Later she came to my place and stayed over night and promised that she would do what was right. She had been counselled in the matter by her bishop. She said she was sorry she could not take counsel from her folks. When she got her patent she wanted me to come over and talk with her folks about the matter. A short time later I went over and she treated me with contempt, and has done so ever since. I told her I intended to press this matter in the church courts. She got her patent about four years ago.'

"CORR BIRDSALL, upon being asked if she had anything further to say, made the following statement:

"I can't say anything about my father's affairs. I don't know anything about. Brother Parker said I said "I was willing to do what was right about the land," which is not right. The fence on the east side of the river is 75 or 80 rods long. It does not run clear through. The fence on the north I bought from Leavitt. I also bought the fence on the south from Bro. Ross. I sent Leavitt notice in the fall of 1894 to move the fences off the land on the west side of the river. It was not so that I made a bargain with Leavitt about the land. When he did not remove his improvements, I thought they were mine, and I afterwards forbid him taking them.

"What Leavitt stated about me promising to do what was right about the land is all false. I never talked with him about the land. I homesteaded the land. My expense did not exceed sixty dollars. He has talked to me about the land, but I never answered him.'

"Question by Pres. Seegmiller: 'You did not recognize Leavitt's right to the land, but to the fence? How can you explain this? You don't believe Leavitt had any right to that land?—Answer. No, sir.'

"Question by Simon Christensen. 'If you were placed in Leavitt's place and paid for the land and possessed it, would you feel right if you were treated as he is?—Answer. Yes, sir.'

"What have you heard your father and mother say about this land question?—Answer. Nothing whatever.'

"Question by Hans Christensen. 'If Leavitt had entered the land in place of yourself when your father's time expired and driven your father off from the other part of the land, would he be doing right?—Answer. Yes.'

"Question by Morten Jensen. 'Are you willing to do what is right about this land?—Answer. Yes.'

"How old are you?—Answer. Thirty-three.'

"Upon due consideration the presidency formulated and rendered

the following decision, which was upon motion of Poul Poulsen unanimously sustained by the council.

" RICHFIELD, UTAH, *October 22, 1903.*

" In this appeal case, brought from Bishop Orson Magleby's court, in which James E. Leavitt is the accuser and Sister Cora Birdsall is the accused,

" Sister Cora Birdsall appeals from the decision of Bishop Orson Magleby's court.

" On this case we render the following decision:

" We sustain the decision of Bishop Magleby's court, viz., That Cora Birdsall shall deed unto James E. Leavitt the northwest forty (40) acres of the southeast quarter of section one (1) in township twenty-five (25) south, of range four (4) west of the Salt Lake meridian, and that James E. Leavitt pay to Cora Birdsall the sum of one hundred dollars upon receipt of said deed. And we require Sister Cora Birdsall either to comply with this decision or appeal to the first presidency of our church before the 10th day of November next.

" WILLIAM H. SEEGMILLER,

" JOS. S. HORNE,

" JAS. CHRISTIANSEN,

" *Sovier Stake Presidency.*

Mr. TAYLER. There seems to have been no question asked Cora Birdsall as to whether she was willing to abide. Mr. Birdsall, did you or your daughter later receive a notice from the high council in reference to this finding?

Mr. BIRDSALL. We did.

Mr. TAYLER. See if that is the next letter that you received [handing witness a paper]?

Mr. BIRDSALL (after examining letter). That is it.

Mr. TAYLER. I offer that letter in evidence, and will read it.

Mr. Tayler read the letter referred to, as follows:

OFFICE OF STAKE CLERK,
Richfield, Utah, January 29, 1903.

Miss CORA BIRDSALL, *Elsinore, Utah.*

DEAR SISTER: I am instructed by the stake presidency to notify you that unless you comply with the decision of the high council in the case of Leavitt v. Birdsall or appeal from the decision before the 10th day of February, 1903, the high council will take action against you at their next regular session, to convene February 20, 1903.

Very respectfully,

J. M. LAURITZEN,
Clerk of the High Council.

Mr. TAYLER. Did you thereupon undertake an appeal to the first presidency?

Mr. BIRDSALL. My daughter let it run on for several months. She got other notices, and eventually concluded, on Bishop Goold's advising her, to go, or she would be cut off the church; or rather, not Bishop Goold. He was the first counselor, I believe. He came to see her about it.

Mr. TAYLER. Then she did write to the first presidency about it?

Mr. BIRDSALL. She did.

Mr. TAYLER. Look at this letter and see if this is an answer that was received [handing witness a paper]?

Mr. BIRDSALL. (After examining the paper.) That is the answer.

Mr. Tayler read the letter referred to, as follows:

Office of the first presidency of the Church of Jesus Christ of Latter-Day Saints, P. O. Box B.

SALT LAKE CITY, UTAH, *March 19, 1903.*

Miss CORA BIRDSALL, *Elsinore.*

DEAR SISTER: On the 21st ultimo you wrote to the presidency informing them that false testimony had been given in the case of *Leavitt v. Birdsall*, recently tried by the Sevier stake high council, and the falsity of which you were able to prove.

The papers in the case are now in the hands of the first presidency and they invite you to make a statement in writing setting forth that part of the testimony regarded by you as false, and to give them also the character of the new testimony which you would be prepared to introduce were you again to be heard by the council.

Yours, etc.,

GEO. F. GIBBS, *Secretary.*

Mr. TAYLER. Then did she send a communication to the first presidency in respect to it?

Mr. BIRDSALL. She did not.

Mr. TAYLER. I notice this letter is dated March 19, 1903. Did she, on the 10th of April, receive this letter [handing witness a paper]?

The CHAIRMAN. April of the same year?

Mr. TAYLER. Yes; April, 1903.

Mr BIRDSALL (after examining the paper). Yes, sir.

Mr. TAYLER. I offer this letter, and will read it.

Mr. Tayler read the letter referred to, as follows:

Office of the first presidency of the Church of Jesus Christ of Latter-Day Saints. P. O. Box B.

SALT LAKE CITY, UTAH, *April 10, 1903.*

Miss CORA BIRDSALL, *Elsinore.*

DEAR SISTER: We have carefully read your communication of the 23d ult., setting forth exceptions to the decision rendered by the high council of the Sevier stake in the case of *Leavitt v. Birdsall*, and are perfectly satisfied that the points raised by you are not sufficient to justify you in refusing to recognize former rights to the land in question, and we therefore have affirmed the decision in the case and informed the stake presidency accordingly.

Your brethren,

JOS. F. SMITH,
JOHN R. WINDER,
ANTHON H. LUND,
First Presidency.

Mr. TAYLER. Later, did you and your daughter receive notice from the clerk of the high council?

Mr. BIRDSALL. We did, I believe.

Mr. TAYLER. See if this is the first notice you received [handing witness a paper]?

Mr. BIRDSALL (after examining paper). That is it.

Mr. TAYLER. I offer this letter, and will read it.

Mr. Tayler read the letter referred to, as follows:

OFFICE OF STAKE CLERK,
Richfield, Utah, April 14, 1903.

Sister CORA BIRDSALL, *Elsinore, Utah.*

DEAR SISTER: In a letter to President Seegmiller and counselors, dated April 10, 1903, the first presidency of the church render their decision in the case of James E. Leavitt *v.* Isaac Birdsall and Cora Birdsall, his daughter, as follows:

"After carefully reviewing the transcript of record in the case of James E. Leavitt *v.* Isaac Birdsall and Cora Birdsall, his daughter, tried by your high council October 21 last, and duly considering exceptions taken by defendants, we hereby affirm your decision in said case."

I remain, very respectfully,

J. M. LAURITZEN,
Clerk of the High Council.

Mr. TAYLER. Did you later receive other letters from the clerk?

Mr. BIRDSALL. We did.

Mr. TAYLER. I will ask you if these two are letters you received shortly after the last one read from the clerk of the high council of Sevier stake? (Handing papers to witness.)

Mr. BIRDSALL (after examining the papers). We received both of them.

Mr. TAYLER. I offer them both and will read them.

Mr Tayler thereupon read the letters referred to, as follows:

OFFICE OF STAKE CLERK,
Richfield, Utah, May 18, 1903.

CORA BIRDSALL, *Elsinore, Utah.*

DEAR SISTER: At the session of the high council held April 17, 1903, you were given till the 10th day of May in which to comply with the decision of the first presidency in the case of Leavitt *v.* Birdsall, and you were requested to notify the clerk on or before that date as to what course you decided to take in this matter. At the last session of the high council, held May 15, 1903, I informed the council that I had heard nothing from you, and the council was about to take action against you; but in discussing the matter some of the brethren felt that perhaps you did not realize what the results would be upon your failure to comply with the decision of the first presidency, and it was decided to give you another extension of time, and I was ordered to notify you that unless you comply with the decision of the first presidency in this case on or before June 12, 1903, and notify me as clerk of the high council to that effect, the high council will take action against you upon your fellowship at their next regular session, June 19, 1903.

Very respectfully,

J. M. LAURITZEN,
Clerk of the High Council.

OFFICE OF STAKE CLERK,
Richfield, Utah, June 23, 1903.

CORA BIRDSALL, *Monroe, Utah.*

DEAR SISTER: By direction of the stake presidency, you are hereby informed that at the session of the high council of the Sevier Stake of Zion held June 19, 1903, you were excommunicated from the Church of Jesus Christ of Latter-Day Saints for failure to comply with the decision of the first presidency of the church in the case of James E. Leavitt *v.* Cora Birdsall.

Very respectfully,
J. M. LAURITZEN,
Stake Clerk and Clerk of High Council.

MR. TAYLER. Now, Mr. Birdsall, after the rendering of this decision against your daughter, what occurred as to her health and her mind?

MR. BIRDSALL. Well, there was quite a time intervening between that. Of course she refused to submit to it, and, being of a religious turn of mind, it wore upon her, apparently, and went on perhaps—what was the date? Could you give me the date?

MR. TAYLER. Do you mean the first finding of the bishop's court?

MR. BIRDSALL. No.

MR. TAYLER. The bishop's court was in 1903, and the high council was in 1902.

MR. BIRDSALL. Well, it was perhaps a year, at least, I think.

MR. TAYLER. After what?

MR. BIRDSALL. After this decision.

MR. TAYLER. Of the bishop's court?

MR. BIRDSALL. Of both of them, or either of them.

THE CHAIRMAN. The final decision, you mean?

MR. BIRDSALL. The final decision.

THE CHAIRMAN. Do you mean a year after the decision by the first presidency, or by the high council?

MR. BIRDSALL. By all of them.

MR. WORTHINGTON. A year after she was excommunicated?

MR. BIRDSALL. The final decision from the first presidency—she held out in opposition to it—refused.

MR. TAYLER. Yes.

MR. BIRDSALL. But it wore upon her mind so that she neither slept, nor ate, nor even drank, I was going to say for days together, and eventually it seemed to affect her mind. After that some of them came—that is, some of the—well, Bishop Jolly, of Brooklyn, came there, and Hans Golbransen. He came there stating that he was authorized by President Seegmiller to state to her—that is, he had heard of her condition; we had written it of course to them and to him—that he had heard of her condition, and that on condition that she would comply with this decision, they would rebaptise her in the church. She still refused.

MR. TAYLER. Before we go any further along, you say you had written this to President Seegmiller?

MR. BIRDSALL. President Seegmiller.

MR. TAYLER. Did you, last winter some time, write him a letter—you or your wife—to which he sent an answer?

MR. BIRDSALL. Yes; that was before that.

Mr. TAYLER. Look at this letter I hand you, and state if that is the answer you received to the letter that you and your wife sent to him.

Mr. BIRDSALL. We were at St. George at the time.

Mr. TAYLER. Is that it?

Mr. BIRDSALL (after examining the letter). That is it.

Mr. TAYLER. At this time she was in the condition of health you have described?

Mr. BIRDSALL. Yes; and had been for months.

Mr. TAYLER. And she had not complied with the order that was made?

Mr. BIRDSALL. She had not.

Mr. TAYLER. I offer this letter in evidence, and will read it.

Mr. Tayler read the letter referred to, as follows:

ST. GEORGE, UTAH, *February 4, 1904.*

Mrs. MARY BIRDSALL, *Elsinore.*

DEAR SISTER: Yours of January 24 came duly to hand. I have read the contents with interest, and I regret very much that Cora is in the position you describe her to be. Surely an evil power is leading her to her destruction. If she wants relief from her present situation, she can obtain it by humbly complying with President Jos. F. Smith's decision in the case brought against her by James Leavitt, of Joseph. Heard first by the Monroe bishopric, then appealed to the high council of the Sevier stake of Zion, and then appealed to Jos. F. Smith, whose decision stands against her, and will so stand until she complies with it. And while this condition is maintained she will be in distress and misery. Her only relief will be in complying with President Smith's wishes.

You say she has never broken a rule of the church.

You forget that in this case she has done so by failing to abide by the decision of the mouthpiece of God.

I pray God to bless her, that humility may possess her soul and lead her to do that which the president requires her to do. If she can't do this, I fear for her happiness here and hereafter.

I am, yours in the Gospel,

WM. H. SEEGMILLER.

Mr. TAYLER. After the receipt of this letter, what was her condition?

Mr. BIRDSALL. It was just the same. Of course, at times she was rational and at other times not.

Mr. TAYLER. You mean she was out of her mind at times?

Mr. BIRDSALL. She was out of her mind.

Mr. TAYLER. And where was she?

Mr. BIRDSALL. At home.

Mr. TAYLER. Now, tell us if anything else occurred afterwards.

Mr. BIRDSALL. After this had went on in this way—and of course every one knew it; it became a public matter—

Mr. TAYLER. Yes.

Mr. BIRDSALL. There was quite an intervening time, and Hans Golbransen came to the house and said he was authorized—he had been to the priesthood meeting at Richfield, and he was authorized by President Seegmiller to tell her that if she would comply with the decision that they would baptize her into the church, or rebaptize her, rather.

Mr. TAYLER. Is that all?

Mr. BIRDSALL. Well, the evening before and that morning she had become quite violent. That is, we could not restrain her in any way. She seemed to know nothing. She paced the floor; and he came with the intention, I suppose——

Mr. TAYLER. Who came?

Mr. BIRDSALL. This Bishop Jolly came. That was the bishop of our ward, Brooklyn ward.

Mr. TAYLER. Yes.

Mr. BIRDSALL. He came and desired to anoint her; that is, for her relief; and she went into the front room and locked the door. His counselor, I think, Mr. ——

Mr. TAYLER (after a pause). Never mind the name.

Mr. BIRDSALL. Well, his counselor, at any rate, was with him. She went in and locked the door and wouldn't see them. Of course, she took turns, first one way and then another. At times she would speak to some one and at other times she wouldn't even speak—that is, give an answer to a question, apparently as if she had never heard it. It would go unnoticed. Bishop Jolly asked me to go in the room and counsel her; that is, to submit to this; that is, to be anointed, and also to abide by this decision. I told him that that I could not do. I told him I would go in and tell her what he said and it would be for her to decide what she wished to do in the matter. I went in and told her. I came out again and told him her answer—no; she made no answer whatever. She made no remark. I simply said what I had to say and walked out again. Well, yes, she did. She told me that he could come to the door. That was the answer she gave. He went to the door and opened the door a little and spoke to her and talked with her. Of course, I don't remember what he said now. At least, I don't know that I heard it.

Mr. TAYLER. Did anything happen that day? He simply talked and went away, did he?

Mr. BIRDSALL. That was all.

Mr. TAYLER. Well, later on, Mr. Birdsall, did your daughter finally make the deed?

Mr. BIRDSALL. She did, I believe. Of course, I have never seen the deed.

Mr. TAYLER. Do you know about when it was she made the deed?

Mr. BIRDSALL. It was just after she was rebaptized, whenever that was.

Mr. TAYLER. Did you hear her say why she made the deed?

Mr. BIRDSALL. Hear her say?

Mr. TAYLER. Yes.

Mr. BIRDSALL. No, sir.

Mr. TAYLER. Has she spoken to you on that subject?

Mr. BIRDSALL. No, sir.

Mr. TAYLER. Whether she voluntarily made the deed or not, or whether——

Mr. BIRDSALL. Well, when I left home—that is, she had heard the summons read—and when I left home she told her mother to come to me and tell me particularly to understand that it was forced upon her.

Mr. WORTHINGTON. She told her mother and her mother told you?

Mr. BIRDSALL. Her mother told me.

Mr. TAYLER. Will the committee take a recess at this time?

The CHAIRMAN. Yes; the committee will take a recess until 2 o'clock.

The committee (at 1 o'clock and 55 minutes p. m.) took a recess until 2 o'clock p. m.

AFTER RECESS.

The committee reassembled at the expiration of the recess.
The CHAIRMAN. Proceed, Mr. Tayler.

TESTIMONY OF ISAAC BIRDSALL—Continued.

ISAAC BIRDSALL, having been previously sworn, was examined, and testified as follows:

The CHAIRMAN. Have you anything further, Mr. Tayler?

Mr. TAYLER. I believe that was all I wanted to ask Mr. Birdsall.

Mr. VAN COTT. Mr. Birdsall, when was your daughter rebaptized?

Mr. BIRDSALL. Do you mean the date?

Mr. VAN COTT. Yes.

Mr. BIRDSALL. I don't believe I could give you the date.

Mr. VAN COTT. About when?

Mr. BIRDSALL. It was at the last conference, I believe, in Richfield—that is, the stake conference.

Mr. VAN COTT. Would it be this year?

Mr. BIRDSALL. This year, 1904.

Mr. VAN COTT. And about when in this year?

Mr. BIRDSALL. I don't remember the month. Let me see.

Mr. VAN COTT. Would it be after July?

Mr. BIRDSALL. I think it was the September conference, if I am not greatly mistaken. At any rate, it was somewhere about that.

Mr. VAN COTT. And was your daughter living at home when she gave the deed?

Mr. BIRDSALL. She was living at home. That was her home, but she was with her sister in Richfield.

Mr. VAN COTT. When she gave the deed?

Mr. BIRDSALL. When she gave the deed; yes, sir.

Mr. VAN COTT. Is your daughter living at home now?

Mr. BIRDSALL. She is at home now—has been for two or three months.

Mr. VAN COTT. During this time that she was being urged to give the deed and after her excommunication from the church, did you urge her not to give the deed?

Mr. BIRDSALL. Did I urge her?

Mr. VAN COTT. Did you urge her not to give the deed?

Mr. BIRDSALL. No, sir; I did not.

Mr. VAN COTT. It was her own determination?

Mr. BIRDSALL. It was her own determination.

Mr. VAN COTT. All the way through?

Mr. BIRDSALL. I said nothing whatever.

Mr. VAN COTT. Are you a member of the Mormon Church now?

Mr. BIRDSALL. At present?

Mr. VAN COTT. Yes, sir.

Mr. BIRDSALL. I think not.

Mr. VAN COTT. When did you sever your connection with the church?

Mr. BIRDSALL. Well, if you remember the evidence that I gave—

Mr. VAN COTT. All I asked you was when you severed your connection with the church.

Mr. BIRDSALL. The date I can't give. I was going to give the circumstance.

Mr. VAN COTT. No; I do not want the circumstance. Was it a year ago?

Mr. BIRDSALL. I made no note of it. It was when they came to offer the baptism if she would abide the decision—the time that I speak of.

Mr. VAN COTT. That was about in 1903?

Mr. BIRDSALL. Yes; I think that was in the spring of 1903, or perhaps in 1904, wouldn't that be? I think so.

Mr. VAN COTT. Did your daughter ever tell you that she was forced to give the deed?

Mr. BIRDSALL. She did not directly tell me so.

Mr. VAN COTT. That is what I asked you, if she told you.

Mr. BIRDSALL. No, she did not; not direct.

Mr. VAN COTT. That is all.

Mr. TAYLER. What were your daughter's religious habits as touching the Mormon faith? I mean was she devout or otherwise?

Mr. BIRDSALL. She was devout—very strong in the faith.

Mr. TAYLER. Was there any special work that she did in the church or for the church people?

Mr. BIRDSALL. I couldn't say as to that. She was a great deal in the temple for several years.

Mr. TAYLER. What did she do in the temple?

Mr. BIRDSALL. Working, I suppose. That is, doing perhaps her own work and some others'. Of course I couldn't say as to that, because I wasn't there at the time.

Mr. TAYLER. Do you know whether she did any work among her Mormon neighbors?

Mr. BIRDSALL. Right there at home?

Mr. TAYLER. Yes.

Mr. BIRDSALL. That I couldn't say. Perhaps she did.

Mr. TAYLER. Did you say in your direct examination that she was of the religious temperament?

Mr. BIRDSALL. I did.

Mr. TAYLER. Do you know S. G. Clark?

Mr. BIRDSALL. Samuel G. Clark? I do. That is, I might say I am not personally acquainted with him, but of course I have known him, seen him, talked with him.

Mr. TAYLER. Does he occupy any position in the church?

Mr. BIRDSALL. I could not say. I suppose he does. I just simply suppose it now.

Mr. TAYLER. Do you know Simon Christensen?

Mr. BIRDSALL. I know him by sight.

Mr. TAYLER. What position does he hold in the church, if any?

Mr. BIRDSALL. That I do not know. I could not tell you.

Mr. TAYLER. Was he one of the high council that tried this case?

Mr. BIRDSALL. I believe he was.

Mr. TAYLER. Do you know Virginius Bean?

Mr. BIRDSALL. I do not, only by sight.

Mr. TAYLER. Do you know what position he holds?

Mr. BIRDSALL. I do not. This is in Richfield. I will explain that. It is in Richfield, and therefore I am not much acquainted with him.

Mr. TAYLER. How far do you live from Richfield?

Mr. BIRDSALL. About 11 miles.

Mr. VAN COTT. Mr. Chairman, I would like to call Mr. Budge for a few questions, to save recalling him as a witness later in our own case.

Mr. TAYLER. Will you wait until I finish this subject, which will be but a moment?

Mr. VAN COTT. Certainly?

Mr. TAYLER. Mr. Chairman, I desire to offer in evidence a certified copy of a warranty deed given by Cora Birdsall to James E. Leavitt. It is very short, and I will read it.

Mr. Tayler thereupon read the paper referred to, as follows:

WARRANTY DEED.

Cora Birdsall, unmarried, grantor, of Monroe, county of Sevier, State of Utah, hereby convey and warrant to James E. Leavitt, grantee, of Joseph, Sevier County, Utah, for the sum of one hundred dollars, the following described tract of land in Sevier County, State of Utah:

The NW. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ of sec. 1, T. 25 S., R. 4 W., of the Salt Lake meridian in Utah, and containing 40 acres, situate in the SE. $\frac{1}{4}$ of sec. 1, T. 25 S., R. 4 W., of the Salt Lake meridian.

Witness the hand of said grantor this 11th day of June, A. D. 1904.

CORA BIRDSALL,

Signed in the presence of—

SIMON CHRISTENSEN,
VIRGINIUS BEAN.

STATE OF UTAH, *County of Sevier, ss:*

On this 11th day of June, A. D. 1904, personally appeared before me, Cora Birdsall, an unmarried woman, the signer of the above instrument, who duly acknowledged to me that she executed the same.

[SEAL.]

S. G. CLARK,
Notary Public.

My commission expires August 29, 1907.

Filed for record and recorded this 26th day of July, A. D. 1904, at 10 o'clock a. m.

ALVERETTA OLSON,
County Recorder, Sevier County, Utah.
By SARAH HANSEN, *Deputy.*

STATE OF UTAH,
County of Sevier, ss:

I, Alveretta Olson, county recorder in and for Sevier County, Utah, do hereby certify that the annexed instrument is a full, true, and correct copy of the deed from Cora Birdsall to James E. Leavitt, as found in the records of Sevier County, Utah, and recorded in book "28" of deeds, on page 13.

Witness my hand and official seal this 12th day of December, 1904.

[SEAL.]

ALVERETTA OLSEN,
County Recorder, Sevier County.
By CHAS. J. OLSON, *Deputy.*

The CHAIRMAN. Whom did you want to recall, Mr. Van Cott?
Mr. VAN COTT. Mr. William Budge.

TESTIMONY OF WILLIAM BUDGE—Continued.

WILLIAM BUDGE, having been previously sworn, was examined and testified as follows:

Mr. VAN COTT. Your name is William Budge, and you were on the stand within two or three days?

Mr. BUDGE. Yes, sir.

Mr. VAN COTT. Before being a president of the stake, were you a bishop in the Mormon Church?

Mr. BUDGE. Yes, sir.

Mr. VAN COTT. I wish you would tell us briefly whether or not you ever took jurisdiction of any cases involving the title to land; and if not, why not?

Mr. BUDGE. Involving the title to land—the title given by Government?

Mr. VAN COTT. Yes, sir.

Mr. BUDGE. No; I never entertained any complaint of that nature, although some have been made to me, in view of adjudication by the church.

Mr. VAN COTT. And the question was, Why did you not take jurisdiction?

Mr. BUDGE. Because the president of the church has given directions, to myself and I believe to all the presidents and bishops, that they shall not entertain the question.

Mr. VAN COTT. Which president gave such instruction?

Mr. BUDGE. I believe all of the presidents, but two, particularly. One has instructed me himself, and I have a letter in my possession—not here, however—that was written by President Taylor, as far back perhaps as ten years ago, to the president of the Fremont stake in Idaho. A question was sent to President Taylor in regard to a difficulty between two men. One man squatted on a quarter section. He lived there two or three years, and intended to make his home there, but had taken no steps according to law to secure the land. One day he noticed that somebody had put down material, seemingly in view of building a house a little way from the house that he had built on it, and it alarmed him a little. So he went at once to the land office and found that this particular man who had laid down the material had been there and secured the quarter section. So this question was brought up before the president of the stake, and he submitted the matter to President Taylor. President Taylor stated that the land certainly belonged to the man who had complied with the Government conditions, and that man got it.

Mr. VAN COTT. You say during President Taylor's administration. Was not that more than ten years ago?

Mr. BUDGE. Well, I am not sure how long it was. I say it must be ten years; probably more.

Mr. VAN COTT. That is all.

Mr. TAYLER. Then President Taylor did decide that case?

Mr. BUDGE. He did say that the gentleman who complied with the Government conditions owned the land.

Mr. TAYLER. Who was the man who had complied with the Government conditions?

Mr. BUDGE. I am not prepared to say what his name was.

Mr. TAYLER. I mean the president knew the man and referred to some particular man who had complied with the Government conditions?

Mr. BUDGE. Yes, sir.

Mr. TAYLER. So that when he said what he did say, he settled that case, did he not?

Mr. BUDGE. Well, the two men were both satisfied.

Mr. TAYLER. That is, the man who did not get anything was satisfied?

Mr. BUDGE. He was satisfied that he did not occupy any legal right to the land.

Mr. TAYLER. I do not know, Mr. Budge, why you were recalled to be asked this question. Do you understand that this testimony in regard to the Birdsall land indicates to you that the president of the church and the high council of Sevier Stake and the bishop's court in Monroe Ward never did pass upon the title to that piece of land?

Mr. BUDGE. No, sir; but it impressed me that these gentlemen made a mistake, being misinformed as to the nature of the difficulty. That is all.

Mr. TAYLER. You mean that the bishop's court did not know it was a land case?

Mr. BUDGE. It is simply my suggestion, my thought, because I am conversant with the fact that the church gave instructions in regard to that thing, that the church had nothing to do with any decision of the Government—to interfere with any decision.

The CHAIRMAN. Do you want this witness further, Mr. Tayler?

Mr. TAYLER. No; not now.

The CHAIRMAN. Shall he remain here?

Mr. TAYLER. Yes; if I have any more to go into. I do not care to do it now.

The CHAIRMAN. You will be excused, then, Mr. Budge, for the present, but will remain until to-morrow.

TESTIMONY OF JOHN HENRY SMITH—Continued.

JOHN HENRY SMITH, having been previously sworn, was examined and testified as follows:

The CHAIRMAN. Mr. Smith, I want to ask you one or two questions about which I am not entirely clear. Have you ever been engaged in foreign missions at all?

Mr. SMITH. Yes, sir.

The CHAIRMAN. In your missionary work you make use of the Book of Doctrine and Covenants?

Mr. SMITH. Yes, sir.

The CHAIRMAN. Is that the main book?

Mr. SMITH. No, sir; the Bible is the main book we use.

The CHAIRMAN. You mean the Mormon Bible?

Mr. SMITH. No, sir—well, the Saint James translation of the Bible.

The CHAIRMAN. You use the Mormon Bible?

Mr. SMITH. That is the Mormon Bible—the Christian Bible.

The CHAIRMAN. But I mean the Bible that was found in New York.

Mr. SMITH. The Book of Mormon and the Mormon Bible are two different propositions.

The CHAIRMAN. You use the Book of Mormon?

Mr. SMITH. We use the Book of Mormon; yes, sir.

The CHAIRMAN. And that does not contain the doctrine of polygamy?

Mr. SMITH. No, sir.

The CHAIRMAN. The teaching of polygamy?

Mr. SMITH. No, sir.

The CHAIRMAN. And the Book of Doctrine and Covenants does?

Mr. SMITH. Yes, sir.

The CHAIRMAN. And you make use of that in your foreign missionary work?

Mr. SMITH. We make use of them all.

The CHAIRMAN. I want to ask you a question about which I was not entirely clear. You say a large portion of your converts, or very many, come from foreign countries—Great Britain or other countries.

Mr. SMITH. Yes, sir.

The CHAIRMAN. Do these converts come over separately or do you wait until a certain number have—

Mr. SMITH. It is generally arranged; it used to be when I was there; we made a publication of the sailings of the steamships with which we did our business, say about four sailings a year, and anybody wishing to emigrate to Utah, having the money to do so, made their arrangement with us. They were put in charge of some experienced men, who took charge of them and traveled with them until they arrived at Salt Lake, in Utah.

The CHAIRMAN. That is what I was not clear about. You did not leave these people, when they were converted, to come over and drift here without a guide or without some directions?

Mr. SMITH. Where they applied to us. Many of them have come of themselves.

The CHAIRMAN. But they usually applied to you?

Mr. SMITH. Yes; they usually came through our emigration bureau.

The CHAIRMAN. Where were they to go usually?

Mr. SMITH. They landed at Salt Lake; and the old form was that the people of the town used to gather up food for them and attend to their wants.

The CHAIRMAN. I am not particular about that; but Salt Lake, in Utah, was the destination generally?

Mr. SMITH. Yes, sir.

The CHAIRMAN. From that point they were distributed?

Mr. SMITH. They distributed themselves to the sections where they had friends or to which they had designed themselves to go.

Mr. TAYLER. I suppose in many instances they did as many other immigrants would do, they would be induced to go to certain places by reason of having relatives or friends from the old country there?

Mr. SMITH. That was most generally the case.

Mr. TAYLER. I suppose the church sometimes provides funds for those who are not ready to pay their own way?

Mr. SMITH. In the years gone by there was what was known as the emigration fund that was provided by the church; but that was soon exhausted. Individuals personally helped their friends, but the church has itself done very little in the emigration bureau for a long time.

Senator DUBOIS. There are quite a number of Mormons around Baker City and Lagrange, Oreg., are there not?

Mr. SMITH. Yes, sir.

Senator DUBOIS. And in other parts of Oregon. About how many would you think there are in Oregon?

Mr. SMITH. I should presume there are possibly 3,000, but that may be an exaggerated statement.

Senator DUBOIS. I was a little curious to know the number myself.

Mr. SMITH. They are scattered all over Oregon proper, and even in Washington.

The CHAIRMAN. I was about to ask you about that. They are in Washington State also?

Mr. SMITH. Yes, sir.

The CHAIRMAN. How many are there in Washington?

Mr. SMITH. I could not say with any certainty at all, Senator.

The CHAIRMAN. In Washington and Oregon and the States you mentioned before?

Mr. SMITH. It has been suggested to me that I may have given a misapprehension, Senator, in regard to the question of the punishment; that is, the dealing with men.

The CHAIRMAN. You have a right to correct any statement you desire.

Mr. SMITH. The dealing with a man who might be an apostle or elder of the church who may have gone into polygamy. The impression I left, one of my friends suggests, is that the church took no cognizance of moral derelictions or violations of polygamy, so far as they were concerned, without the law first took cognizance of them. Now, I did not mean to make that impression. The bishop of every ward is a competent tribunal to consider any case, and those cases come by appeal, as you have seen here, from the bishop to the high council, and from the high council to the presiding authority of the church. The apostles themselves are not engaged in the business of trying these cases.

Mr. TAYLER. One question, Mr. Smith, that I neglected to ask you: Were you present at the meeting of the apostles when Mr. Penrose was elected?

Mr. SMITH. Yes, sir.

Mr. TAYLER. Was it unanimous?

Mr. SMITH. I believe it was unanimous; yes, sir.

The CHAIRMAN. I did not hear the answer.

Mr. SMITH. I can say certainly that it was unanimous.

Mr. TAYLER. I have no desire, even if it were proper, to go into the internal discussion that may have occurred there; but was there much discussion on the subject?

Mr. SMITH. There was some consideration of the subject.

Mr. TAYLER. I suppose that Mr. Penrose was recognized by the apostles, or those who were there, as an old and eminent and able representative of the church?

Mr. SMITH. Yes, sir.

Mr. TAYLER. And it was thought that it was due to him and to the church that he be elected to fill the vacancy caused by the death of Mr. Woodruff?

Mr. SMITH. Yes, sir.

Mr. TAYLER. And that surrounding his choice there were no peculiar circumstances?

Mr. SMITH. It was simply a just recognition of the efforts of a well-spent life—a man over 71 years of age.

Mr. TAYLER. The fact that he was a polygamist was probably never discussed or thought of?

Mr. SMITH. We thought any polygamy that might exist in his case could not harm anybody in the world. That is, it was not mentioned, so far as that is concerned. He is an old man; the ladies who have lived with him are old ladies.

Mr. WORTHINGTON. Mr. Penrose has told us he is 73. Do you know how old his wives are?

Mr. SMITH. I should judge they are possibly 60. I don't know that.

Mr. WORTHINGTON. Then, if I understand you, the fact that he was a polygamist had nothing in the world to do with his being elected an apostle?

Mr. SMITH. No, sir; that question is settled, so far as we are concerned in our country. Men must obey the law of their land.

Mr. TAYLER. Do they?

Mr. SMITH. They are trying to. I have tried the very hardest kind myself.

The CHAIRMAN. I believe you say, however, you have not succeeded?

Mr. SMITH. No; I admit the fact.

The CHAIRMAN. You have not succeeded up to date?

Mr. SMITH. No; not up to date.

The CHAIRMAN. Mr. Tayler, who is your next witnesses?

Mr. TAYLER. William Balderston.

TESTIMONY OF WILLIAM BALDERSTON.

WILLIAM BALDERSTON, having been duly sworn, was examined and testified as follows:

Mr. TAYLER. Mr. Balderston, where do you live?

Mr. BALDERSTON. In Boise, Idaho.

Mr. TAYLER. How long have you lived there?

Mr. BALDERSTON. A little over thirteen years.

Mr. TAYLER. Where did you live before you went to Boise?

Mr. BALDERSTON. In Salt Lake.

Mr. TAYLER. What is your business?

Mr. BALDERSTON. That of a newspaper man.

Mr. TAYLER. You are now the editor of the Boise Statesman?

Mr. BALDERSTON. Yes.

Mr. TAYLER. And prior to going to Boise were you in the same business?

Mr. BALDERSTON. I was in the same business in Salt Lake.

Mr. TAYLER. When did you go to Salt Lake?

Mr. BALDERSTON. I went to Salt Lake in the early part of 1891.

Mr. TAYLER. Were you in the newspaper business?

Mr. BALDERSTON. Yes; I was there the greater part of that year.

Mr. TAYLER. What newspaper were you connected with?

Mr. BALDERSTON. It was called the Salt Lake Times.

Mr. TAYLER. Is the Salt Lake Times still informing the public, or is it dead?

Mr. BALDERSTON. No; it is dead, like a good many others that have gone before it.

Mr. TAYLER. It lasted after you left, a while, did it?

Mr. BALDERSTON. Yes; it lasted for some time after I left. I did not entirely kill it.

Mr. TAYLER. What was the politics of the Salt Lake Times? I do not want you to go into detail, but I want to get the atmosphere of your life in the West. How did it stand as to the Mormons? Was it pro or anti Mormon?

Mr. BALDERSTON. The paper was—I don't know whether I would call it pro-Mormon. It took up what was known as the party division fight that year in Utah and was Republican in politics.

Mr. TAYLER. What view did it take as to the probable future course of the Mormons and the Mormon Church respecting the practice of polygamy?

Mr. BALDERSTON. It took the view that that question had been entirely settled by the manifesto of the previous year.

Mr. TAYLER. And what as to the continuance of those who had taken plural wives in the plural relation?

Mr. BALDERSTON. The understanding was that the practice of polygamy in every sense had ceased and was not to be resumed.

Mr. TAYLER. We sometimes have definitions of polygamy, and your answer may not be understood later on. When you say the practice of polygamy, you mean the living in polygamous relations?

Mr. BALDERSTON. That is what I mean, yes, sir.

Mr. TAYLER. There was at that time a division along party lines, was there, or a movement started toward a division?

Mr. BALDERSTON. The movement started that spring or early that year.

Mr. TAYLER. Prior to that time the division had been generally church and antichurch?

Mr. BALDERSTON. Church and antichurch.

Mr. TAYLER. Liberal party and People's Party?

Mr. BALDERSTON. Those were the divisions.

Mr. TAYLER. Or perhaps People's and Liberal. Is that right?

Mr. BALDERSTON. Well, the People's Party was constituted of Mormons and the Liberal party of non-Mormons.

Mr. TAYLER. So I understood. Then in consequence of this impression and conviction that arose out of the manifesto and the declarations of the prominent Mormons, it was thought the time had come when the people in Utah might organize along the ordinary political lines that interested the rest of the country?

Mr. BALDERSTON. That is the idea.

Mr. TAYLER. And thereupon—

Mr. WORTHINGTON. Let him state, Mr. Tayler, what happened there.

Mr. TAYLER. I do not know whether it is your memory or your pertinacity that is disturbing you. We went over this. We had this told to us very fully, and it is in the printed testimony here.

Mr. WORTHINGTON. There are a good many things in the printed testimony that we do not think are so.

Mr. TAYLER. I think we all agree upon these substantial points; but I was not going to lead him even then. And thereupon, then what occurred respecting this organization?

Mr. BALDERSTON. The party organization, you mean?

Mr. TAYLER. Exactly.

Mr. BALDERSTON. Well, the Democratic party was organized in

Utah and the Republican party was organized there. An effort was made to have both the old parties disband. The People's Party was disbanded.

Mr. TAYLER. That is the church party?

Mr. BALDERSTON. That is the church party. The Liberal party refused to disband until perhaps it was two years later. It held together some two years.

Mr. TAYLER. It did disband?

Mr. BALDERSTON. Finally it disbanded.

Mr. TAYLER. So that during the time you were in Salt Lake you were in the atmosphere of this discussion of questions relating to the Mormon Church and its people?

Mr. BALDERSTON. Yes; that was the one absorbing topic of that year.

Mr. TAYLER. Then you went to Idaho. Did you then become editor of the Boise Statesman?

Mr. BALDERSTON. Yes, sir.

Mr. TAYLER. Have you continued as editor ever since?

Mr. BALDERSTON. Practically ever since, with an intermission of only a few months.

The CHAIRMAN. What year was that?

Mr. BALDERSTON. In the late fall of 1891 I went to Boise.

Mr. TAYLER. At the time that you went to Boise was the Mormon question acute in Idaho? Or, tell us what was the situation as you discerned it as a newspaper man in the light of what you saw then and of your experience since as giving character to what did exist at that time.

Mr. BALDERSTON. In Idaho the entire Mormon people had been disfranchised by the legislation of the first session of the legislature, and very soon after I went there I discovered that the feeling prevailed among most people that in view of the manifesto it would be perhaps wise to restore the great mass of them who were nonpolygamous to the franchise. That feeling grew until in the late summer or fall of 1892 the Republican party in its platform adopted a resolution favoring such a course, and in the next legislature, the legislature of 1893, the Mormons were restored to the franchise; that is, the nonpolygamous Mormons. What we designate as a test oath that applied to all members of the church was removed at that session.

Mr. TAYLER. That still left the polygamous Mormons disfranchised?

Mr. BALDERSTON. They were still left disfranchised.

Mr. TAYLER. What became of that law?

Mr. BALDERSTON. Well, the polygamous Mormons are disfranchised by our constitution; but the legislation of 1893 left the statutory qualifications for suffrage corresponding exactly with those of the constitution; but in the session of 1895 the law was further amended—that is, the statute was amended—so as to eliminate all reference to polygamy and polygamists. In other words, an effort was made by legislative action to remove the constitutional inhibition, and in that condition the statute stands yet.

Mr. TAYLER. So that to-day you have a constitutional provision disfranchising polygamists?

Mr. BALDERSTON. Yes.

Mr. TAYLER. But you have no law on the statute books which disfranchises them?

Mr. BALDERSTON. No; we have no law.

Mr. TAYLER. On the contrary, a law which was in force to that effect has been repealed?

Mr. BALDERSTON. Has been repealed.

Mr. TAYLER. What further, Mr. Balderston, has occurred in your State respecting this anti-Mormon or antipolygamous legislation or constitutional provision?

Mr. BALDERSTON. In the session, I think, of 1897, a resolution was introduced in the legislature to submit the question of calling a constitutional convention. That resolution was offered by a Mormon member. I do not think he is an acting Mormon—a man known as a Mormon in that country. I do not know whether he is a member of the church or not. That resolution, however, was never pushed forward. It was dropped. The understanding at the time was that it was the desire of the Mormon people to have the constitution revised in respect to polygamy. I do not recall that any further step was taken in that direction until at the session two years ago. It was talked of sometimes, but no definite step was taken until two years ago this winter.

Mr. TAYLER. Tell us what occurred at that time.

Mr. BALDERSTON. Late in the session a resolution was introduced in the senate, providing for the submission to the vote of the people the question of calling a constitutional convention. It was hurried through the senate and sent into the house and hurried through there, providing for the submission of that question to the electors at the succeeding election. It aroused a great deal of interest among those of us who thought we understood what was beneath it, and subsequently, when the question was raised, it caused considerable agitation, and those who were interested in politics were considerably concerned to know what to do about this question. The disposition everywhere was to vote that down—that is, among the non-Mormon people—the belief prevailing that if we called a constitutional convention some means would be found of accomplishing this purpose of withdrawing this safeguard, as we term it, of our constitution. Finally, last summer, during the summer, the attorney-general of the State, who is a Mormon, rendered an opinion to the effect that that matter had not been properly submitted, and therefore it could not go on the ballot, and that disposed of the matter then.

Mr. TAYLER. During the session of the legislature at which this resolution providing for the calling of the constitutional convention was adopted did you see Apostle John Henry Smith?

Mr. BALDERSTON. Yes; I saw him in February, I think.

Mr. TAYLER. You had a talk with him?

Mr. BALDERSTON. I had a talk with him on this subject.

Mr. TAYLER. Tell us what that conversation was.

Mr. BALDERSTON. As nearly as I can recall the conversation, Apostle Smith took me aside in the hotel and asked me if I thought the time had come when an amendment to the constitution could be submitted eliminating what he termed those provisions which were objectionable to his people. We did not discuss the matter. I answered very promptly that the time had not come—that it would be very unwise to do anything of the kind, and he remarked then that all his friends there had told him the same thing.

Mr. TAYLER. How long was this before the resolution was actually introduced and passed?

Mr. BALDERSTON. That was about two weeks. The resolution passed the house on the 4th of March, and I think it was the 21st of February I had this conversation.

Mr. TAYLER. When did the resolution pass the senate?

Mr. BALDERSTON. The resolution passed the senate on the 2d of March.

Mr. TAYLER. Do you know when it was introduced?

Mr. BALDERSTON. No; I do not know when that was introduced in the senate.

Mr. TAYLER. Was there any newspaper comment on the resolution and its significance prior to its passage?

Mr. BALDERSTON. None whatever.

Mr. TAYLER. Was there any public discussion of it so far as you know before it passed?

Mr. BALDERSTON. None, excepting a speech made by a member just as it passed through the house. The floor leader there made some remarks on it as it was going through.

Mr. TAYLER. As it was going through?

Mr. BALDERSTON. As it was going through. In fact, his talk was about the first intimation most of us had that such a question was pending.

Mr. TAYLER. At any rate, it passed promptly.

Mr. BALDERSTON. It passed.

Mr. TAYLER. What then was the policy determined on by those who were opposed to it, and so far as you had anything to do with forming that policy or knowing what it was?

Mr. BALDERSTON. Some of us held a council over the matter. We found this matter to have gone through without our having had an opportunity to get at it or to say anything about it, and we determined then the wisest thing to do would be to keep it in the background for the time being, until the time for the election approached, until we would have time to see how people felt about it, and what steps could be taken to bring out an organized campaign against it. That work was being done when I think this investigation here precipitated the matter. There was no agitation at the time, and none for several months afterwards.

Mr. TAYLER. What was the opinion of this conference as to what would be the result if you organized to contest the adoption of this amendment or this resolution providing for the constitutional convention?

Mr. BALDERSTON. We were thoroughly satisfied we could defeat the resolution. Our opinion was that the folks who had brought the matter forward were rather depending on the people not getting at the right idea of it; that the resolution would be adopted without any agitation; and we determined it was better to hold our hand in reserve and let that impression prevail just as long as possible, so the organization might be on our side rather than on theirs when the contest of strength came.

Mr. TAYLER. Do you know whether there was any roll call in either house on this resolution?

Mr. BALDERSTON. I suppose there was, but I have no knowledge on that subject.

Mr. TAYLER. Did you have any conversation with the Mormon attorney-general respecting the reason why he decided that it was not legal to put this on the ticket—submit it to the people?

Mr. WORTHINGTON. Mr. Chairman, it seems to me if there is anything of that kind to be proven here it ought to be proved by the Mormon attorney-general aforesaid.

Mr. TAYLER. No; I am proceeding to get the conversation between this witness and the law officer of the State, who is a Mormon, as to his participation in this legislation.

Mr. WORTHINGTON. I object to proving his participation in it by his saying what his participation was.

Mr. TAYLER. He could not participate without saying something.

Mr. WORTHINGTON. You are not asking him what he said when he was participating, but, as I understand, what he told this witness long after the resolution had passed.

Mr. TAYLER. Oh, yes.

Mr. WORTHINGTON. It is a perfectly clear case of hearsay evidence, and would not even be offered in any court of justice in this country.

Mr. TAYLER. I have no doubt at all of the propriety of it in this kind of inquiry, where we are undertaking to get the state of the public mind and the action of those who represent the Mormon Church.

The CHAIRMAN. Witness, was any reason assigned by the attorney-general for not submitting it?

Mr. BALDERSTON. Yes; I think he filed a written opinion.

The CHAIRMAN. I say, was there a reason assigned?

Mr. BALDERSTON. Yes.

The CHAIRMAN. What was it? I think that is proper.

Senator DUBOIS. Was the attorney-general called upon by anyone to say whether the resolution had been properly passed?

Mr. BALDERSTON. Yes; he was called upon.

Senator DUBOIS. In a written communication?

Mr. BALDERSTON. In a written communication.

Senator DUBOIS. By whom?

Mr. BALDERSTON. The fact of the matter is that some people wanted to get rid of that resolution. They did not want to have that issue in the campaign, and thereupon the secretary of state, I think, was called upon, and it was suggested to him that he ask the attorney-general this question in writing, whether or not that resolution had been properly submitted.

Mr. WORTHINGTON. Did you have the interview with the secretary of state, or were you present?

Mr. BALDERSTON. No; I was not.

Mr. WORTHINGTON. Somebody told you about this?

Mr. BALDERSTON. This is what I learned.

Mr. WORTHINGTON. Is that allowed, Mr. Chairman?

The CHAIRMAN. Well, it is in. We can not help it now.

Mr. BALDERSTON. In response to that the attorney-general filed a written opinion with the secretary of state, which I have seen and about which I have talked to him.

Mr. TAYLER. What I am after is your conversation with the attorney general.

Mr. BALDERSTON. The attorney-general told me that he always knew that resolution had not been properly submitted; that he knew

it at the time it was passed. He said he had looked the matter up very thoroughly at the time it was introduced, and had found then it would be necessary, after the passage of the resolution, to pass a bill to put it into effect, and he had drawn a bill for that purpose; but it was so late when they got the resolution through that they did not have time to put the bill through, and therefore the bill itself was never introduced. That was his explanation to me.

Mr. TAYLER. Mr. Balderston, in your thirteen years as editor of the Boise Statesman—it is a Republican paper, I believe?

Mr. BALDERSTON. It is a Republican paper.

Mr. TAYLER. It is a leading paper of the State?

Mr. BALDERSTON. It is so designated by most people.

Mr. TAYLER. Have you had occasion to form an opinion as to the concern and interest which the body of the people of that State exhibited in these constitutional provisions respecting polygamy?

Mr. BALDERSTON. Yes.

Mr. TAYLER. And whether it was much or little?

Mr. BALDERSTON. There was very great concern among the people on that subject.

Mr. TAYLER. Have you any other observations to make about that?

Mr. BALDERSTON. Our people in Idaho felt that in those provisions of the constitution they had a safeguard against certain practices of Mormonism, which might be revived. They were willing to believe the Mormons had abandoned them, but these provisions of the constitution, they felt, were a safeguard for them, so that in case it should prove that the Mormons were not sincere in the professions made in the manifesto and in other documents, the non-Mormon people who had no patience with these practices, would have the power in their hands to protect themselves in the State against these practices. They always regarded those particular provisions of the constitution as the safeguard of the State in that respect.

Mr. TAYLER. Mr. Balderston, it is stated, and we may assume that it is the fact for the time being, that plural marriages have never occurred to any great extent, at least in Idaho; but what is the consensus of opinion, and your information, concerning this subject in which you are interested, as to whether polygamous living has increased in Idaho in the last ten or twelve years?

Mr. BALDERSTON. It seems to have increased, but I have no very definite information on the subject.

Mr. TAYLER. As a prominent Republican and editor of this paper, what interference and interest have you observed exhibited by the Mormon officials in Utah and in Idaho politics, and what interest have the Idaho politicians of both parties exhibited in the attitude of the Mormon officials of Utah?

Mr. BALDERSTON. Well, our politicians of both parties have heretofore been anxious always to secure the support of the authorities in Salt Lake, or, as they are generally designated, the church in Salt Lake, believing apparently that the authorities in Salt Lake would in some manner influence the voters in Idaho belonging to that church. In every campaign up to the last one I think the leaders and managers of both parties have endeavored in every way they could to secure that influence on their side.

Mr. TAYLER. Until the last campaign?

Mr. BALDERSTON. Until the last campaign.

Mr. TAYLER. I gather that in the last campaign the gage of battle was thrown down by the Democratic party?

Mr. BALDERSTON. That is what I refer to—that the Democratic party entered upon what has been designated as an anti-Mormon campaign, and I do not assume that any of them afterwards undertook to secure the support of the Mormon leaders.

Mr. TAYLER. And naturally in the places where the Mormons were strong the Democratic candidate for governor would be weak.

Mr. BALDERSTON. Yes; that is the general rule.

Mr. TAYLER. Have you in your experience known of Republican or Democratic leaders going to Salt Lake for the purpose of getting the straight tip?

Mr. BALDERSTON. Yes, I have known of it very frequently.

Mr. TAYLER. When the tip was given, if it was known to be straight, was it supposed to be effective for the purpose designed?

Mr. BALDERSTON. I do not know whether anybody ever knew whether it was straight or not. They both claimed it, generally.

Mr. TAYLER. They both claimed it?

Mr. BALDERSTON. They both claimed it, as a rule.

Mr. TAYLER. Do you know whether there seemed to be any indisposition at Salt Lake to give the tip?

Mr. BALDERSTON. Not according to those who were negotiating for it.

Mr. TAYLER. Who, in the actual experience of politics in Idaho, was the representative of the apostles on the Republican side? I mean what apostle. Was it John Henry Smith or somebody else?

Mr. BALDERSTON. We always considered that Bishop Budge was the church representative in Idaho, although others sometimes came up there; but the bishop seemed to be in charge of the church's interest politically.

Mr. TAYLER. Then after listening to Bishop Budge's statement of his indifference to politics, you would assume he has been practically slandered all over Idaho, was he not?

Mr. BALDERSTON. Yes; we must have been all misinformed.

Mr. TAYLER. Do you know whether President Budge had any interest in the appointment of his son-in-law as assayer?

Mr. BALDERSTON. I understand that he had.

Mr. TAYLER. You have no personal knowledge of it?

Mr. BALDERSTON. I have no personal knowledge.

Senator DUBOIS. Did any representative of the Republican party write to Attorney-General Bagley asking his opinion in regard to the submission of the resolution for a constitutional convention?

Mr. BALDERSTON. My understanding is the secretary of state, who is a Republican, did that?

Senator DUBOIS. Did not Mr. Borah write him, and was not the letter published?

Mr. BALDERSTON. That is possible, but I do not recollect it. There was a correspondence, but my recollection is it was between Gibson and Bagley, although I may be mistaken. My recollection is not very clear on the subject.

Senator DUBOIS. I thought his answer was directed to Mr. Borah.

Mr. BALDERSTON. You may be right, but I think it was the other way.

The CHAIRMAN. Who introduced this resolution in the senate?

Mr. BALDERSTON. A man named Clark.

The CHAIRMAN. A gentile or a Mormon?

Mr. BALDERSTON. A Mormon. They call him Bishop Clark. I suppose he is occupying the position of bishop in Bear Lake County.

The CHAIRMAN. You say it was hurried through. What do you mean by that?

Mr. BALDERSTON. Well, it was introduced very late. The matter was not discussed in the senate, so far as I could ever learn.

The CHAIRMAN. How do you mean? Was it late in the day or late in the session?

Mr. BALDERSTON. Late in the session.

The CHAIRMAN. And was never discussed, so far as you know?

Mr. BALDERSTON. So far as I know it was never discussed at all. In fact, it passed the senate without any of us getting any knowledge of it.

The CHAIRMAN. And do you know to what committee it was referred in the house?

Mr. BALDERSTON. No, I do not. It passed the senate—I have not been able to get that record here in Washington. I thought I could; but in the statutes I find that it passed the senate on the 2d, and passed the house on the 4th.

The CHAIRMAN. Two days after?

Mr. BALDERSTON. Yes.

The CHAIRMAN. You speak of one conversation with Apostle Smith.

Mr. BALDERSTON. Yes.

The CHAIRMAN. And but one? Is that the only conversation you had with him?

Mr. BALDERSTON. As far as I recollect, that is the only conversation on the occasion of that visit.

The CHAIRMAN. Do you know of his visiting the legislature after that at all, or having anything to do with it, either from observation or from what you heard?

Mr. BALDERSTON. So far as I know, that was his only visit in Boise during that session.

The CHAIRMAN. While he was there, did he visit the members of the legislature? That is, do you know anything about it?

Mr. BALDERSTON. He was about with them in the evening, and talking with members of the legislature in the hotel lobbies. I don't know whether he went up to the legislature or not.

The CHAIRMAN. But the subject of the conversation you know nothing about.

Mr. BALDERSTON. No; I have no knowledge what he may have said to others at all.

The CHAIRMAN. How long did he remain there?

Mr. BALDERSTON. It seems to me he was there two or three days, but I have no distinct recollection on that point.

The CHAIRMAN. Before or after the passage of this resolution?

Mr. BALDERSTON. It was before the passage.

The CHAIRMAN. Did he remain until it passed?

Mr. BALDERSTON. No; I think not.

Mr. WORTHINGTON. Mr. Balderston, do I understand you correctly, that you assisted in or agreed with the repeal of the test oath attempted in Idaho?

Mr. BALDERSTON. I did not quite catch your question.

Mr. WORTHINGTON. I understand you to say that you were one of those who agreed that the test oath in Idaho should be repealed.

Mr. BALDERSTON. Yes; I was one of them. I contributed toward it.

Mr. WORTHINGTON. Do I correctly understand you, that your idea was that those Mormons who were not living in polygamy should be restored to the franchise?

Mr. BALDERSTON. Yes.

Mr. WORTHINGTON. And that those who were living in polygamy should remain disfranchised by the constitutional provision and the statutes enacted in pursuance of it?

Mr. BALDERSTON. Yes.

Mr. WORTHINGTON. When was this that the test-oath law was repealed in Idaho?

Mr. BALDERSTON. As to nonpolygamists?

Mr. WORTHINGTON. Yes.

Mr. BALDERSTON. That was in the session of 1893.

Mr. WORTHINGTON. That was nearly three years, then, after the manifesto.

Mr. BALDERSTON. Nearly three years after the manifesto.

Mr. WORTHINGTON. You did, then, know that some Mormons were continuing to live with plural wives that they already had, notwithstanding the manifesto?

Mr. BALDERSTON. That was suspected, I might say. We did not know much about it.

Mr. WORTHINGTON. Was it not, then, the general reputation that some of them were continuing to live with their plural wives?

Mr. BALDERSTON. I can not say that it was, so far as I can recall.

Mr. WORTHINGTON. If you did not know that any of them were continuing to live in polygamous relations, then why was it you wanted the legislation fashioned so that those who were living in polygamy would still be disfranchised and those who were not should be allowed to vote?

Mr. BALDERSTON. The question as to whether or not all of them were going to obey the manifesto was still unsettled. We did not know. It was simply a matter of precaution.

Mr. WORTHINGTON. Then the test-oath statute was not repealed because everybody understood that all the Mormons had given up both plural marriage and polygamous cohabitation?

Mr. BALDERSTON. I do not quite catch that.

Mr. WORTHINGTON. The stenographer will read it.

The stenographer read as follows:

“Mr. WORTHINGTON. Then the test-oath statute was not repealed because everybody understood that all the Mormons had given up both plural marriage and polygamous cohabitation?”

Mr. BALDERSTON. No; that was not the primary reason.

Mr. WORTHINGTON. Where does the legislature of Idaho meet?

Mr. BALDERSTON. In Boise.

Mr. WORTHINGTON. That is where you publish your paper?

Mr. BALDERSTON. Yes.

Mr. WORTHINGTON. I wish you would give me the date when that resolution for a constitutional convention passed the senate.

Mr. BALDERSTON. The 2d of March, 1893, is the date published in the session laws.

Mr. WORTHINGTON. 1903, you mean?

Mr. BALDERSTON. 1903.

Mr. WORTHINGTON. And when did it pass the house?

Mr. BALDERSTON. On the 4th of March.

Mr. WORTHINGTON. There were two days intervening?

Mr. BALDERSTON. There were two days intervening, according to that record.

Mr. WORTHINGTON. Did you, or your newspaper, or any of your reporters or agents there know that it passed the senate on the day it passed, or were you asleep?

Mr. BALDERSTON. I guess we were all asleep. We did not know it until it passed the house.

Mr. WORTHINGTON. You did not know anything about it, although it was right there in the open session?

Mr. BALDERSTON. Notwithstanding we were on the watch for it, and had been for six or seven years. It was very pointed to me, the fact that we missed it.

Mr. WORTHINGTON. I understand you to say, however, that when you did wake up you held some counsel with some other gentlemen who thought as you did about it, and you agreed you would keep quiet about it until the time approached for the election.

Mr. BALDERSTON. Yes; until the time approached. In other words, we would not begin an agitation right away. We saw we had a fight coming.

Mr. WORTHINGTON. You also said you felt certain you could beat it.

Mr. BALDERSTON. We felt certain we could beat it.

Mr. WORTHINGTON. Do you agree with what Mr. Jackson said here—that in Idaho everything is done that the Mormons want done?

Mr. BALDERSTON. What was Mr. Jackson's statement?

Mr. WORTHINGTON. Mr. Jackson said that in Idaho everything the Mormons want to have done is done, whether by the Democrats or the Republicans.

Mr. BALDERSTON. They certainly did not get this constitutional convention.

Mr. WORTHINGTON. You say you were satisfied you could beat the constitutional convention?

Mr. BALDERSTON. We were satisfied we could beat it, but we realized we had to fight.

Mr. WORTHINGTON. You believed the Mormons wanted it?

Mr. BALDERSTON. We were satisfied about it.

Mr. WORTHINGTON. And you believed that John Henry Smith had come down there and had tried to obtain it?

Mr. BALDERSTON. I believed he was using his influence.

Mr. WORTHINGTON. You felt satisfied you could beat the church?

Mr. BALDERSTON. We could beat the church, I thought; yes.

Mr. WORTHINGTON. What is the name of the attorney-general of the State who gave that opinion?

Mr. BALDERSTON. John A. Bagley.

Mr. WORTHINGTON. Do you know what his position in the church is?

Mr. BALDERSTON. No; I do not.

Mr. WORTHINGTON. Or whether he has any except that of a layman?

Mr. BALDERSTON. I don't know.

Mr. WORTHINGTON. Is he still living in Boise?

Mr. BALDERSTON. Yes, sir.

Mr. WORTHINGTON. He is still a member of the church, as far as you know?

Mr. BALDERSTON. As far as I know he is still a member of the church.

Mr. WORTHINGTON. In good standing?

Mr. BALDERSTON. In good standing, as far as I know.

Mr. WORTHINGTON. The fact that he rendered an opinion which defeated what the church wanted has not harmed him as far as you know?

Mr. BALDERSTON. The point is that the Mormon Church wanted the opinion.

Mr. WORTHINGTON. You say the Mormon Church, after getting the constitutional convention, wanted it beaten?

Mr. BALDERSTON. They did not welcome the fight.

Mr. WORTHINGTON. Where do you get your information on that subject?

Mr. BALDERSTON. That is merely a matter of inference from the general situation out there.

Mr. WORTHINGTON. I see; more atmosphere.

Mr. BALDERSTON. Yes; more atmosphere.

Mr. WORTHINGTON. You say your newspaper is the leading newspaper of the State. I do not question that at all, Mr. Balderston.

Mr. BALDERSTON. I do not think I said that. I said some others designate it as such.

Mr. WORTHINGTON. I think Mr. Jackson designated it as the organ of the Republican party of that State. Have you at any time been the constituted organ of the Republican party in that State?

Mr. BALDERSTON. We deny that allegation.

Mr. WORTHINGTON. The atmosphere on that subject that he was immersed in was not reliable then?

Mr. BALDERSTON. That Mr. Jackson was immersed in?

Mr. WORTHINGTON. Yes.

Mr. BALDERSTON. Well, I don't immerse in the same atmosphere with him.

Mr. WORTHINGTON. Now, you say that you have no definite information on the subject of living in polygamy in Idaho, but it seems to have increased. Tell us what information you have on the subject.

Mr. BALDERSTON. My information is hearsay information, coming from people living about through the Mormon counties, men who have the reputation of being honorable, honest men, who come to me and tell me that they find families about through their counties, that there are no names for them, and such things as that.

Mr. WORTHINGTON. Did you hear President Budge's testimony here as to the number of men who were living in polygamy in his county of Bear Lake?

Mr. BALDERSTON. No; I did not hear it.

Mr. WORTHINGTON. Twenty in his county, for instance. Has anybody informed you whether it is more or less than that—anybody who presumes to know about it?

Mr. BALDERSTON. People who presume to know claim there are a great many more than that. I don't know anything about it. These things are affirmed and denied.

Mr. WORTHINGTON. They are both affirmed and denied and you do not know which is correct?

Mr. BALDERSTON. I can't pass judgment on it; no.

Mr. WORTHINGTON. Do you know whether or not the Mormon population—the total number of the Mormons—has increased in Idaho?

Mr. BALDERSTON. Yes; the total number of Mormons has increased very considerably.

Mr. WORTHINGTON. Have you any acquaintance yourself, any personal knowledge, of any polygamous household in Idaho in which the plurality of wives was not created before the manifesto?

Mr. BALDERSTON. I have no personal knowledge on that subject; no.

Mr. WORTHINGTON. About this straight tip business, Mr. Balderston. I gathered from what you have said that you never went with any of these parties of politicians who went down to Salt Lake to get what my friend has designated a straight tip.

Mr. BALDERSTON. No; I never went with them.

Mr. WORTHINGTON. But you say that in the elections generally the representatives of each party go there, and each returns with the information that the Mormon Church is on his side.

Mr. BALDERSTON. That is the broad rule. They come back encouraging their friends—that it is all right—that everything is all right. That is the manner in which they talk, as a rule.

Mr. WORTHINGTON. Mr. Jackson was the leader of the Democratic party for some years, was he not?

Mr. BALDERSTON. Mr. Jackson has been prominent in the Democratic party for some years.

Mr. WORTHINGTON. He has been the chairman of your State Democratic committee, has he not?

Mr. BALDERSTON. During this last campaign only.

Mr. WORTHINGTON. Do you know whether Mr. Jackson ever came back and reported, "It is all right; the Mormons are with us?"

Mr. BALDERSTON. I never heard Mr. Jackson say that.

Mr. WORTHINGTON. Was the atmosphere of the State to that effect?

Mr. BALDERSTON. That Mr. Jackson felt that way?

Mr. WORTHINGTON. Yes; that Mr. Jackson had been to Salt Lake City and said, "We are all right; the Mormons are with us," or anything to that effect.

Mr. BALDERSTON. I don't think Mr. Jackson managed any other campaign than this one this year.

Mr. WORTHINGTON. That is not what I asked. I asked you whether he went down—

Mr. BALDERSTON. I have no knowledge of his going at all.

Mr. WORTHINGTON. Who were these gentlemen who went down, say, on the Democratic side, and came back and said the Mormon Church was with them?

Mr. BALDERSTON. On the Democratic side?

Mr. WORTHINGTON. Yes; take them first.

Mr. BALDERSTON. I would have to go back and get the list of the Democratic chairmen. I say as a rule.

Mr. WORTHINGTON. Every one of them?

Mr. BALDERSTON. I will not say every one of them went; but I say that has been the general rule.

Mr. WORTHINGTON. On both sides?

Mr. BALDERSTON. I remember in the campaign four years ago there was a great deal of talk about some Democratic leaders visiting Salt Lake. There was a good deal of recrimination about it. They were

men who were not chairmen, either. They were simply prominent Democrats, supposed to have been sent down by the chairman.

Mr. WORTHINGTON. Was it the general reputation in the State that in these campaigns the Mormon Church was aiding the Democratic party to beat the Republicans, and at the same time aiding the Republicans to beat the Democrats?

Mr. BALDERSTON. Well, the people who seemed to get the smaller proportion of the Mormon vote generally claimed that the Mormon Church had helped the other side.

Mr. WORTHINGTON. I see. After the election, and after finding out their attitude, then they say the Mormons must have been on the other side.

Mr. BALDERSTON. I say that is the practice of people there very largely. They found out on which side they were.

Mr. WORTHINGTON. Do you know Mr. B. H. Roberts, a gentleman of the Mormon faith?

Mr. BALDERSTON. I have met Mr. Roberts, but very casually. I can't say I know him.

Mr. WORTHINGTON. Do you not know that he was in your State during this last election, 1904, making political speeches?

Mr. BALDERSTON. It has passed out of my mind if I ever knew it.

Senator DUBOIS. Do you not think it would be rather an absurd proposition for Mr. B. H. Roberts, during the last campaign, to have aided the Democratic ticket in Idaho? Do you not think it would be absurd on its face?

Mr. BALDERSTON. It would be entirely absurd.

Mr. WORTHINGTON. Do you remember Mr. Roberts being there in 1902 making speeches?

Mr. BALDERSTON. I can not tell. I think he has been in the State at some time, but I would not undertake to say what year.

Mr. WORTHINGTON. Were you in the constitutional convention of Idaho which framed the State constitution?

Mr. BALDERSTON. No.

Mr. TAYLER. Mr. Balderston, is not the present attorney-general of Idaho reputed to be a polygamist?

Mr. BALDERSTON. It is so charged.

Mr. TAYLER. Is he not reputed to have taken a plural wife in the last two or three years?

Mr. BALDERSTON. It is so charged.

Senator DUBOIS. Mr. Balderston, why did you favor repealing the Idaho statutes, which disfranchised the Mormons?

Mr. BALDERSTON. That is, the nonpolygamous Mormons?

Senator DUBOIS. Yes; why did you favor it?

Mr. BALDERSTON. I favored it because I believed the Mormon Church was absolutely sincere in its manifesto, and that under those circumstances it was wise and right for the people of Idaho to be generous toward the members of the Mormon Church.

Senator DUBOIS. Did you understand by their manifesto and the plea for amnesty, that they had pledged themselves to cease polygamous living and dictation in politics?

Mr. BALDERSTON. Both.

Senator DUBOIS. In which proposition were the people of Idaho the most interested, and which did they object to the most—the polygamous living or the church dictation in politics—regardless of party?

Mr. BALDERSTON. I could not tell. Some people were most interested in the dictation in politics. They were also very much interested in the question of polygamy.

Senator DUBOIS. But, generally speaking, the non-Mormons were bitterly opposed to both, were they not?

Mr. BALDERSTON. They were bitterly opposed to both.

Senator DUBOIS. Did the non-Mormons of Idaho generally share your opinion that the Mormons were sincere and would cease polygamous living and church dictation in politics?

Mr. BALDERSTON. Yes; I think that conviction became almost universal among non-Mormons. I know very few who held out against that idea.

Senator DUBOIS. Was that conviction so strong that both parties asked for the repeal of the statute which disfranchised them?

Mr. BALDERSTON. That conviction was shared by both parties. I don't know whether both parties took official party action on it or not.

Senator DUBOIS. Was there any opposition in the legislature which repealed these statutes—to its repeal? Was any opposition manifested, by speakers in the legislature, or by votes in the legislature, against the repeal of this statute?

Mr. BALDERSTON. To the best of my recollection there was none at all.

Senator DUBOIS. So that the Gentiles of Idaho were practically all of the opinion that the Mormon leaders were sincere; that they would live up to their promises to the Government?

Mr. BALDERSTON. That is the case.

Senator DUBOIS. And that accounts for the unanimity with which they repealed the statutes?

Mr. BALDERSTON. Yes.

Mr. WORTHINGTON. You say it is reputed that Bagley has recently taken a plural wife since the manifesto. From whom does that repute come to you?

Mr. BALDERSTON. I don't know that I could give any particular source. It was whispered about during the last Republican convention.

Mr. WORTHINGTON. Does he live in Boise?

Mr. BALDERSTON. Yes; he has made his home in Boise.

Mr. WORTHINGTON. And you live there?

Mr. BALDERSTON. Yes; I live there.

Mr. WORTHINGTON. You have no repute even as to who the alleged plural wife is?

Mr. BALDERSTON. No.

Mr. WORTHINGTON. Nor where she lives?

Mr. BALDERSTON. I have heard it is in Portland and I have heard it is in Spokane; but I don't know anything about it.

Mr. WORTHINGTON. Spokane in Washington State, you mean?

Mr. BALDERSTON. Spokane in Washington.

Mr. WORTHINGTON. Do you understand that the manifesto, about which we have heard here so often, has anything to say about the dictation of the church in politics or anything else?

Mr. BALDERSTON. I am not clear on that subject; but the question of dictation came up in connection with the division on party lines, so that the two questions have always gone along together. I have not read that manifesto in a long time, and I don't know whether it is in there or not.

Mr. WORTHINGTON. You can not say whether the manifesto refers to dictation in politics or not?

Mr. BALDERSTON. No. I would have to go back and read it. The questions have been so linked together in thirteen years that I don't know whether it refers to it or not.

Mr. WORTHINGTON. The atmosphere has put it there, I suppose?

Mr. BALDERSTON. Yes. That question of dictation became the paramount question when I was at Salt Lake.

Mr. WORTHINGTON. You say the non-Mormons of both parties are bitterly opposed to church dictation. Have the representatives of the different political parties who have gone down to Salt Lake City to get the church to give them a straight tip been Mormons or non-Mormons generally?

Mr. BALDERSTON. They have been both.

Mr. WORTHINGTON. Which has been the majority?

Mr. BALDERSTON. I think the managers have generally been non-Mormons.

Mr. WORTHINGTON. And of both parties?

Mr. BALDERSTON. Yes; of both parties.

Mr. WORTHINGTON. They have gone down to Salt Lake City to get the help of the church?

Mr. BALDERSTON. Yes.

Mr. WORTHINGTON. And they are all opposed to the church interfering?

Mr. BALDERSTON. Not those particular men.

Mr. WORTHINGTON. Oh! The representatives of the parties are in favor of church interference and the parties they represent are opposed to it. Is that it?

Mr. BALDERSTON. That is just about the size of it.

Mr. WORTHINGTON. Then they do not represent. Do you know of any case in which a chairman of a party in Idaho, Democratic or Republican, has been called to account by those whom he represented because he went down to get the church to interfere in their behalf?

Mr. BALDERSTON. No; not that he has been called to account in any official way.

Mr. WORTHINGTON. Has he been deprived of his function as a representative of the party?

Mr. BALDERSTON. No.

Mr. WORTHINGTON. Nobody makes a row out there until they find out that the Mormons have voted the other way. Is that it?

Mr. BALDERSTON. No; I would not put it just that way.

Mr. WORTHINGTON. It comes pretty near that, does it not?

Mr. BALDERSTON. The people don't like it. They would rather that their managers would keep away from Salt Lake.

Mr. WORTHINGTON. Do you know whether they have interfered with their managers?

Mr. BALDERSTON. No; they have not, so far as I know.

Mr. WORTHINGTON. Have you understood that of late the Mormon Church has been aiding the Republican party in Idaho?

Mr. BALDERSTON. How is that?

Mr. WORTHINGTON. Have you understood that of late the Mormon Church has been aiding the Republican party in Idaho?

Mr. BALDERSTON. It has been charged that it has.

Mr. WORTHINGTON. Did you believe it?

Mr. BALDERSTON. I know that the majority of the Mormon people in Idaho have supported the Republican party.

Mr. WORTHINGTON. Everybody knows that. The question about which this committee seems to be concerned is whether or not they have been doing that at the dictation of the church?

Mr. BALDERSTON. I think they have been doing it with the influence of prominent members of the church. Whether it is the dictation of the church or not I am not going to say.

Mr. WORTHINGTON. How long have they been doing that?

Mr. BALDERSTON. For two or three years.

Mr. WORTHINGTON. In the last campaign which party did your paper support?

Mr. BALDERSTON. The Republican party.

Mr. WORTHINGTON. And you did it believing that the leading members of the church would support it?

Mr. BALDERSTON. Yes.

Mr. WORTHINGTON. Did you, in your paper, come out in opposition to the church helping your party?

Mr. BALDERSTON. Very powerfully, to the best of our ability.

Mr. WORTHINGTON. When did you do that?

Mr. BALDERSTON. About eighteen months ago.

Mr. WORTHINGTON. I am speaking of this year.

Mr. BALDERSTON. No; not in the campaign of this year.

Mr. WORTHINGTON. Not in the campaign of this year?

Mr. BALDERSTON. No.

Mr. TAYLER. Then I understand you, Mr. Balderston, to say that the people of the State of Utah and the representative people of the State of Idaho, outside of the Mormons, with practical unanimity resent what they say is interference by the Mormon Church in the politics of the State. Is that what I understand?

Mr. BALDERSTON. They resent it if they have reason to believe it occurs. It is something they are on guard against. There is a great deal of dispute as to whether the church is interfering or not at any particular time.

Mr. TAYLER. Is it the general opinion, as you gather it, of the non-Mormons of the State of Idaho that the church is or has been interfering in the politics of the State?

Mr. BALDERSTON. I think a majority opinion is that way; but that is merely an opinion of my own. Some people think the church has not dictated. A great many think it has.

Mr. TAYLER. It is your opinion only that I asked for.

Mr. BALDERSTON. Yes, my opinion is that way.

Mr. WORTHINGTON. Just one thing more, Mr. Balderston. The majority of the people in Idaho are non-Mormon?

Mr. BALDERSTON. They are non-Mormon.

Mr. WORTHINGTON. And you say the great body of the non-Mormons are opposed to the interference of the church in the State?

Mr. BALDERSTON. Yes; that is my opinion of it.

Mr. WORTHINGTON. Then it can not be that what Mr. Jackson said here is true, that the Mormons get everything they want in the State?

Mr. BALDERSTON. The Mormons heretofore have come pretty near getting everything they want.

Mr. WORTHINGTON. How do you make that stand with what you said just now, that the people are opposed to the Mormons dictating in the matter and then doing what the Mormons dictate?

Mr. BALDERSTON. I say they are opposed to it when they believe the Mormons are dictating. There is a dispute as to whether they are dictating, and then the people are divided.

Mr. WORTHINGTON. When there is a dispute as to whether the Mormons are dictating, do they go and do what the Mormons dictate?

Mr. BALDERSTON. Sometimes they do, when they think they are going to get some political advantage out of it.

The CHAIRMAN. Who is your next witness, Mr. Tayler?

Mr. TAYLER. Mr. Nelson.

TESTIMONY OF A. C. NELSON.

A. C. NELSON, being duly sworn, was examined and testified as follows:

Mr. TAYLER. What are your initials, Mr. Nelson?

Mr. NELSON. A. C. Nelson is my name.

Mr. TAYLER. Where do you live?

Mr. NELSON. In Salt Lake City.

Mr. TAYLER. How long have you lived there?

Mr. NELSON. About four years.

Mr. TAYLER. How long have you lived in Utah?

Mr. NELSON. Forty years.

Mr. TAYLER. Are you a Mormon?

Mr. NELSON. Yes, sir.

Mr. TAYLER. Were you born in the faith? I mean were your parents both Mormons?

Mr. NELSON. My parents were Mormons; yes, sir.

Mr. TAYLER. What official position do you hold?

Mr. NELSON. I am State superintendent of public instruction.

Mr. TAYLER. That is a political position?

Mr. NELSON. Yes, sir.

Mr. TAYLER. I mean were you elected?

Mr. NELSON. Yes, sir.

Mr. TAYLER. At the polls?

Mr. NELSON. Yes, sir.

Mr. TAYLER. When were you elected?

Mr. NELSON. In 1900.

Mr. TAYLER. For what period?

Mr. NELSON. For four years.

Mr. TAYLER. Were you reelected this last fall?

Mr. NELSON. Yes, sir.

Mr. TAYLER. What position, if any, do you hold in the church?

Mr. NELSON. I am a member of the church.

Mr. TAYLER. Merely a member?

Mr. NELSON. Yes, sir.

Mr. TAYLER. Were you ever anything but a mere member?

Mr. NELSON. Years ago I held a position as teacher in the Sunday school.

Mr. TAYLER. You were never a bishop?

Mr. NELSON. No, sir.

Mr. TAYLER. You have held no other position than elder and teacher?

Mr. NELSON. Not ecclesiastical positions. I had charge of the Latter-Day Saints' Seminary, or school, but I have held no church position.

Mr. TAYLER. In 1900 you were appointed superintendent of public instruction, did you say?

Mr. NELSON. I was elected.

Senator DUBOIS. At the general election?

Mr. NELSON. At the general election. I was not appointed.

Mr. TAYLER. What is the title? That is what I am seeking.

Mr. NELSON. State superintendent of public instruction.

Mr. TAYLER. That is to say, the public schools in the State are under your direction?

Mr. NELSON. The public schools of the State of Utah are under the general direction of the State board of education. The State superintendent has general supervision of the schools.

Mr. TAYLER. Have you made any investigation—

The CHAIRMAN. Let me ask you right there, Mr. Nelson, in order to have it clear, What are your duties as superintendent?

Mr. NELSON. My duties as superintendent are to inspect the schools of the State once each year—that is, to visit each county and the most prominent schools in the county—to report biennially to the legislature the results of my experiences, the condition of the schools, and to make such general recommendations for their improvement as my judgment, through the observations made, would direct.

The CHAIRMAN. And how many of those schools are there in the State?

Mr. NELSON. Public schools?

The CHAIRMAN. Yes; that you visited?

Mr. NELSON. I have visited all of the counties according to the requirements of the law.

The CHAIRMAN. Proceed, Mr. Tayler.

Mr. TAYLER. How many schools are there?

Mr. NELSON. There are 280 school districts in our State. There are 606 school buildings, and of course it would be quite impossible for me to visit all those buildings; but, as I said, I have visited each county, and usually visit from three to four schools in each county.

Mr. TAYLER. How many school districts?

Mr. NELSON. Two hundred and eighty school districts.

Mr. TAYLER. In the city districts and larger communities there will be several buildings in a school district, I suppose, which is the occasion for the larger number of buildings?

Mr. NELSON. Yes; Salt Lake City, for instance, consists of one district only, and there may be 30 to 35 or 40 buildings.

Mr. TAYLER. Have you made any investigation recently as to the extent to which religion classes are conducted in the several schools over which you have supervision?

Mr. NELSON. Schoolhouses?

Mr. TAYLER. Yes; schoolhouses.

Mr. NELSON. Yes, sir.

Mr. TAYLER. Have you completed your investigation?

Mr. NELSON. No, sir.

Mr. TAYLER. What proportion of the schools have you investigated?

Mr. NELSON. Early in October of this year I sent out letters, requesting information on the holding of religion classes in schoolhouses, to

all of the city and county superintendents throughout the State, 30 in number. All have replied but three. I have written those three several times, but I have failed to secure a response.

Mr. TAYLER. What three are those?

Mr. NELSON. Three who have not responded are the county superintendents of Iron County, Weber County, and Tooele County.

Mr. TAYLER. Have you complete reports from those who have reported; that is, do they purport to be complete?

Mr. NELSON. Yes, sir; quite complete.

Mr. TAYLER. That is, I mean to say, if a county superintendent has reported to you in answer to your inquiry, has he undertaken, according to his statement, to give you a full report as to the schools in his county or under his supervision?

Mr. NELSON. I think in three cases the superintendents informed me that they could not give complete returns at that date. I had written, perhaps, the third communication, and in response they desired to make some sort of reply.

Mr. TAYLER. In how many school buildings, Mr. Nelson, do you find religion classes carried on?

Mr. NELSON. Well, I have found some more than 300 of those classes being held in schools. The information discloses that classes are always held after the dismissal of school.

Mr. TAYLER. Do you learn that any of them are held as early as half past 2 in the afternoon?

Mr. NELSON. Yes, sir; from 2.30 until 4, the information is.

Mr. WORTHINGTON. Does that mean the class begins at those hours, or sits in those hours?

Mr. NELSON. The schools close from those hours—from 2.30 to 4—and the classes go into session immediately after adjournment.

Mr. TAYLER. If the school adjourns at 2.30, then the religion class would commence immediately after?

Mr. NELSON. Would go into session; yes, sir; with perhaps an interval of five or ten minutes.

Mr. TAYLER. If they adjourn at 4, then would come the religion class?

Mr. NELSON. Yes.

Mr. TAYLER. Can you tell me in what counties these classes are held?

Mr. NELSON. With the exception of the three, Mr. Tayler.

Mr. TAYLER. I may ask you to give a list of those counties, if you will, without the trouble to do so now; but let me ask you this as typical: How many religion classes are there in Utah County?

Mr. NELSON. In Utah County there are 26 school districts, and 8 religion classes are being held in schoolhouses.

Mr. TAYLER. And in Cache County?

Mr. NELSON. In Cache County the superintendent reports 8 also out of 26 districts.

Mr. TAYLER. And what is the county in which Logan is situated?

Mr. NELSON. Cache. This does not include Logan city. Logan city is a district itself. It is a city of the second class.

Mr. TAYLER. How many districts are there outside of Logan?

Mr. NELSON. Twenty-six.

Mr. TAYLER. And in 8 of them there are religion classes?

Mr. NELSON. Yes; that would be in 8 school buildings, and in nearly

every building there are at least 2 classes, so that there would be at least 16 classes conducted in that county.

Mr. TAYLER. Mr. Nelson, did you have some discussion on this subject with the editor of the Deseret News?

Mr. NELSON. I think two or three days before the election of the school board, which occurred on December 8, I think, maybe the 7th, I am not sure——

The CHAIRMAN. What year, Mr. Nelson?

Mr. NELSON. The present year, this present month, one of the editors of the Deseret News, or one of the reporters, I don't know his name, called me by telephone and said he would like an interview.

The CHAIRMAN. I did not hear your answer, Mr. Nelson.

Mr. NELSON. One of the editors of the Deseret News called me some time during the early part of December, stating that he desired an interview, and when I came he discussed briefly with me the conditions as they obtained in the State in regard to the religion classes, and I told him then that I had been conducting this investigation for some time.

Mr. TAYLER. Is that all that occurred?

Mr. NELSON. I gave him considerable of the information.

Mr. TAYLER. You gave him this information?

Mr. NELSON. I gave him part of it. My returns were not as complete then as they are now.

Mr. TAYLER. Is it not a fact that you were informed at that time that an editorial was written or was about to be printed denying that religion classes were being conducted in the public school buildings?

Mr. NELSON. I think the gentleman had made some notes to that effect.

Mr. TAYLER. And of course you showed him——

Mr. NELSON. I told him the truth in regard to the matter. Evidently he had no information.

Mr. TAYLER. Have not some of the authorities criticised you for giving out this information of religion classes?

Mr. NELSON. No, sir.

Mr. TAYLER. Not one of them?

Mr. NELSON. No, sir.

Mr. TAYLER. Or Governor Wells?

Mr. NELSON. No, sir. That is, I did not take it in the nature of a criticism. Governor Wells met me one evening on the street, and he told me of an interview that he had had with a gentleman on the very subject of religion classes being conducted in the public schools. He informed me that he had told the gentleman that he was telling something that he did not know anything about, because those classes were not held. He came to me, and I said, "Governor, I must inform you that you are mistaken, that the gentleman evidently knew what he was speaking about." I did not take it that the governor had in any way censured me.

Mr. TAYLER. Have you there in tabulated form the statement of the number of districts and the number of classes, so that you could give them to us without much delay?

Mr. NELSON. Yes, sir; I think so. I would like to ask that the counties that conduct no religion classes may be made part of the list.

Mr. TAYLER. Surely.

Mr. NELSON. Beaver County, 9 districts, no religion classes.

Boxelder County, 30 districts, and 44 classes.

Mr. VAN COTT. Will you say "religion classes" when that is meant, so that there will be no doubt?

Mr. NELSON. Yes, sir.

Cache County, 26 districts, 16 religion classes.

Carbon County, 11 districts, 2 religion classes.

Davis County, 16 districts, 16 religion classes.

Emery County, 12 districts, 20 religion classes.

Garfield County, 10 districts; no religion classes are held.

Grand County, 2 districts, no religion classes.

Iron County, 7 districts, and no report.

Juab County, 13 districts, 16 religion classes.

Kane County, 6 districts, 8 religion classes.

Millard County, 17 districts, 22 religion classes.

Morgan County, 8 districts, 14 religion classes.

Piute County, 8 districts, no religion classes.

Rich County, 7 districts, 14 religion classes.

Salt Lake County, 36 districts, 12 religion classes.

San Juan County, 2 districts, 2 religion classes.

Sanpete County, 17 districts, 28 religion classes.

Sevier County, 17 districts, 28 religion classes.

Summit County, 17 districts, no religion classes.

Tooele County, 12 districts, no report.

Uinta County, 16 districts, 16 religion classes.

Utah County, 20 districts, 16 religion classes.

Wasatch County, 9 districts, 16 religion classes.

Washington County, 18 districts, 8 religion classes.

Wayne County, 12 districts, 24 religion classes.

Weber County, 13 districts, no report.

Salt Lake City, 1 district, no religion classes.

Logan, 1 district, 14 religion classes.

Provo, 1 district, no religion classes.

Mr. TAYLER. That is the answer to the question, is it?

Mr. NELSON. I think so; yes, sir. That includes every school district.

Mr. TAYLER. Mr. Nelson, what produced this investigation?

Mr. NELSON. I believe that I can answer that fully by being permitted to read my action on the whole question.

Mr. TAYLER. Very well; we would be very glad to have it, if it is not too long.

The CHAIRMAN. Is it very lengthy, Mr. Nelson?

Mr. NELSON. No; it is just a short document.

The CHAIRMAN. I do not know but it might go into the record without reading.

Mr. TAYLER. You might state the substance of it.

Mr. NELSON. I would like to make a statement in regard to this, so that the committee may understand the whole situation.

The CHAIRMAN. Go on, Mr. Nelson.

Mr. NELSON. Shortly after my election, in visiting the schools of Wasatch County, in company with Superintendent Aird, after school

I discovered that a religion class was being conducted in the public schoolhouse. I called the superintendent's attention to the fact, and he concurred with me most heartily in thinking that it was a violation of the spirit of the constitution of the State. On my arrival at Salt Lake City I interviewed the attorney-general in regard to the matter, and I found that according to the section of law, he entertained the idea that there was nothing in the use of the schoolhouse for that purpose that was contrary to the statutes of the State of Utah. He so informed me, by reading section 1822 of the revised statutes of Utah.

Mr. TAYLER. I have it here. If you have it there, read it.

Mr. NELSON. I have it here:

"It"—

The school board, I presume—

"may permit a schoolhouse, when not occupied for school purposes, to be used for any purpose which will not interfere with the seating or other furniture or other property, and shall make such charges for the use of the same as they may decide to be just; but for any such use or privilege the district shall not be at any expense for fuel or otherwise."

After I had ascertained the attorney-general's opinion in regard to the matter I received occasional communications from citizens throughout the State protesting against the use. I think in two cases I informed those gentlemen of the attorney-general's opinion. On December 20, 1902, the attorney-general gave a written opinion to Mr. R. W. Barnes, of Kaysville, Davis County, in which he stated that it was his opinion that the school boards had the legal right to permit the use of the schoolhouses for such purposes. I took issue with the attorney-general at the time that he led me to believe, or told me rather, that it was his opinion that those classes were conducted legally, but I said nothing in regard to the matter last year of any consequence. This year, however, a statement was made at one of the general conferences that attracted my attention. I was not at the conference to hear it. I don't know that I can repeat what it contained, but the newspapers immediately began to make comments upon the statement, and letters came to our office in rapid succession; and I sent out, as I stated, letters of inquiry to the school officers throughout the State.

Mr. TAYLER. We are left a little in the dark. What was the substance of the statement made at the general conference?

Mr. NELSON. The statement was this. President Anthon H. Lund, in speaking on religion classes, I think conveyed the idea that the Mormon people believed that they had the right, by law, to secure the use of the schoolhouses for religion-class purposes. That is not the language, but I think that is the thought.

Mr. TAYLER. We now understand it.

Mr. NELSON. That was the first thing I had heard in public in regard to the conducting of those classes—that is, in a public gathering of such importance and such magnitude. As soon as my returns, or the great majority of them, were in I sent out to the members of the school board this letter, which I would like to read.

Mr. TAYLER. We will be glad to have you read it.

Mr. NELSON. It is as follows:

State of Utah, Department of Public Instruction, Salt Lake City, Utah.
Official letter. A. C. Nelson, Superintendent.

SALT LAKE CITY, UTAH, December 5, 1904.

*To the school superintendents and the
school boards of the State of Utah.*

GENTLEMEN: For some time past this office has been almost constantly in receipt of letters from citizens in different parts of the State protesting against the use of public school buildings for religion-class purposes. In order to ascertain with certainty the prevalence of this use of the public school buildings, letters of inquiry were sent from this office to all of the county and city school superintendents. The replies received convey the information.

First. That the religion classes are conducted in a large number of public schoolhouses throughout the State.

Second. That these religion classes are held immediately after the close of the school; and from further information it is found that not infrequently the regularly employed teacher of the school is also the teacher of the religion classes.

Permit me to call your attention to section 1, article 10 of the constitution of the State of Utah. It reads as follows:

"The legislature shall provide for the establishment and maintenance of a uniform system of public schools, which shall be open to all children of the State, and be free from sectarian control."

Section 1848 of the Revised Statutes of Utah, 1898, is also pertinent to the question at hand. It says:

"No atheistic, infidel, sectarian, religious, or denominational doctrines shall be taught in any of the district schools of this State. Moral instruction tending to impress upon the minds of the pupils the importance of good manners, truthfulness, temperance, purity, patriotism, and industry shall be given in every district school, and all such schools shall be free from sectarian control."

It is evident that both the founders of the State constitution and the legislature which enacted the foregoing statute intended the public schools of Utah to be free from sectarian influences as well as from the influences of atheism and infidelity. They were in entire harmony, too, with the predominating American sentiment on this question. Even the propriety merely of reading the Bible in the public schools has been called into question, because readers can read and have read their peculiar religious views into scriptural quotations. The public school is designed as the common meeting ground of every child and youth of the land, regardless of race or station, creed or party. It must ever remain free from any influence or condition which would have a tendency to change its preeminent position among the great institutions of our country.

As school officers it is our duty to guard against any condition which might give an opportunity for sectarianism to enter into or influence our public school system. Wherever religion classes are held, before leaving the schoolhouse for the day the pupil receives religious as well as secular instruction, sometimes, too, from the same teacher. It is not to be expected that immature minds will discriminate clearly as to the respective functions of the school and the church in the

religion class work, but it is to be expected that a large percentage of the children will look upon all of their class exercises as the school work of the day. The religious teachings may be of the most wholesome and uplifting character, yet in a country like ours, where the right to worship according to the dictates of individual conscience has given rise to varied religious beliefs, and where the schools are supported by all taxpayers of the community, to hold children after the regular school hours of the day for the purpose of inculcating into their minds the doctrines of any religious creed must, of necessity, be more or less objectionable to the people of the community holding different religious views.

The constitution and laws of the State emphatically declare that the public schools shall be free from religious or sectarian control. Such being the case, and the conditions as herein set forth obtaining, I am of the opinion, and you are hereby so advised, that the religion class work, when conducted in public school buildings, is in violation of the spirit of the constitution and the statutes of the State of Utah.

Respectfully,

A. C. NELSON,

State Superintendent of Public Instruction.

Mr. TAYLER. Did you get any reports, Mr. Nelson, as to whether these religion classes were usually conducted by the regular teachers of the school, or have you any definite information on that subject?

Mr. NELSON. The original letter that I sent out contained that question; but I modified it, as I was in doubt whether or not that came within the province of my work. But these letters disclose the fact that in many cases the teachers are also the teachers of the religion class.

Mr. TAYLER. Do you mean by that that so far as you know in most cases the teacher is the teacher of the religion class?

Mr. NELSON. I think that to be safe I may say that in a great many cases.

Mr. TAYLER. Of course the expression "a great many" would be wholly inconclusive if we did not know what relation that had to the number that were not.

Mr. NELSON. As I remember the reports, the superintendents of Cache County and Boxelder County and Sevier County made the statement that the public school teachers take charge of the classes, in most instances. Some of the superintendents made no reference at all.

Mr. TAYLER. Then, so far as the information came to you, you heard more frequently that teachers conducted these schools than that outsiders or others conducted them?

Mr. NELSON. Yes, sir.

Mr. TAYLER. That is all.

Mr. VAN COTT. Mr. Nelson, did you receive any information as to how often in a week the religion classes were conducted in the school?

Mr. NELSON. Once a week.

Mr. VAN COTT. It was not, then, every school day?

Mr. NELSON. Oh, no; once a week.

Mr. VAN COTT. The school days in Utah are five days in the week?

Mr. NELSON. Yes, sir.

Mr. VAN COTT. From Monday to Friday, both inclusive?

Mr. NELSON. Yes, sir.

Mr. VAN COTT. Did you receive any information as to whether if two religion classes were conducted it would be of different grades?

Mr. NELSON. It would be two grades; yes, sir.

Mr. VAN COTT. When was this matter first called to your attention, as to any religion classes being held in the public school buildings?

Mr. NELSON. I think I made the statement——

Mr. VAN COTT. I just want to know the date.

Mr. NELSON. I have not the date.

Mr. VAN COTT. Well, about.

Mr. NELSON. It was in 1901. It was during the first year of my administration as superintendent.

Mr. VAN COTT. Was that when you consulted the attorney-general?

Mr. NELSON. I consulted the attorney-general immediately upon my return.

Mr. VAN COTT. At that time, I mean.

Mr. NELSON. Yes, sir.

Mr. VAN COTT. The attorney-general is an elective officer?

Mr. NELSON. Yes, sir.

Mr. VAN COTT. Is he a gentile?

Mr. NELSON. Yes, sir.

Mr. VAN COTT. And always has been?

Mr. NELSON. I think so; yes, sir.

Mr. VAN COTT. Later on it was again called to your attention?

Mr. NELSON. I think it has been called to my attention before this year, but I knew the attorney-general's attitude on the question.

Mr. VAN COTT. Did you go to the attorney-general the second time?

Mr. NELSON. Yes, sir; I have discussed the question with the attorney-general a great many times.

Mr. VAN COTT. Do you know whether the attorney-general has modified his views as to the legality of holding these religion classes in the public school buildings?

Mr. NELSON. The attorney-general called me just a few moments before I boarded the train for Washington, and I read this letter to him. I had called on him previously, but could not find him in. I read the letter over the telephone. He said: "That sounds very well, and it is written quite well; but," he said, "you may state to the Senate committee on investigation that I am still of the opinion, notwithstanding your document, that the school boards have a legal right to permit the use of the school buildings for religion class purposes when there is an interval between the adjournment of school and the taking up of the class."

Mr. VAN COTT. Is that the same attorney-general?

Mr. NELSON. It is, sir.

Mr. VAN COTT. Attorney-General Breeden?

Mr. NELSON. Yes, sir.

Mr. VAN COTT. By the way, has Mr. Smoot ever been present at any time when this matter has been up?

Mr. NELSON. Senator Smoot?

Mr. VAN COTT. Yes, sir.

Mr. NELSON. Senator Smoot, I remember, called at my office two or three times. I am not certain when it was, but it was a short time before he came to Washington, now, for Congress. I was then working on the reports of county superintendents, and I said this to him: "Senator, I am investigating the holding of religion classes in

public schools, and I believe it is contrary to law, and I am going to advise the trustees to that extent." As I remember it, he said: "Good; I am glad to hear it."

Mr. VAN COTT. That is all.

Mr. TAYLER. Is that intended to be Senator Smoot's entry on the witness stand?

Mr. VAN COTT. Preliminarily.

Mr. WORTHINGTON. It would be well enough in the course of the investigation to have his name mentioned once in a week at least.

Mr. TAYLER. It is a self-serving declaration of his opinion.

The CHAIRMAN. Do you know, of your own knowledge, the character of this instruction?

Mr. NELSON. No, sir.

The CHAIRMAN. Or the text-books used?

Mr. NELSON. No, Senator; I know nothing about that.

The CHAIRMAN. You have read the opinion of Associate Justice Brewer on that question, have you not, delivered some time ago, before he came onto the Supreme Court bench, about the use of schoolhouses for sectarian purposes?

Mr. NELSON. In 1893 I was asked for an opinion in regard to the legality of the use of schoolhouses for dancing purposes—

Mr. WORTHINGTON. In 1893 or 1903?

Mr. NELSON. 1903. I gave an opinion that it was contrary to law. I was reversed by the lower courts, and sustained by the supreme court, and the supreme court, in its argument, made use, undoubtedly, of this decision of Justice Brewer, to which you refer.

The CHAIRMAN. That is in accord with your opinion, I believe?

Mr. NELSON. I hope so.

The CHAIRMAN. Justice Brewer and yourself agree, then.

The committee will adjourn now, until to-morrow morning at 10 o'clock.

Mr. NELSON. May I ask a question.

The CHAIRMAN. Yes.

Mr. NELSON. I have just received word that I have a very sick child, and if the committee does not need me any further, I would like to leave.

The CHAIRMAN. You may be excused to-night, Mr. Nelson.

The committee (at 4 o'clock and 10 minutes p. m.) adjourned until Tuesday, December 20, 1904, at 10 o'clock a. m.

WASHINGTON, D. C., *December 20, 1904.*

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

Present: Senators Burrows (chairman), Pettus, and Dubois; also Senator Smoot; also R. W. Tayler, counsel for the protestants; A. S. Worthington and Waldemar Van Cott, counsel for the respondent, and Franklin S. Richards, counsel for certain witnesses.

The CHAIRMAN. Have you anything further, Mr. Tayler?

Mr. TAYLER. I should like to ask a few questions of Mr. Smith.

TESTIMONY OF JOHN HENRY SMITH—Recalled.

JOHN HENRY SMITH, having previously been duly sworn, was examined and testified as follows:

Mr. TAYLER. Mr. Smith, I should like to ask you a question as an authority of the church. Is the taking of the endowments, so called, a necessary prerequisite to marriage in the temple, or in a temple of the church?

Mr. SMITH. Well, really, no; not absolutely; and yet, in the main, yes. It is both "yes" and "no" to that question.

Mr. TAYLER. Did I ask you the question whether Mr. Smoot could be an apostle without having taken the endowments?

Mr. SMITH. He could have been; yes, sir.

Mr. TAYLER. Putting the question in this form: Could he have been married to his wife for time and eternity without taking the endowments?

Mr. SMITH. There have been cases of that kind; yes, sir.

Mr. TAYLER. It could occur now?

Mr. SMITH. It could possibly occur now.

Mr. TAYLER. And does occur?

Mr. SMITH. I can not say as to that. I presume not, however.

Mr. TAYLER. You presume not?

Mr. SMITH. Yes.

Mr. TAYLER. The inference, then, that we are to draw from your testimony in the case, is that you have no knowledge at all on the subject as to whether Senator Smoot took the endowments?

Mr. SMITH. No, sir; I have no knowledge myself, but I have my belief in regard to that matter.

Mr. TAYLER. Your belief is that he did take them?

Mr. SMITH. Yes, sir.

Mr. TAYLER. Would you as readily have voted to make him one of the apostles if you had known that he had not taken the endowments—

Mr. SMITH. Yes, sir.

Mr. TAYLER. As if you knew that he had?

Mr. SMITH. Yes, sir; from my acquaintance with him.

Mr. TAYLER. That is all I want to ask.

The CHAIRMAN. Previous to your becoming one of the apostles you took the endowments?

Mr. SMITH. Yes, sir; I took the endowments.

The CHAIRMAN. Do you know of any one of the apostles who has not?

Mr. SMITH. I do not, and I do not know as to their taking them.

The CHAIRMAN. I understand. Mr. Worthington, do you wish to ask any questions?

Mr. WORTHINGTON. No; I have no questions, Mr. Chairman.

The CHAIRMAN. Who is next, Mr. Tayler?

TESTIMONY OF BENJAMIN B. HEYWOOD.

Mr. TAYLER. Call Mr. Heywood.

BENJAMIN B. Heywood, being duly sworn, was examined and testified as follows:

Mr. TAYLER. Mr. Heywood, you are the United States marshal for the district of Utah?

Mr. HEYWOOD. I have that honor; yes, sir.

Mr. TAYLER. How long have you been marshal?

Mr. HEYWOOD. I was appointed on the 28th day of January, 1902.

Mr. TAYLER. You have lived in the Territory how long?

Mr. HEYWOOD. It has been my home practically all my life.

Mr. TAYLER. So that you are familiar with people and conditions in that State, are you?

Mr. HEYWOOD. Yes, sir.

Mr. TAYLER. Where do you live?

Mr. HEYWOOD. Salt Lake City.

Mr. TAYLER. How long have you lived there?

Mr. HEYWOOD. I was born there fifty years ago the 16th day of last September, and it has been my home practically all my life. Two years of that time I lived in Oregon; a greater part of one year in Montana.

Mr. TAYLER. Are you a Mormon?

Mr. HEYWOOD. I am not.

Mr. TAYLER. Were you ever?

Mr. HEYWOOD. I was baptized when I was 8 years old.

Mr. TAYLER. Except as to that baptism, have you been an adherent of the church?

Mr. HEYWOOD. Never.

Mr. TAYLER. You are not, then, an apostate of the church?

Mr. HEYWOOD. I do not so consider myself.

Mr. TAYLER. Under the direction of the Sergeant-at-Arms of the Senate you were called upon to subpoena witnesses——

Mr. HEYWOOD. I was.

Mr. TAYLER. To appear before this committee?

Mr. HEYWOOD. Yes, sir.

Mr. TAYLER. Some of them you succeeded in finding and summoning?

Mr. HEYWOOD. I did.

Mr. TAYLER. And others you did not. Will you tell us which of the witnesses whom you were called upon to subpoena were not found, or were found by you and are not here? First give us those whom you did not find at all.

Mr. HEYWOOD. Mr. Heber J. Grant.

Mr. TAYLER. Why did you not find him?

Mr. HEYWOOD. I learned that he was in England, supposed to be in Liverpool. That was the information furnished me by his wife.

Mr. TAYLER. England?

Mr. HEYWOOD. Yes, sir.

Mr. TAYLER. Who else?

Mr. HEYWOOD. John W. Taylor. I could get no information as to his whereabouts at all. Called at his home. There was no one there. The blinds were drawn, and I made two calls. I did not find anyone there.

Mr. TAYLER. Where was his home?

Mr. HEYWOOD. In Salt Lake City.

Mr. TAYLER. What other effort did you make to find him?

Mr. HEYWOOD. I made some inquiries of prominent people there who, I thought, might possibly know. It was generally reported that he had not been in the State for practically a year—general repute.

Mr. TAYLER. And that is why you did not find him?

Mr. HEYWOOD. Yes, sir.

Mr. TAYLER. Now the next?

Mr. HEYWOOD. Mr. Cowley.

Mr. TAYLER. Apostle Cowley?

Mr. HEYWOOD. Apostle Cowley.

Senator DUBOIS. What was Mr. Grant in the church?

Mr. HEYWOOD. Mr. Grant is a member of the quorum of the twelve apostles, as I understand it.

Senator DUBOIS. And Mr. Taylor?

Mr. HEYWOOD. The same.

Mr. TAYLER. What about Mr. Cowley?

Mr. HEYWOOD. I called at his home twice; could get no information in regard to him. Mrs. Cowley was not at home. The maid came to the door and said Mrs. Cowley had gone. She did not know when she would return. Mr. Cowley was not at home, and she did not know where he was. I made some inquiries from people who, I thought, might possibly have knowledge as to his whereabouts without getting any information that would assist me in serving the subpoena.

The CHAIRMAN. Did you get any information as to where he was, whether in this country or abroad?

Mr. HEYWOOD. I did not. Only a general rumor that the gentleman was in Canada.

Mr. VAN COTT. Who was that, Mr. Taylor?

Mr. HEYWOOD. Mr. Cowley. I made an effort to get Miss Hamlin, without any results. Well, it was convincing, as soon as you started on that case, that she was not in the district—could not be found. I could get no clue.

Mr. TAYLER. How generally did you inquire—how earnestly and industriously did you endeavor to learn where she might be found?

Mr. HEYWOOD. I was busy all the time—from the time I received those subpoenas until the time I started here, devoting most of my attention personally to it. I had a very busy term of court, and I had to pay some attention to that, but I was personally engaged all the time and had others at work in different parts of the State. I was as diligent as I knew how to be.

Mr. TAYLER. You were so diligent that you satisfied yourself, for instance, as to Lillian Hamlin, that she was not in the State?

Mr. HEYWOOD. Absolutely.

Mr. TAYLER. And where did your inquiries lead you to believe she was?

Mr. HEYWOOD. That she might be in New York or she might be in Mexico—old Mexico.

Mr. TAYLER. Who is the next?

The CHAIRMAN. You spoke of Mr. Cowley. Is he one of the apostles?

Mr. HEYWOOD. I so understand.

The CHAIRMAN. Proceed, Mr. Tayler.

Mr. TAYLER. Who was the next?

Mr. HEYWOOD. There was Mr. Winslow Farr and Sarah Graham Farr.

Mr. TAYLER. Where are they supposed to live?

Mr. HEYWOOD. All the information I could get was that they had not been in Salt Lake City for a number of years, and that Mr. Farr

had not been there unless on a business trip for some time, and that he was probably in Mexico. I failed to get positive information as to where they were.

Mr. TAYLER. He had not been there recently?

Mr. HEYWOOD. I could get no information locating him there recently.

Mr. TAYLER. And Sarah A. Graham Farr, she was supposed to be where he was?

Mr. HEYWOOD. Yes, sir.

Mr. TAYLER. I mean she did not require a separate search?

Mr. HEYWOOD. No.

Mr. TAYLER. Who is next?

Mr. HEYWOOD. Mary Bringham. I could get no information as to where she was. The supposition of the people who had lived in the neighborhood that had originally been her home was that she had gone to Mexico.

Mr. TAYLER. Where was her home?

Mr. HEYWOOD. Her home was originally in Murray, south of Salt Lake, 6 or 7 or 8 miles, down in what we call the Jordan part of the country.

Mr. TAYLER. Did she live in Taylorsville?

Mr. HEYWOOD. I do not so understand.

Mr. TAYLER. Did you learn how long she had been away?

Mr. HEYWOOD. Two years, some stated; eighteen months certainly; nobody positive.

Mr. TAYLER. Who was the next?

Mr. HEYWOOD. Excuse me. Taylorsville was her home. There is a belt of country down there that is so closely identified, that runs right up together, that Murray and West Jordan and Sandy and Taylorsville practically occur in a man's mind together, but Taylorsville is the place.

Mr. TAYLER. Who is the next?

Mr. HEYWOOD. Steffenson.

Mr. TAYLER. Do you mean Ella C. Steffenson?

Mr. HEYWOOD. Yes, sir; I do not remember the name. I think there were thirteen I did not succeed in finding. I failed to get any clew, any recent clew, of Ella Steffenson.

Mr. TAYLER. Where was her home, as you understood?

Mr. HEYWOOD. I understood that her home was in Murray, that she had been seen in Logan within two months prior to my receiving the subpoenas. Another report was that she had been seen in Bear Lake Valley and also in Bear River Valley.

Mr. TAYLER. What effort did you make to find her?

Mr. HEYWOOD. I sent two different deputies with the subpoena, on two different trips; made inquiry at Murray of people who knew her and knew her well. They said she had not been there for some time; did not know just how long; they did not have dates or anything of that kind as to when she was last seen.

Mr. TAYLER. Who is next?

Mr. HEYWOOD. Thomas Chamberlain.

Mr. TAYLER. Where was his home?

Mr. HEYWOOD. His home was at Kanab, Utah.

I received those subpoenas on the afternoon of the 4th day of December, which was Sunday, and Monday morning Mr. A. A. Cahoon

started from Salt Lake City with subpoenas for Thomas Chamberlain, of Kanab; Isaac Birdsall, Elsinore; Mrs. Annie C. Thurber, Richfield, and a subpoena for records of the county clerk of Sevier County. I do not know his name.

Mr. Cahoon left Salt Lake the morning of the 5th, arrived at Marysville, which is the terminus of the railroad going into that part of the country, and the only road, the night of the 5th.

Mr. TAYLER. He was then heading for Kanab, the home of Chamberlain?

Mr. HEYWOOD. Yes, sir. He left Richfield on the morning of the 6th and drove to Panguitch.

Mr. TAYLER. How far is that?

Mr. HEYWOOD. Fifty-five miles. It may vary a mile or such a matter. If it is 50 miles, and uphill, you can add 5 miles.

On the morning of the 7th he left Panguitch, and by getting a relay of horses arrived in Kanab the morning of the 8th at 2 o'clock at night.

Mr. TAYLER. How long a drive is it?

Mr. HEYWOOD. Seventy miles.

Mr. TAYLER. The whole distance is 120 miles?

Mr. HEYWOOD. Making 120 miles. The next morning he made such inquiry as he could, and satisfied himself that Mr. Chamberlain was in Provo, attending to a real estate deal; if not there, that the business connected with that might possibly have taken him to Chicago. Mr. Cahoon came back to what is known as McDonald's ranch that night. That is a distance, the way he came, practically of 40 miles. While there he heard that Mr. Chamberlain's boy had left McDonald's ranch coming up; he was near the Kanab Canyon, a cut-off, and left McDonald's about two hours prior to that, going to meet his father, and he heard of the boy all the way ahead of him to the terminus of the railroad, and there he took the train and went north.

Mr. WORTHINGTON. The boy or the marshal?

Mr. HEYWOOD. The boy. The marshal came on and finished his service in Sevier County, subpoenaing Mr. Birdsall and Mrs. Thurber and the subpoena on the county clerk for the records.

Mr. TAYLER. Did you send a deputy to Provo?

Mr. HEYWOOD. Yes, sir; I did.

Mr. TAYLER. And did your deputy find him?

Mr. HEYWOOD. He did not.

Mr. TAYLER. Did you absolutely believe, however, that Mr. Chamberlain was there?

Mr. HEYWOOD. I got some information from the deputy that absolutely satisfied me he was there.

Mr. TAYLER. And that he was evading and eluding the deputy—

Mr. WORTHINGTON. Mr. Tayler—

Mr. VAN COTT. Do not lead him.

Mr. WORTHINGTON. I object to the testimony here of Mr. Cahoon through the testimony of this witness. Mr. Cahoon should tell it himself and be subject to cross-examination. Mr. Cahoon heard certain things and he has repeated them to this witness. How many times they were repeated before they got to Cahoon we do not know. We have made no objection heretofore because it did not seem to amount to anything, but if you want to prove that witnesses are

evading processes I submit that you should prove it by somebody who knows something about the fact.

Mr. TAYLER. I am constantly confronted with the impression that the view of the other side is that we are trying a criminal case here. Some things we would expect them to admit in the interest of truth, but they have no disposition of that sort.

Mr. WORTHINGTON. You say we have no such disposition?

Mr. TAYLER. You have no disposition to admit the truth.

Mr. WORTHINGTON. This question arises on Thomas Chamberlain.

Mr. TAYLER. I understand.

Mr. WORTHINGTON. It is the first time I ever heard of him, and this is all I have ever heard of him. This is an attempt to put smut on Senator Smoot by showing that Chamberlain has kept out of the way. I say if anything of that kind is to be put into the case it ought to be put in by evidence that comes a little nearer being worth something than this is.

Mr. TAYLER. Now, Mr. Heywood, it was not Cahoon whom you sent to Provo?

Mr. HEYWOOD. No, sir.

Mr. TAYLER. I merely want to correct the record in that respect. It was Mr. Donohue?

Mr. HEYWOOD. Yes, sir.

Mr. TAYLER. And he reported his inability to find Mr. Chamberlain there?

Mr. HEYWOOD. Yes, sir.

Mr. TAYLER. He was your deputy, sent there for that purpose?

Mr. HEYWOOD. Yes, sir.

Mr. TAYLER. I will ask you to state what return he made to you—

Mr. WORTHINGTON. Was his return in writing? I beg your pardon.

Mr. TAYLER. Of his effort to subpoena this witness?

Mr. WORTHINGTON. Did he make any written return?

Mr. HEYWOOD. He did.

Mr. WORTHINGTON. Have you that?

Mr. HEYWOOD. Yes, sir.

Mr. WORTHINGTON. I object, in the first place, to any statement, on the ground that the writing is the proper evidence.

The CHAIRMAN. Mr. Worthington, this is not a trial at law; it is not a lawsuit. It is an investigation—an inquiry. Suppose this witness should testify that it was reported that Mr. Chamberlain left the night before, and that a certain person, naming him, said that before he left he stated that he was going away for the purpose of evading the subpoena. That would enable the committee then to call that witness. Of course this committee knows the difference between hearsay testimony and proof, and such testimony, of itself, will not be considered. But being an investigation, we have a right to follow up every trace that may lead to the discovery of proof upon a given point. I think the witness may answer.

Mr. WORTHINGTON. What I was objecting to is that he has a paper in his pocket, and without producing the paper he undertakes to tell the committee what is in it. I submit that ought not to be heard of even in an investigation as distinguished from a trial.

The CHAIRMAN. Mr. Heywood, have you the return here?

Mr. HEYWOOD. Yes, sir.

The CHAIRMAN. Why not produce it?

Mr. TAYLER. I am sure I have no objection.

The CHAIRMAN. Let us have the return he made.

(Mr. Heywood produced the return.)

Mr. TAYLER. What is the paper you have in your hand now?

Mr. HEYWOOD. Mr. Donohue's report of his effort to serve a subpoena on Marion W. Merrill, his efforts to serve Mary Daines, and his trip to Provo to serve Mr. Chamberlain.

Mr. TAYLER. We desire to have this return of the deputy marshal go in, either in the testimony of Mr. Heywood or by the return itself. I am wholly indifferent as to which way it goes in, but I thought it was best for this witness to report what efforts he made by his deputies and to base it upon their written return.

The CHAIRMAN. Will you read it, Mr. Tayler?

Mr. WORTHINGTON. Let us see the paper. [After examining paper.] It contains, besides the efforts of this deputy to find a witness that he was after, a great many things in the nature of gossip that he picked up here and there—what was said to him.

Mr. TAYLER. That is what you wanted. We were ready to give you the report, but you wanted the paper.

Mr. WORTHINGTON. I did not say that I wanted the paper. I said that I objected, in the first place, to the witness giving the statement in the paper instead of the paper itself. I did not say I would not object to the paper.

Mr. TAYLER. We will offer the whole paper now, and we will make that part applicable to the other cases when we reach them.

The CHAIRMAN. Read it, Mr. Tayler.

Mr. TAYLER. Very well. However, I guess, before I read it, I will ask Mr. Heywood whom else he was called upon to serve?

Mr. HEYWOOD. You mean Mr. Donohue?

Mr. TAYLER. Yes.

Mr. HEYWOOD. Marion W. Merrill, Mary Daines, Arthur Morning, Margaret C. Eccles Geddes, or whatever the name was.

Mr. TAYLER. I will read it. It is as follows:

SALT LAKE CITY, UTAH, *December 14, 1904.*

B. B. HEYWOOD, *United States Marshal,*

Care of Daniel M. Ransdell, Sergeant-at-Arms,

United States Senate, Washington, D. C.

DEAR SIR: In accordance with your orders, I went to Richmond, Cache County, on Monday, December 5. When I got there everything at Apostle Merrill's was closed up, and, as the hotel was in the same block, I went to bed, and the first thing in the morning I served the subpoena on Apostle Marion W. Merrill. This was at 7.30 o'clock. I went directly from there to the train, and no one in Richmond knew what my business was except the apostle and his wife. While serving the subpoena on the apostle, I drew his attention particularly to that portion that commanded him to bring all books and papers in any way appertaining to the endowment ceremonies at the Logan Temple with him.

At Logan I went to the hackmen and inquired if any of them knew of Mary Daines. It was less than two hours since I had served my first subpoena, and I could not believe that the people could be

posted so quickly, but I could not get a particle of information from anyone. I went to the Eagle Hotel; looked in the directory, but could not find her name. I found the name of Franklin Daines, a student at the agricultural college, and called him up. He told me Mary Danies had left the country, but he did not know where she had gone. In my wandering around the town, I saw the Bethel Mission, and went in there and got my first information. The pastor, who is a new arrival, took me to a professional man who had lived in Logan for several years. He told me that Mary Danies was reputed to be the plural wife of Joseph Morrell, the president of the Logan Stake; that she had had three children, two of them twins, born about three months ago, and that the Logan papers had not tried to hide it at all, and had made mention of the fact in an item of news.

From there I went to the Presbyterian minister's residence, and the Reverend Mr. Clemenson told me that Mary Danies used to be in the recorder's office at Logan and was prominent in Logan society. She left the office between two and three years ago and shortly after had a child, and it was given out that she was the plural wife of Mr. Morrell. I was unable to find the least trace of her in Logan and went on to Collinston and served my next subpoena on Arthur Morning at 5.45 p. m. While on the train from Logan, and while waiting at Cache Junction, I noticed that all my movements were being followed by a party who got off the train with me at Collinston. He claimed to be traveling for magazines, soliciting subscriptions. He had a few magazines in a bundle, but never solicited any subscriptions, so far as I could see, and that was the only baggage he had. Claimed that he was a resident of Seattle, born in New York. Owing to the crowded condition of the hotel we both had to occupy the same rooms. I immediately went up to the room and left my grip and overcoat, which had nothing in them, came downstairs, walked across to Mr. Morning's, and served my subpoena. When I returned the agent was walking up and down the street, evidently waiting for me. I went into the hotel and stayed there the balance of the evening. He asked me what business I was in and I told him mining, but had a party that I could not see until after dinner the next day. I caught the morning train to Ogden, went directly to the livery stable, and engaged a team and driver and went on to Plain City. Had a great deal of trouble in getting any trace of Margaret Cullen Geddes, or Eccles, but finally located the house that she owned, and inquired there for any trace of her, but was unable to get any. I finally found a party who gave me her address at 843 Canyon street, Salt Lake. Drove back to Ogden, and the first thing next morning served a subpoena on Mrs. Geddes. She denied that her name was Eccles, but said that Mr. Eccles had been very good to her and had helped support her through friendship for her former husband.

The subpoena on Mr. Lundstrom was served with very little bother. On Monday I went to Provo to serve the subpoena on Thomas Chamberlain, of Kanab. While getting off the train I met Mr. Frank Pierce, of Salt Lake, who, in the course of conversation, said he was going there to meet Mr. Chamberlain, who was closing a deal for a large tract of land on the Provo Bench. I went with Mr. Pierce to the bank, where he was supposed to meet Chamberlain; but as soon as my name was stated, nobody knew where Mr. Chamberlain was.

I went from there over to his lawyer's, W. E. Rydalch, who thought that Mr. Chamberlain had gone back to Kanab, and went into a long story of how he was anxious to close up his business as treasurer of Kane County, and had been probably called back there on that account. He said all this after admitting that they called Mr. Pierce down there to close up this business of the purchase of land in Provo. I went from there to the post-office and inquired if they knew where Mr. Thomas Chamberlain got his mail. They informed me that it was against the regulations to give out any information. I went to all the hotels, inquired at the livery stables, and could find no trace of him. I finally found a hackman who knew where his wife lived. I went up to the home of his plural wife, or at least of his Provo wife, and she said that she thought he went back to Kanab that morning. I told her that I knew he had not, as I had come down from Salt Lake that morning and saw the train leave the depot and he was not on it. I talked with her further and she said then that he had gone to Salt Lake, as in the morning he was not sure which way he would go when he left home.

I went back to the law office and to the bank, told them I was going back to Salt Lake, and I would like to have Mr. Chamberlain call me up on business connected with the Coconino mine. I left my 'phone number at Salt Lake, came back to your office and had a talk with you, and in pursuance with your orders went home and prepared to return to Provo on the evening train. Just as I was getting ready to leave for the train I got a call from Mr. Chamberlain from Provo. I went right down to the train; got into a hack and drove to Mr. Chamberlain's residence on my arrival at Provo. His wife informed me that he had not been there since I was in the morning; that she had no idea where he was, unless he was in Salt Lake. I told her that I knew he was in Provo, and that I presumed he was in the next room at the time; that they knew what he was wanted for—as a witness in the Smoot case. She admitted all this, but said he did not want to go. I told her it would be much better and save him and the Government a great deal of expense to allow the subpoena to be served. Half a dozen of her children were in the room at the time, but none of them took any part in the conversation. The most of them were young men. She informed me that they had their own opinion as to whether he should testify or not, and that they thought different from me as to whether he could be found. I still told her that it would be only a question of time until the subpoena would be served, and it would be much better to have the whole thing over and settled, as the longer it was kept open the more people it would drag in. She said they would be very glad to see it settled, but they had no further information to give, and Mr. Chamberlain did not want to be served. After making a vain endeavor to get any trace of him or anyone who could give me any information regarding him, I came on home this morning and delivered the subpoena to the office, knowing it was useless to longer try to serve a subpoena on himself when he, his family, his bankers, his lawyers, and the whole community were trying to shield him.

Very truly, yours,

P. J. DONOHUE.

Senator PETTUS. Who is Mr. Chamberlain?

Mr. HERWOOD. Mr. Chamberlain is a man in the mercantile business in Kanab, Utah. He probably has other interests throughout

the State. He is a prominent business man in the southern part of the State.

The CHAIRMAN. Is he reputed to be a polygamist?

Mr. HEYWOOD. Yes, sir; he is so reputed.

Mr. TAYLER. Has he a definite repute in that respect as to the number of his wives and the number of his children?

Mr. HEYWOOD. I could not answer that, sir.

Mr. TAYLER. Who else, Marshal, is there?

Mr. HEYWOOD. Charlotte Rowberry. Her home was in Grantsville, Tooele County. I sent a party out there with a subpoena, who made every effort that he possibly could—inquired of the neighbors; saw the house where Charlotte Rowberry lived, what was known as her home; saw her mother, who said she had gone, was away; talked with practically a next-door neighbor, who did not know where she was. He became convinced that he could not find her in the town, and came home and made his report.

Mr. TAYLER. He did not find out where she was?

Mr. HEYWOOD. No, sir.

Mr. TAYLER. Even from her mother?

Mr. HEYWOOD. No, sir.

Mr. TAYLER. Who else?

Mr. HEYWOOD. If I could look at the list of witnesses I could tell at a glance. I have called off a number.

Mr. TAYLER (handing witness list). This is your list.

Mr. HEYWOOD. Nell C. Brown. I failed to get any information that would locate her so as to serve a subpoena.

Mr. TAYLER. Where did she live?

Mr. HEYWOOD. She lived in Salt Lake City.

Mr. TAYLER. What information did you get about her?

Mr. HEYWOOD. That she had gone; she had left the State; that she was away.

Mr. TAYLER. Did anybody know where she was?

Mr. HEYWOOD. They did not.

Mr. TAYLER. Of whom was inquiry made?

Mr. HEYWOOD. At her old original home. I do not just recall the lady's name. I did not make a note of it.

Mr. TAYLER. But her immediate family and friends?

Mr. HEYWOOD. Yes, sir.

Mr. TAYLER. Who is the next?

The CHAIRMAN. Is she reputed to be a polygamist?

Mr. HEYWOOD. That is her repute; yes, sir.

The CHAIRMAN. The wife of whom?

Mr. HEYWOOD. I have heard the name of Silver.

The CHAIRMAN. Go on, Mr. Tayler.

Mr. TAYLER. Who is the next?

Mr. HEYWOOD. I think I have called all the names.

Mr. TAYLER. Are there any subpoenaed who have not appeared? Take S. S. Newton, for instance.

Mr. HEYWOOD. Yes, sir.

The CHAIRMAN. Have you given the names of all those upon whom you could not serve a subpoena.

Mr. HEYWOOD. I think so. I think that is correct.

The CHAIRMAN. How many of the persons upon whom service could not be made are reputed to be polygamists?

Mr. HEYWOOD. Mary Bringhurst, Ella Steffenson, Charlotte Rowberry, Thomas Chamberlain, Mary Daines, Nell Brown.

Mr. TAYLER. Let me ask you——

The CHAIRMAN. I want to know if there are any others.

Mr. HEYWOOD. Apostle Merrill, Taylor, Grant, Cowley, Tanner—his name I have forgotten to mention. He is one I failed to find.

The CHAIRMAN. You failed to find Tanner?

Mr. HEYWOOD. Yes, sir.

Mr. VAN COTT. Which Tanner? There are several of them.

Mr. TAYLER. Which one?

Mr. HEYWOOD. J. M., I think it is.

The CHAIRMAN. Are there any others who are reputed to be polygamists?

Mr. HEYWOOD. I think all of the gentlemen I have named—Mr. Tanner and Mr. Cowley——

The CHAIRMAN. Then all the witnesses whom you could not serve are reputed to be polygamists?

Mr. HEYWOOD. Yes, sir.

The CHAIRMAN. How many of those you could not serve and who could not be found are apostles?

Mr. HEYWOOD. Apostles Grant, Cowley, Taylor. I think that is all. Merrill was served, and without any trouble. I did not have a subpoena for Teasdale this last time.

The CHAIRMAN. Go on, Mr. Tayler.

Mr. TAYLER. Mr. Heywood, as to how many, if any, of those whose names you have read is it reputed that they have been married since the manifesto?

Mr. HEYWOOD. I could not answer that question specifically. My general impression is that all of them, excepting probably Heber J. Grant.

Mr. TAYLER. Now, then, as to——

The CHAIRMAN. Mr. Tayler, may I ask a question right here?

Mr. TAYLER. Certainly.

The CHAIRMAN. How many are reputed to have gone into polygamy since the statute of the United States prohibiting it?

Mr. HEYWOOD. I do not know the date of that statute.

The CHAIRMAN. In 1862.

Mr. HEYWOOD. Well, all of them.

Mr. TAYLER. Now, about serving a subpoena on Newton?

Mr. HEYWOOD. Newton was served on the morning of the 6th of this month at Sugar City, Idaho, and arrangements made by me with the railroad company to furnish transportation. I presumed that it had been furnished. I find that he has not appeared.

Mr. TAYLER. Who was served at the same time?

Mr. HEYWOOD. Amy Johnson Smith, or Mrs. Smith.

Mr. TAYLER. And what was her reputed relation to Newton?

Mr. HEYWOOD. Plural wife.

Mr. TAYLER. On the 6th, you say, they were subpoenaed?

Mr. HEYWOOD. Yes, sir.

Mr. TAYLER. Have you heard anything about them since they were served?

Mr. HEYWOOD. I have not.

Mr. TAYLER. Are there any other witnesses concerning whom you have any information to give?

Mr. HEYWOOD. I think you have covered the list.

Senator DUBOIS. Where did you serve the subpoena on Newton?

Mr. HEYWOOD. At Sugar City, Idaho.

Senator DUBOIS. Had you subpoenas for him before this last one?

Mr. HEYWOOD. Yes, sir; a year ago—practically a year ago—at the time of the first investigation.

Senator DUBOIS. You could not find him then?

Mr. HEYWOOD. Could not find him then.

Mr. TAYLER. I think you may inquire, gentlemen.

Mr. VAN COTT. Marshal, you say the repute of all the persons you have mentioned is that they have gone into polygamy since the manifesto, with the exception of Merrill?

Mr. HEYWOOD. And I meant to have said Grant.

Mr. WORTHINGTON. He said Grant and not Merrill.

Mr. HEYWOOD. There is quite a list of names. Of course, if I had them before me I could refresh my memory in regard to the repute of the different witnesses. But thinking of them as a whole, I would not be understood as being positive in regard to their repute. If the names of the thirteen witnesses were written down here, I think I could state positively as to the repute.

Mr. VAN COTT. I wish, Marshal, you would look at that list, because that is quite an important point, and I would not like you to guess about those people going into polygamy since the manifesto, and would not like you to make a statement unless you have some certainty in your own mind about it.

Mr. TAYLER. Run down the list and call them off. The stenographer will take the names.

Mr. HEYWOOD. M. F. Cowley.

Mr. VAN COTT. Is he reputed to have gone into polygamy since the manifesto?

Mr. HEYWOOD. I have heard that; yes, sir.

Mr. VAN COTT. With whom?

Mr. HEYWOOD. I have not heard with whom.

Mr. VAN COTT. Where did you get the information?

Mr. HEYWOOD. General information throughout the State.

Mr. VAN COTT. Can you name any one individual?

Mr. HEYWOOD. Who has mentioned it?

Mr. VAN COTT. Yes; who has told you that Cowley has gone into polygamy since the manifesto.

Mr. HEYWOOD. Yes; I think I can.

Mr. VAN COTT. Will you give one name?

Mr. HEYWOOD. State Senator George Barber.

Mr. VAN COTT. Does he live in Logan?

Mr. HEYWOOD. He does.

Mr. VAN COTT. Can you think of another?

Mr. HEYWOOD. I can not say that I can recall just to mind one. I have discussed those matters very little. I have heard these things.

Mr. VAN COTT. Will you take the next name on the list?

Mr. HEYWOOD. John W. Taylor.

Mr. VAN COTT. Pass him, and go to the next.

Mr. HEYWOOD. Heber J. Grant.

Mr. VAN COTT. You except him?

Mr. HEYWOOD. Yes, sir.

Mr. VAN COTT. J. M. Tanner. What repute have you as to him, as to any individual who has given you information?

Mr. HEYWOOD. I do not know that I can name anyone. He is just simply referred to as a man who has taken a plural wife since the manifesto; general impression or repute.

Mr. VAN COTT. Pass to the next name, please.

Mr. HEYWOOD. Nell C. Brown Silver.

Mr. VAN COTT. What is the given name of her reputed husband?

Mr. HEYWOOD. I think it is Joseph. I do not know. There are two of those.

Mr. WORTHINGTON. Two Josephs or two brothers?

Mr. HEYWOOD. Two brothers. I do not know them apart by name.

Mr. VAN COTT. Does he live in Salt Lake?

Mr. HEYWOOD. Both of the Silvers did live in Salt Lake for many years.

Mr. VAN COTT. Does her reputed husband live now in Salt Lake?

Mr. HEYWOOD. I understand he was not there at the time when I was making an effort to serve the subpoena.

Mr. VAN COTT. Did you try to serve him with a subpoena?

Mr. HEYWOOD. I had no subpoena for him.

Mr. VAN COTT. Now the next, please.

Mr. HEYWOOD. Mary Bringhurst.

Mr. VAN COTT. You stated that she was reputed to live at Taylorsville?

Mr. HEYWOOD. Yes, sir.

Mr. VAN COTT. And to whom is she reputed to be married?

Mr. HEYWOOD. I have heard the name of—it is one of those old pioneer names down there; I do not just call it to mind.

Mr. VAN COTT. Smith?

Mr. HEYWOOD. No; it was not Smith, Jones, or Brown. [After a pause.] Benion.

Mr. VAN COTT. Do you know the given name?

Mr. HEYWOOD. I do not.

Mr. VAN COTT. The next.

Mr. HEYWOOD. Ella C. Steffenson.

Mr. VAN COTT. Where did she live—in Murray?

Mr. HEYWOOD. Murray. That is, the subpoena I received located her in Murray. I found people who knew she had lived there, had been there; she was gone, and they did not know just when she had gone or where she had gone.

Mr. VAN COTT. The next one.

Mr. HEYWOOD. Sarah A. Graham Farr and Winslow Farr. I do not know anything about those people. I could get no information in regard to them. I never heard that they were reputed as polygamists or anything of that sort.

Mr. VAN COTT. You say Ella Steffenson is reputed to be married?

Mr. HEYWOOD. I never have heard.

Mr. VAN COTT. The next one.

Mr. HEYWOOD. Charlotte Rowberry.

Mr. VAN COTT. Did she live in Tooele?

Mr. HEYWOOD. Grantsville, Tooele County.

Mr. VAN COTT. To whom is she reputed to be married?

Mr. HEYWOOD. I have heard Bishop Rathall mentioned.

Mr. VAN COTT. Any others?

Mr. HEYWOOD. No, sir.

Mr. VAN COTT. You understood the question was whether she was reputed to be married to Rathall, or reputed to be married to someone else?

Mr. HEYWOOD. The general reputé is that she is married to Bishop Rathall.

Mr. VAN COTT. The next one, please.

Mr. HEYWOOD. I think then we come to Thomas Chamberlain.

Mr. VAN COTT. To whom is he reputed to have been married since the manifesto?

Mr. HEYWOOD. I think a daughter of Bishop Willey, of Kanab.

Mr. VAN COTT. Who is the next?

Mr. HEYWOOD. I think that exhausts it.

Mr. VAN COTT. Did you intend to mention Mrs. Thurber as one you could not find?

Mr. HEYWOOD. No, sir.

Mr. VAN COTT. Or one who did not appear?

Mr. HEYWOOD. No, sir; I did not. My return which I made to the Sergeant-at-Arms specifies those who were served and those whom I failed to make service on.

Mr. VAN COTT. Now, calling your attention to Apostle Merrill, is it your information that he has been very ill for some time?

Mr. HEYWOOD. I made a service on the gentleman a year ago, and I have not seen him since. I have heard reports of his health, that he was poorly. While I am not his physician, he impressed me as a very sick man a year ago.

Mr. VAN COTT. The return, I believe, does not mention the fact about his serious illness?

Mr. HEYWOOD. It does not. I do not know as to now. I am speaking about how his condition impressed me a year ago, not at this present time. I have not seen him for a year.

Mr. VAN COTT. He is reputed to be pretty ill?

Mr. HEYWOOD. I have heard that he was still a very feeble man.

Mr. VAN COTT. Did you make service on S. S. Newton yourself?

Mr. HEYWOOD. I did not.

Mr. VAN COTT. So your information is what your deputy gave you on that point?

Mr. HEYWOOD. Yes, sir.

Mr. VAN COTT. When did you leave Salt Lake to come to Washington?

Mr. HEYWOOD. The 13th, I think. I left last Tuesday night.

Mr. VAN COTT. Had your deputy, Donohue, returned at that time?

Mr. HEYWOOD. He had returned and had gone back down—returned the first time, and I had sent him back down again.

Mr. VAN COTT. Did you leave word for him to write you here?

Mr. HEYWOOD. I did.

Mr. VAN COTT. As to his efforts?

Mr. HEYWOOD. Yes, sir.

Mr. VAN COTT. And this is the letter you received in pursuance thereof?

Mr. HEYWOOD. Yes, sir.

Mr. VAN COTT. Did State Senator Barber tell you that he thought Cowley had gone into polygamy since the manifesto?

Mr. HEYWOOD. Well, I do not remember just exactly how he put it,

but probably, "Cowley is one of them," or "Cowley has been married since the manifesto," or something of that sort.

Mr. VAN COTT. With respect to the repute, as to which you are testifying, I understood you to say, or to give the impression, that you got part of your information as to Cowley going into polygamy since the manifesto from State Senator George Barber?

Mr. HEYWOOD. Yes, sir.

Mr. VAN COTT. Is that correct?

Mr. HEYWOOD. Yes, sir.

Mr. VAN COTT. How recently did he give you that information?

Mr. HEYWOOD. I think it was within the last year. I think it was along about the time probably that I had those first subpoenas.

Mr. VAN COTT. That is all, Mr. Chairman.

The CHAIRMAN. Mr. Marshal, I want to ask a question. I do not know but that you have already answered it. How many of these parties whom you have named as being in polygamy have gone into polygamy since the statute of the United States in 1862 prohibiting it?

Mr. HEYWOOD. That would be since 1862?

The CHAIRMAN. Yes.

Mr. HEYWOOD. That would be guesswork, but, from the ages of the gentlemen, I think certainly all of them.

The CHAIRMAN. Have you any knowledge as to the extent to which polygamy or polygamous cohabitation exists in Utah to-day?

Mr. HEYWOOD. Only as a matter of general repute.

The CHAIRMAN. What is the general reputation about that?

Mr. HEYWOOD. That there have been numerous cases.

The CHAIRMAN. And are to-day?

Mr. HEYWOOD. Do you mean being performed now?

The CHAIRMAN. No; I want to know from general reputation, the extent of the existence of polygamy in Utah?

Mr. HEYWOOD. Numerous cases.

The CHAIRMAN. What do you mean by numerous cases?

Mr. HEYWOOD. Those that have been mentioned here by me; they are numerous.

The CHAIRMAN. And others?

Mr. HEYWOOD. I do not call others to mind. It is a matter that I have not taken any interest in—not exerted myself about.

The CHAIRMAN. Of course not. I do not speak with reference to what is called the manifesto. I speak in reference to the statute of the United States prohibiting polygamy. To what extent has this crime existed?

Mr. HEYWOOD. Since 1862?

The CHAIRMAN. Yes.

Mr. HEYWOOD. In my boyhood, very extensively.

The CHAIRMAN. What year was that?

Mr. HEYWOOD. That was in 1854, along in the early sixties, 1862, 1868, the war times, down to 1870.

The CHAIRMAN. Since 1870?

Mr. HEYWOOD. Yes.

The CHAIRMAN. It was pretty general in the State?

Mr. HEYWOOD. They were very numerous.

The CHAIRMAN. Up to what time?

Mr. HEYWOOD. Up to the time that the Edmunds-Tucker law com-

menced to be applied, and prosecutions were instituted under that act vigorously.

The CHAIRMAN. That was up to 1887?

Mr. HEYWOOD. Yes, sir.

The CHAIRMAN. They were very numerous up to that time?

Mr. HEYWOOD. Yes, sir; very numerous.

The CHAIRMAN. That is all.

Mr. WORTHINGTON. I should like to ask a question about that, Mr. Marshal. Do you remember any particular efforts by prosecutions to prevent this for many years after 1862?

Mr. HEYWOOD. How is that?

Mr. WORTHINGTON. There was no particular effort made by prosecutions, for many years after 1862, to put an end to that relation?

Mr. HEYWOOD. I think that is right. I am not conversant as to the dates, etc. I know there was a time when, under the Edmunds-Tucker law, the people were vigorously prosecuted.

Mr. WORTHINGTON. I understand that, but down to the time of the Edmunds-Tucker Act the prosecutions were very few.

Mr. HEYWOOD. That carries my memory. I think so. Yes, sir. I am not a statistician. I do not have those things in my mind, but I think there were very few.

Mr. WORTHINGTON. And for about thirty-five years after the Mormons settled in Utah and promulgated polygamy there was no effort made to prevent it?

Mr. HEYWOOD. Things were quiet there.

Mr. WORTHINGTON. Since 1887 the number of polygamous marriages, or the number of people living in polygamy, has been very much reduced?

Mr. HEYWOOD. Undoubtedly.

Mr. WORTHINGTON. It is decreasing every day. The number is decreasing daily as they die off?

Mr. HEYWOOD. The old families, undoubtedly, and a great many old families are getting up to the limit, to the jumping-off place.

Mr. VAN COTT. What is your age?

Mr. HEYWOOD. I was 50 years old the 16th day of last September.

Mr. TAYLER. Is that all?

Mr. WORTHINGTON. Yes, sir.

Mr. VAN COTT. Then, when you mentioned your boyhood as being in 1854, you were quite a young boy?

Mr. HEYWOOD. I said 1854 as referring to my being born, running along up to 1860, the sixties, along there.

Mr. TAYLER. Is it not the general repute and understanding that numerous polygamous marriages have taken place since 1890?

Mr. HEYWOOD. Yes, sir; numerous as to the people mentioned here, the numbers, etc. They are generally reputed to have formed those relations since 1890.

Mr. TAYLER. Do you mean to say that such is the state of public information upon that subject that those cases you have named are all that have occurred, or all that you have immediately heard of?

Mr. HEYWOOD. They are all the names that I have immediately heard of that I call to mind.

Mr. VAN COTT. Have you not also heard vigorous denials about all or most of these persons having gone into polygamy since 1890?

Mr. HEYWOOD. These persons mentioned?

Mr. VAN COTT. Yes, sir.

Mr. HEYWOOD. No, sir.

Mr. VAN COTT. Of none of them?

Mr. HEYWOOD. Well, I do not know now whether I have or not, as to any of them. I say it is a matter that I have paid very little attention to.

Mr. VAN COTT. That is all.

Mr. WORTHINGTON. Are you an elected officer?

Mr. HEYWOOD. No, sir.

Mr. WORTHINGTON. You are appointed by the President?

Mr. HEYWOOD. Yes, sir.

The CHAIRMAN. You never have heard any denial that they have gone into polygamy since the statute of the United States prohibiting it?

Mr. HEYWOOD. In 1862?

The CHAIRMAN. Yes.

Mr. HEYWOOD. No, sir.

The CHAIRMAN. That is all, Mr. Marshal.

TESTIMONY OF MRS. ANNIE C. THURBER.

Mrs. ANNIE C. THURBER, being duly sworn, was examined and testified as follows:

Mr. TAYLER. Where do you live, Mrs. Thurber?

Mrs. THURBER. Richfield.

Mr. TAYLER. Utah?

Mrs. THURBER. Yes, sir.

Mr. TAYLER. How long have you lived there?

Mrs. THURBER. I have lived there since I was about 7 years old.

Mr. TAYLER. When did you first go there to live?

Mrs. THURBER. Well, I do not remember the date.

Mr. TAYLER. Do you not remember the year?

Mrs. THURBER. No, sir.

Mr. TAYLER. When were you born?

Mrs. THURBER. I was born in 1866.

Mr. TAYLER. Where were you born?

Mrs. THURBER. In Weber County—Milton, Morgan County. We usually call it Weber.

Mr. TAYLER. In Utah?

Mrs. THURBER. Yes, sir.

Mr. TAYLER. Were your parents Mormons?

Mrs. THURBER. Yes, sir.

Mr. TAYLER. And you lived there about seven years and then went to Richfield?

Mrs. THURBER. Yes, sir; I forget whether it was my seventh or eighth birthday that I had when we first came to Richfield. It was along there anyway.

Mr. TAYLER. You are the wife of Joseph Thurber?

Mrs. THURBER. Yes, sir.

Mr. TAYLER. Have you children?

Mrs. THURBER. Yes, sir.

Mr. TAYLER. What are their ages?

Mrs. THURBER. My oldest one is 18 years old.

Mr. TAYLER. Is that a son?

Mrs. THURBER. Yes, sir.

Mr. TAYLER. What is his name?

Mrs. THURBER. Orlando.

Mr. TAYLER. Where does he live?

Mrs. THURBER. He lives in Richfield.

Mr. TAYLER. He lives with you, then?

Mrs. THURBER. Yes, sir.

Mr. TAYLER. What other children have you?

Mrs. THURBER. I have a son 11 years old.

Mr. TAYLER. And other children?

Mrs. THURBER. Yes, sir. I have two besides.

Mr. TAYLER. Has your husband any other wife?

Mrs. THURBER. Yes, sir.

Mr. TAYLER. Was she married before you or after?

Mrs. THURBER. Before.

Mr. TAYLER. Where does she live?

Mrs. THURBER. At Richfield.

Mr. TAYLER. How much of a family has she?

Mrs. THURBER. I think she has eight—seven or eight—living children.

Mr. TAYLER. Do you live in the same house?

Mrs. THURBER. No, sir.

Mr. TAYLER. But in the same town?

Mrs. THURBER. Yes, sir.

Mr. TAYLER. How large a place is Richfield?

Mrs. THURBER. It is not as large as Washington.

Mr. TAYLER. No; it is a small town, is it not?

Mrs. THURBER. Well, yes, sir; it is not so large as Salt Lake. It is the largest place around where we are. It is the center.

Mr. TAYLER. A few thousand people, two or three or four thousand people, something like that, live there?

Mrs. THURBER. Something like that. I do not know just the population of it.

Mr. TAYLER. How far does the other wife live from where you live?

Mrs. THURBER. One block.

Mr. TAYLER. Your youngest child, you say, is 5 years old?

Mrs. THURBER. I did not say.

Mr. TAYLER. How old is it?

Mrs. THURBER. Two years and a half.

Mr. TAYLER. When were you married to your husband?

Mrs. THURBER. It is twenty years ago. That would make it 1884, would it not?

Mr. TAYLER. Yes. Where were you married to him?

Mrs. THURBER. In St. George.

Mr. TAYLER. In the temple?

Mrs. THURBER. Yes, sir.

Mr. TAYLER. Did you go to Mexico with your husband?

Mrs. THURBER. No, sir.

Mr. TAYLER. You never were in Mexico?

Mrs. THURBER. No, sir.

Mr. TAYLER. Has your husband another wife?

Mrs. THURBER. Not that I know of.

Mr. TAYLER. Do you feel quite sure that he has not?

Mrs. THURBER. Well; I just said that he had another.

Mr. TAYLER. What?

Mrs. THURBER. I told you he had another.

Mr. TAYLER. I mean besides the two.

Mrs. THURBER. I am quite sure he has not.

Mr. TAYLER. You are quite sure he has not?

Mrs. THURBER. Yes, sir.

Mr. TAYLER. Do you remember when you were subpoenaed by the deputy marshal?

Mrs. THURBER. Yes, sir.

Mr. TAYLER. Do you remember what you told him?

Mrs. THURBER. No, sir; I do not, exactly.

Mr. TAYLER. You were angry, were you not?

Mrs. THURBER. I was angry, good-naturedly. I laughed over it, and still I felt a little annoyed.

Mr. TAYLER. You did not want to come here?

Mrs. THURBER. No, I did not.

Mr. TAYLER. Of course not. You said you would rather go to jail than come before this committee.

Mrs. THURBER. Well, perhaps I did.

Mr. TAYLER. What else did you say?

Mrs. THURBER. I do not remember every word, but I said I should like to step on somebody who was the cause of it.

Mr. TAYLER. You did?

Mrs. THURBER. Yes, sir.

Mr. TAYLER. Did you say that we ought to have subpoenaed Seegmiller?

Mrs. THURBER. No, sir; I did not.

Mr. TAYLER. Did you say that there were twenty people down there who knew more than you knew?

Mrs. THURBER. No, sir; nothing of the sort.

Mr. TAYLER. I think that is all.

Mr. VAN COTT. That is all, Mr. Chairman.

Mrs. THURBER. Am I excused?

The CHAIRMAN. I have a question or two. Where is your husband now?

Mrs. THURBER. I could not say.

The CHAIRMAN. When did you last see him?

Mrs. THURBER. About three days before I came here—before I was subpoenaed.

The CHAIRMAN. Did he go away at that time?

Mrs. THURBER. Yes, sir.

The CHAIRMAN. Where?

Mrs. THURBER. He went to hunt work, and he had not yet located when I left home.

The CHAIRMAN. And he had not yet returned?

Mrs. THURBER. No, sir.

The CHAIRMAN. Did he go out of the State?

Mrs. THURBER. Well, he left Richfield.

The CHAIRMAN. Where did he say he was going?

Mrs. THURBER. He talked of the gold fields in Nevada.

The CHAIRMAN. And any other place where he might find work?

Mrs. THURBER. He did not know at all when he left where he would go.

The CHAIRMAN. But he went to try to get work, and he suggested the gold fields of Nevada as a promising field?

Mrs. THURBER. Yes, sir.

The CHAIRMAN. And making that suggestion he went away. You do not know where he has gone?

Mrs. THURBER. No, sir.

The CHAIRMAN. Have you heard from him since?

Mrs. THURBER. No, sir.

Mr. WORTHINGTON. I do not understand there was any subpoena for him, Mr. Tayler.

The CHAIRMAN. I have forgotten whether there was or not.

Mr. VAN COTT. No; there was not.

The CHAIRMAN. I understood you to say that he has another wife?

Mrs. THURBER. Yes, sir.

The CHAIRMAN. And you both live in the same town?

Mrs. THURBER. Yes, sir.

The CHAIRMAN. Has the other wife children by your husband?

Mrs. THURBER. Yes, sir.

The CHAIRMAN. When was the last one born; do you know?

Mrs. THURBER. I think it is six years ago—five or six years ago—I believe it is six, but I will not be positive; it is five or six.

The CHAIRMAN. How many children has he by the other wife?

Mrs. THURBER. I said seven or eight. I could soon tell exactly by counting.

The CHAIRMAN. If you will, think over the list. I do not want to annoy you at all.

Mrs. THURBER (after a pause). Seven living children.

The CHAIRMAN. How many were born that are now dead?

Mrs. THURBER. One has died since birth.

The CHAIRMAN. I did not understand how many children you have?

Mrs. THURBER. I have four living children.

The CHAIRMAN. Of course your husband looks after both families; supports both?

Mrs. THURBER. Yes, sir; to the best of his ability.

Mr. TAYLER. What is his business, Mrs. Thurber?

Mrs. THURBER. He is a blacksmith.

Mr. TAYLER. Does he hold any office there?

Mrs. THURBER. No, sir; not now.

Mr. TAYLER. He was a constable, was he?

Mrs. THURBER. Yes, sir; for a short time.

Mr. TAYLER. Were you ever married before you married Mr. Thurber?

Mrs. THURBER. No, sir.

TESTIMONY OF CHARLES MOSTYN OWEN.

CHARLES MOSTYN OWEN, being duly sworn, was examined and testified as follows:

Mr. TAYLER. Mr. Owen, where do you live?

Mr. OWEN. Salt Lake City.

Mr. TAYLER. How long have you lived there?

Mr. OWEN. Seventeen years.

Mr. TAYLER. Have you for some years had familiarity with conditions in Utah respecting the practice of polygamy?

Mr. OWEN. I have.

Mr. TAYLER. Can you state how it came about that you informed yourself in respect to that subject?

Mr. OWEN. In January, 1899, I received an offer from the New York Journal to act as its correspondent in the anti-Roberts campaign. The New York Journal was then opening or had determined to open a campaign having for its purpose the unseating, if possible, of Brigham H. Roberts, then elected to Congress, in the House of Representatives. I accepted the offer under the provision that it should not interfere with my engineering work. Later it became such a burden that it was impossible to carry on the two, both my engineering work and my newspaper work, and by September of that year—

Mr. WORTHINGTON. What year was that?

Mr. OWEN. 1899. I gave up my engineering practice entirely, to devote myself to the carrying on of the antipolygamy or anti-Roberts campaign.

I remained in connection with the Journal until 1900. I was subsequently retained by the Womans' Interdenominational Council, of New York, for the special purpose of making further investigation in regard to the State of Idaho, which I did.

That completed I returned to my engineering practice and stayed with it until January, 1903—the 1st of January, 1903—when I was again retained on behalf of the protestants in the Smoot investigation and my duties laid along the former lines of investigation as to the practice of polygamy, and also of preparing the whole evidence to be laid before the Senate Committee on Privileges and Elections in the matter of Mr. Smoot's right to a seat in the Senate of the United States. I am still so employed.

Mr. TAYLER. Had you, prior to 1899, made any study of the situation?

Mr. OWEN. Only as any other citizen possibly would have done, except that possibly in connection with my engineering practice, which would take me and did take me all over the State, or over a great portion of the State of Utah, and also in Idaho and Wyoming, I came more or less in contact with the polygamous element.

Mr. TAYLER. During the time that you have given attention to this subject, have you devoted practically all of your time to it?

Mr. OWEN. Yes, sir.

Mr. TAYLER. To what extent have you traveled over Utah and the surrounding country gathering information?

Mr. OWEN. Over almost the whole of Utah. There is a small section in the south, in St. George, and the southeast corner of Moab and Monticello that I have not been into at all. With that exception, however, I think I can say that I have been all over the whole of Utah, almost settlement by settlement, at different times; over a large portion of southeastern Idaho and southern Idaho and western Wyoming completely.

Mr. TAYLER. And in making these journeys what effort have you made to learn what the facts were? How would you prosecute your inquiries?

Mr. OWEN. There is hardly a settlement throughout Utah, Idaho, or Wyoming, a purely Mormon settlement, where there is not either

an apostate or a member of the church in good standing who is opposed quietly to the practices; there is hardly a settlement where I do not know somebody whom I can trust and whose information I can rely upon. They do not dare to express themselves openly, but under the seal of confidence and protection as to their identity I have undoubtedly the closest information possible, and I have never accepted any one man's statement about any one person's polygamy. I have checked and checked and checked, and not until I have satisfied myself of the truth of the condition have I ever made any statement about it.

Mr. TAYLER. Do you know, Mr. Owen, what is the repute respecting Apostle John W. Taylor, as to his having taken plural wives since 1890?

Mr. OWEN. He has taken two, presumably within the last three or four years.

Mr. WORTHINGTON. That is the repute?

Mr. OWEN. That is the repute.

Mr. TAYLER. Those are the wives concerning whom a witness testified last spring, I believe, before the committee?

Mr. OWEN. I think so. Their names are Rodie and Roxey Willing, two sisters.

Mr. TAYLER. Did you inquire in the community in which he and they lived?

Mr. OWEN. Yes, sir.

Mr. TAYLER. He is the apostle, I believe, referred to in President Smith's letter, who refused to come here?

Mr. OWEN. One of them.

Mr. TAYLER. Who is the other apostle?

Mr. OWEN. Cowley.

Mr. TAYLER. What is the repute respecting Apostle Cowley in that respect?

Mr. OWEN. That he has taken a new wife within about three years.

Mr. TAYLER. And both of them were and are reputed to have been polygamists prior to the taking of the new wives?

Mr. OWEN. Yes; Cowley's first wife was Abbie Hyde, who it appears from the encyclopedia was married in 1884, the first marriage which took place in the Logan temple. It, however, says nothing about his marriage to Luella Parkinson, who has the repute of being his wife and also that she was married since the manifesto.

Mr. TAYLER. How many wives has he?

Mr. OWEN. Cowley certainly has three, and possibly another.

Mr. TAYLER. How many wives has Taylor?

Mr. OWEN. Five.

The CHAIRMAN. Both of these are apostles?

Mr. OWEN. Both of them are apostles.

Mr. TAYLER. Apostle Merrill?

Mr. OWEN. Apostle Merrill? Allow me my notebook—that red book—if you please.

(Mr. Tayler handed the witness the book.)

The CHAIRMAN. Where are these two parties whom you have just named?

Mr. OWEN. I understand they are both in hiding in Canada. The last heard of Taylor he was in Lethbridge, in Canada. Marion W. Merrill is reputed to have now nine wives. The first was Sarah Ann

Atkinson; the second, Cyrene Stanley; the third, Maria L. Kingbury; the fourth, Mary, the fifth, Jennie, Jacobson; the sixth, Ellen Norberg; the seventh, Sophia Anderson; the eighth, Jane Toronto, and the ninth a new wife generally reputed to be Hulda Olson.

The CHAIRMAN. Taken when?

Mr. OWEN. About three years ago. Jane Toronto is also reputed to have been taken since the manifesto. She lived for quite a few years just across the State line between Utah and Idaho, at Franklin, Idaho.

The CHAIRMAN. Is he one of the apostles?

Mr. OWEN. He is one of the apostles.

Senator PETTUS. At this time?

Mr. OWEN. Yes, sir; and president of the Logan temple.

The CHAIRMAN. Let me ask you a question right here. How many of these wives has he taken since 1862?

Mr. OWEN. I think all of them.

The CHAIRMAN. Since the statute of the United States prohibiting polygamy?

Mr. OWEN. Take his own statement in the encyclopedia——

Mr. WORTHINGTON. You say his own statement in the encyclopedia?

Mr. OWEN. I think it is his own statement [examining encyclopedia]. No; it is a statement signed by Joseph M. Tanner in the Biographical Encyclopedia.

The CHAIRMAN. By reference to that can you state how many of his wives have been taken by him since the statute of the United States prohibiting polygamy?

Mr. OWEN. No. It appears that November, 1853, he married his first wife.

The CHAIRMAN. November, 1853?

Mr. OWEN. Yes, sir.

The CHAIRMAN. When next?

Mr. OWEN. It does not say when he has married the others, but it goes on to say that "his family is not only one of the largest in the church, but one of the most exemplary to be found. He is the father of 45 children, 5 of whom are dead. He is the grandfather of 127, and has 26 children married."

The CHAIRMAN. What is his full name?

Mr. OWEN. Marion W. Merrill.

The CHAIRMAN. And he is the gentleman who was in poor health?

Mr. OWEN. In poor health at Logan—said to be.

Mr. TAYLER. Do you recall, Mr. Owen, if his son testified here last spring, giving the number of wives his father had?

Mr. OWEN. His son, Charles Merrill, if I recollect correctly, and I think I do, testified that in 1888 his father had six wives and was a very busy man.

The CHAIRMAN. Who was that?

Mr. OWEN. Charles E. Merrill. He testified that his father——

Mr. WORTHINGTON. Is it worth while to take up time with that?

Mr. TAYLER. This is a long record, and I want to know if there was some testimony respecting this particular apostle?

Mr. WORTHINGTON. Does not everybody know?

Mr. TAYLER. Not everybody.

Mr. WORTHINGTON. You know it and the committee knows it.

Mr. TAYLER. The committee does not know anything but that which we prove. We have discovered that. There are lots of things we know that everybody knows, but nobody admits them until he has to.

The CHAIRMAN. Go on, Mr. Tayler.

Mr. TAYLER. Heber J. Grant is said to be abroad?

Mr. OWEN. He is.

Mr. TAYLER. J. M. Tanner is a witness who was not found. What is his repute?

Mr. OWEN. He is a polygamist. He has certainly four wives, possibly five, but four without any doubt. Three of them were married prior to 1890, and one married about two years ago.

Mr. VAN COTT. That is the one you expressed a doubt about?

Mr. OWEN. Oh, no.

Mr. TAYLER. It is the fifth one that he is in doubt about. J. B. Moreton.

Mr. OWEN. He was not subpoenaed.

The CHAIRMAN. Is Mr. Tanner an apostle?

Mr. TAYLER. No, he is not an apostle.

Mr. OWEN. Mr. J. M. Tanner is the superintendent of Sunday schools of the Church of Jesus Christ of Latter-Day Saints throughout the world.

Mr. TAYLER. What is the repute as to Nell C. Brown?

Mr. OWEN. Nell C. Brown is reputed to be the plural wife of John Silver, taken within the last two years.

Mr. TAYLER. Mary Bringhurst?

Mr. OWEN. Reputed to be the plural wife of Heber Benion.

Mr. TAYLER. Do you know which wife she is reputed to be?

Mr. OWEN. The plural wife; the second.

Mr. TAYLER. Margaret Cullen Eccles, the witness who testified here?

Mr. OWEN. She is reputed to be the fifth or sixth wife of David Eccles.

Mr. TAYLER. Her name was Geddes?

Mr. OWEN. Her name was originally Cullen. She married Geddes as a plural wife, and subsequently, in 1891, Geddes died, and she is now reputed to be the plural wife of David Eccles.

Mr. TAYLER. Sarah A. Farr?

Mr. OWEN. Sarah A. Farr was formerly the wife of Joseph Graham, of Provo. She divorced from him in 1893, as per the records of the district court, and about 1898 or 1899 married Winslow Farr, who already had two wives at Ogden and is reported to have two more in Mexico. She adopted the name of Farr about a year and a half ago, and, I understand, is in Mexico. She went to Mexico with Farr overland in a wagon.

Mr. TAYLER. Charlotte Rowberry?

Mr. OWEN. She is reputed to be the plural wife of Bishop Rathall, of Grantsville; married to him about three years ago.

Mr. TAYLER. Thomas Chamberlain; what do you know about him?

Mr. OWEN. Thomas Chamberlain is a resident of Kanab, Orderville, Graham, Provo, and Salt Lake.

Mr. TAYLER. Have you been in all those communities in which he has families?

Mr. OWEN. I took the trip to Kanab and Orderville.

Mr. TAYLER. How many wives is he reputed to have now?

Mr. OWEN. Seven or eight.

Mr. TAYLER. How many children is he reputed to have?

Mr. OWEN. Either last year or the year before he had his fiftieth child in his fiftieth year.

Mr. TAYLER. Is there any repute as to his having taken a wife since 1890?

Mr. OWEN. Yes, sir.

Mr. TAYLER. How many?

Mr. OWEN. He is reputed to have married Mamie Woolley, the daughter of his partner in business, about two years ago.

Senator PETTUS. Is he an apostle?

Mr. OWEN. No, sir; he is the counselor to the stake president; the county treasurer of Kane County; he is pretty nearly everything down in that southern section.

Mr. TAYLER. What is the stake in which he lives?

Mr. OWEN. Kanab.

Mr. TAYLER. Who is the president of that stake?

Mr. OWEN. Woolley.

Mr. TAYLER. And Thomas Chamberlin is one of the counselors?

Mr. OWEN. Yes, sir.

Mr. TAYLER. Mr. S. S. Newton; what do you know of him and what is his repute?

Mr. OWEN. S. S. Newton is a brick and stone mason of Salt Lake City, living on the corner of Fifth north and First west. The house stands on the corner, and in the register of births in Salt Lake City the house receives two descriptions. One is 208 West First north, and the other is 609 North First west. He lives in the two houses with these two women. He lives with his first wife, and Amy Johnson was the second. Amy Johnson went to live in that house about late in 1899 or early in 1900. Since that time she has had two children in that house, of which he is registered as the father, and in the meantime the legal wife, between the birth of these other two, sandwiched, is the mother of another. Amy Johnson is the reputed plural wife of Samuel S. Newton.

Last year when I attempted to get service of subpoena upon him he was reputed to have fled to Cape Nome, Alaska. He did not go to Cape Nome, but he did go to Ketchikan, Alaska, where I had information of him. He returned this last summer to Pocatello, and this fall went to Sugar City, where he worked on the sugar works—the buildings—under the name of Smith, and was there living with Amy Johnson as his wife.

The CHAIRMAN. Let me ask you as to the number of children he has.

Mr. OWEN. He has eight, I think, by the first wife. [Examining book.] The first wife has 7 children—Laura, aged 20; Charles, 18; Richard, 16; Lizzie, 14; Susie, 12; Margie, 5; Mary, 2. Amy Johnson has two children—Dorothy, aged 2, and the baby, born about August 26, 1903.

The CHAIRMAN. 1903?

Mr. OWEN. Yes.

Senator DUBOIS. When do you understand that Newton married Amy Johnson?

Mr. OWEN. About four years ago, I should put it.

Mr. TAYLER. What is her age, approximately, if you know?

Mr. OWEN. Thirty-two, or thereabouts.

Senator PETTUS. What connection has this man with the church?

Mr. OWEN. Samuel Newton, prior to his leaving, was a block teacher in the ward. It must be the Twenty-second or the Twenty-third Ward; somewhere along there. I do not know exactly the ward lines up in that country.

The CHAIRMAN. I wish you would state to the committee the official positions, if any, which these different parties you have mentioned hold in the church, if you can go through the list.

Mr. OWEN. I forget exactly their names.

The CHAIRMAN. Take the list.

Mr. OWEN. Marion W. Merrill, apostle; M. F. Cowley, apostle; John W. Taylor, apostle; Heber J. Grant, apostle; J. M. Tanner, superintendent of Sunday schools throughout the world; Winslow Farr, I think, is—I question whether he has any active connection. He spends most of his time traveling between Utah and Mexico. Thomas Chamberlain, I think I have stated, is counselor to the stake president. Those are all the official positions.

The CHAIRMAN. Where did you say Grant was?

Mr. OWEN. Grant is in England.

The CHAIRMAN. When did he go to England?

Mr. OWEN. He left suddenly on the night of the 10th of November last year—1903.

The CHAIRMAN. November, last year?

Mr. OWEN. Yes.

The CHAIRMAN. Do you know anything of the circumstances?

Mr. OWEN. Yes, sir.

The CHAIRMAN. Will you state them?

Mr. OWEN. About the 5th or 6th of November he made a statement before the students of the State university at Salt Lake City, in which he held out in a very objectionable manner his association with two women as his wives. I was absent from the city on that day, but on my return I immediately went to work to find if I could get evidence of these statements as printed in the paper. I got the evidence in a shape which was satisfactory to me, and I went before the county attorney and swore to an information for him, and a warrant was issued on that information. Before Mr. Grant was served, however, he left the country.

The CHAIRMAN. When did he leave as to the time of the issuing of the warrant?

Mr. OWEN. When I next heard of him he was in Salt Lake—that afternoon, I understood—but he got on the train at Provo that night about midnight.

The CHAIRMAN. Where were those statements made to the students of the university?

Mr. OWEN. In an assembly organized or called together for the purpose of organizing or helping an alumni association.

The CHAIRMAN. What were the statements?

Mr. OWEN. That he regretted that the rules of the association were such that no single subscription of greater than \$50 could be received, but to show his interest in the association he would give them \$50 for

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

The CHAIRMAN. How many were present when he made that statement?

Mr. OWEN. I understand there were nearly a thousand students present.

Mr. VAN COTT. How many?

Mr. OWEN. Nearly a thousand at the time. It was the university in general assembly, I understood.

Mr. VAN COTT. Not quite a thousand?

Mr. OWEN. I understood it was about that.

The CHAIRMAN. Has he returned since that time?

Mr. OWEN. No, sir.

Senator PERTUS. Is he still an apostle?

Mr. OWEN. Yes, sir.

The CHAIRMAN. He is doing missionary work in the field?

Mr. OWEN. He is in charge of the European mission.

In that connection I may state that last March I took some further action in regard to Mr. Grant. He received the credentials of the State from the governor authorizing him to appear as the representative of the State of Utah, or one of the representatives of the State of Utah, at the first international congress for school hygiene to be held at Nuremberg. I did not hear of it—I was in Washington at the time, and I did not hear of it immediately—but as soon as I heard of it I obtained certified copies of the complaint, the warrant, and the credentials given him by the governor of Utah, and I then filed them first with the German ambassador, who regretted that his position was such that he could not officially take any cognizance of it; that it was not within the scope of his duties. I was then referred to Assistant Secretary of State Loomis, to whom I presented the same matter the next day, and who expressed himself as being very much upset at the idea of a man who was living in such notorious relations being chosen by the governor of the State of Utah to represent the State in a foreign country.

The CHAIRMAN. And he was accredited as a delegate to what congress?

Mr. OWEN. The first international congress for school hygiene, held in Nuremberg last April, I think, on the 9th. It lasted a week.

Mr. TAYLER. What steps, Mr. Owen, beginning with 1899, have you taken in the way of instituting prosecutions against persons violating the law?

Mr. OWEN. When I was first connected with the Roberts fight, it was not my intention, nor was it considered possible within the scope of my duties as a newspaper correspondent, to institute arrests and legal proceedings against these men, but when, in February of that year, I went into Cache County—

Mr. WORTHINGTON. What year?

Mr. OWEN. 1899; and subsequently published in the New York Journal columns a schedule of polygamists then living in the active practice of their profession in Cache County, giving the names of the men, the names of their wives, and the names of their children born since the manifesto, the editorial column of the Deseret News was pleased to denominate me or to specify me, the correspondent, whoever he might be, of the New York Journal, as a liar.

It was rather objectionable, seeing I was holding to the facts, but they further came with a challenge, if my recollection serves me, that if these conditions were true the laws of Utah were ample, the courts of Utah were open, and that it was the duty of any person calling himself a good citizen to institute proceedings in a legal manner for the conviction of such persons.

At that time there was a lady named Mattie Hughes Cannon, the fourth wife of Angus M. Cannon, then stake president of Salt Lake stake, who was sitting in the legislature of the State as a State senator, who was evidently in a very interesting condition.

I kept more or less watch of her, and shortly after the adjournment of the legislature heard of the birth of the child, and I then determined that after a reasonable time—I did not desire to force what might be called persecution on the woman so as to injure her physically; I thought a month would be ample time for her to recover—I would institute proceedings against Angus M. Cannon, as he was an exceedingly prominent man in the church and she a prominent woman in the State, and to make a test of the question whether the courts were open or not.

However, two weeks after the birth of the child Mrs. Cannon left the city and the State, and did not return, to my knowledge at any rate, until the 4th day of July, when I happened to see them driving on the street—Mr. Cannon and Mrs. Mattie Hughes Cannon and the baby. On the following day I went before the county attorney, Mr. Putnam, and laid a verbal information before him.

Mr. WORTHINGTON. Of what county?

Mr. OWEN. Salt Lake County; stating the facts as I knew them or understood them to be, and declaring myself as being prepared to swear upon information and belief to a criminal information. He refused me, declined to issue such an information. I think it was on the evening of the 7th or 8th of July, although I am not quite sure which; I think it was on the 7th—

Mr. TAYLER. Are you still on the Cannon matter?

Mr. OWEN. Yes.

Mr. TAYLER. I will ask you to condense what you have to say as to it; reach results; what did you do?

Mr. OWEN. I then prepared an affidavit, which I submitted to Mr. Putnam, alleging the facts, citing the names of the witnesses whom I deemed competent and was satisfied were competent, and I published the same or caused the same to be published in the Salt Lake Tribune, and then Mr. Putnam did institute proceedings, and I swore to the information and Mr. Cannon was arrested. While he denied his guilt most strenuously at that time, he pleaded guilty on the trial and was convicted.

Mr. TAYLER. Were there others prosecuted at that time on your affidavit?

Mr. OWEN. Yes, sir.

The CHAIRMAN. What was the date of that conviction?

Mr. OWEN. The conviction was in September, 1899; the arrest in July. Heber J. Grant and Joseph E. Taylor, Grant being an apostle and Taylor the first counselor to the stake president of Salt Lake stake, both plead guilty and were fined some nominal fines. Later I instituted proceedings against five persons in Sevier County—Olie Burg—

Mr. TAYLER. Never mind the names.

Mr. OWEN. They all plead guilty and received nominal fines.

The CHAIRMAN. What year was that?

Mr. OWEN. In 1899. I also laid information against Charles Kelley, president of the Boxelder stake, who was also convicted.

Later I went before the county attorney of Davis County, Mr. William Streeper, and laid an information upon affidavit before Mr. Streeper, alleging that Brigham H. Roberts was guilty of adultery, and also unlawful cohabitation. He, however, after procrastinating from time to time, saying that it was a matter of great importance, and that he was a very busy man, and that he had not had time to attend to it, and that the witnesses whom I had named could not testify to what I had alleged they could, although I had cited the mother of the twins to testify to the paternity of them, did not do anything.

The CHAIRMAN. Whom do you mean by "he?"

Mr. OWEN. Streeper, the county attorney. All informations in Utah have to be submitted to the county attorney or the grand jury.

I subsequently laid four or five more informations of a similar character before Mr. Streeper, and he absolutely failed to do anything.

I filed some thirty informations before the county attorney of Cache County, Mr. Nebeker. He also failed to do anything, except in one case. We had rather a spirited newspaper correspondence, and finally he did consent to the arrest of Charles E. Merrill, who testified here last spring.

The CHAIRMAN. When were these complaints made; what year?

Mr. OWEN. The complaints were filed in 1899. But Merrill was convicted in February of 1900. I was satisfied by that time that it was absolutely impossible to do anything through the courts, where the fines were absolutely nominal.

The CHAIRMAN. What do you mean by "nominal?"

Mr. OWEN. From \$25 to, I think the maximum was a hundred and fifty dollars, most of which were paid by public subscriptions, I understood, and in some cases not paid at all. There was no intention or desire, nor was it possible, to institute any such proceedings as would be preventive of the condition.

Joseph S. Horn, for instance, was arrested in Sevier County. At a date about a year and a half afterwards there was a sworn information laid before the county attorney of that county again, and he refused to prosecute. Joseph S. Horn at that time had just become the father of a child by his plural wife.

Mr. WORTHINGTON. What county?

Mr. OWEN. Sevier County. He had another baby by the same woman about a year and a half ago, and the prospect is imminent again.

Mr. WORTHINGTON. What were the proceedings in Sevier County?

Mr. OWEN. There was a refusal to prosecute.

Mr. WORTHINGTON. The fines were nominal in Sevier County?

Mr. OWEN. Yes, sir; certainly.

The CHAIRMAN. Any other instances?

Mr. OWEN. That is all I have attempted to do in regard to criminal informations. I satisfied myself that it was absolutely impossible.

The CHAIRMAN. What is your information as to the course of the

parties convicted after they paid fines? Did they abandon then the polygamous practices?

Mr. OWEN. They have not.

The CHAIRMAN. They have continued them since?

Mr. OWEN. They continue the same relations.

The CHAIRMAN. What do you mean by saying that these fines were paid by public subscriptions?

Mr. OWEN. That is my best information on the subject, and I understood that in Sevier County they had a ball—a dance—for the purpose of paying these fines.

The CHAIRMAN. To raise sufficient funds?

Mr. OWEN. And in Boxelder they sent around a subscription list for the purpose of paying the fines, but it would appear from the records to-day that the fines were never paid, although the subscriptions were.

The CHAIRMAN. Mr. Tayler is engaged for the moment, and, if it is agreeable to counsel, the committee will take a recess.

Thereupon (at 12 o'clock and 50 minutes p. m.) the committee took a recess until 1.30 o'clock p. m.

AFTER RECESS.

The committee reassembled at the expiration of the recess.

The CHAIRMAN. Mr. Tayler, you may proceed with the witness.

Mr. TAYLER. Before proceeding with the witness on the stand, Mr. Chairman, I would like to put Mr. Balderston on for a moment.

The CHAIRMAN. What is the name?

Mr. TAYLER. Mr. Balderston, who testified before. I want to put him on in order to make proof of a single circumstance.

TESTIMONY OF WILLIAM BALDERSTON—Continued.

WILLIAM BALDERSTON, having been previously sworn, was examined and testified as follows:

Mr. TAYLER. You have stated, Mr. Balderston, that you have been editor of the Idaho Daily Statesman—is it?

Mr. BALDERSTON. Yes.

Mr. TAYLER. At Boise, for a good many years. You were the editor, I assume, in April, 1904?

Mr. BALDERSTON. Yes, sir.

Mr. TAYLER. I notice in the Daily Statesman of April 14, 1904, an editorial, nearly two columns long, entitled "Constitutional convention." Do you recall the publication of that editorial in your paper?

Mr. BALDERSTON. Yes.

Mr. TAYLER. Were there any other editorials of importance prior to that?

Mr. BALDERSTON. I think there were. The subject was up, being discussed at various times, but this was when the matter was opened more fully than at any previous time.

Mr. TAYLER. That is what I was getting at. Was this what you would characterize a significant editorial?

Mr. BALDERSTON. Yes; that was intended to be the opening up of the entire subject.

Mr. TAYLER. Exactly. Do you recall, shortly after that, the opinion promulgated by the attorney-general of the State as to the validity of the act or resolution which had passed the legislature the year before providing for calling a constitutional convention?

Mr. BALDERSTON. I do.

Mr. TAYLER. I notice what purports to be the opinion of the attorney-general printed in the Statesman under date of April 23, 1904. Do you recall the publication of that?

Mr. BALDERSTON. Yes; I recall the fact that we did publish it along about that time.

Mr. TAYLER. How did you obtain this opinion?

Mr. BALDERSTON. We secured a copy from the attorney-general.

Mr. TAYLER. And you have no reason to doubt its accuracy as printed in your paper?

Mr. BALDERSTON. None whatever.

Mr. TAYLER. I want to offer in evidence this editorial which opened up the discussion in the Statesman of April 14, 1904. Also the article entitled "Can not call a convention," in the issue of April 23, 1904, the most of which is made up of the opinion of the attorney-general on the question.

Mr. WORTHINGTON. Who wrote this editorial?

Mr. BALDERSTON. I did.

The CHAIRMAN. You do not care to read it, I suppose, Mr. Tayler?

Mr. TAYLER. No; I do not care to read it, but I want it printed in the record.

The newspaper articles above referred to are as follows:

[Idaho Daily Statesman, Thursday, April 14, 1904.]

CONSTITUTIONAL CONVENTION.

"The letter from Senator Dubois to the Democratic State committee will serve to call public attention to the constitutional convention proposal inspired by the Mormon Church for the purpose of eliminating from our fundamental law all those features which deal with the subject of polygamy and church supremacy.

"As has heretofore been pointed out by the Statesman, it is absolutely necessary to defeat this proposition at the polls at the forthcoming election. In order to accomplish that it is desirable that both parties' conventions declare against the proposal. If the people should make the mistake of voting to direct the next session of the legislature to call such a convention, it is practically certain the constitution would be changed as desired by the church.

"Through southern and central Idaho the Mormons have been busy colonizing for some years. They have colonies in Blaine, in Canyon, in Washington, in Ada, and in Boise counties, the work of colonizing in the latter having only recently been begun. Perhaps there are colonies in other counties in which until recently there were few, if any, of that faith. Through these colonies the election of delegates to the constitutional convention would be controlled. In this manner a majority who could be relied upon would probably be chosen. If they did not have an actual majority they would succeed in making a political deal with one side or the other by means of which they

would accomplish their purpose. By the time the convention had been framed there would be enough partisanship injected into the matter to insure at the polls the ratification of the work of the convention.

"The joint resolution never should have been passed. It was the result of some of the trading done in the legislature, the exact inside facts of which may never be known. It was one of those stealthy approaches against which the people have to be on guard constantly.

"In this connection a brief review of what has been done since the admission of the State, in connection with the general subject of Mormon participation in politics, is in order. When the constitution was adopted it was the desire of the State to make such provisions that those people should be excluded if they persisted in the practice of polygamy and in placing the authority of the church above that of the State. A clause was adopted as part of the constitution withholding the franchise from persons practicing polygamy, or holding membership in a church teaching and advising the practice, also those holding membership in any church which holds that the laws of the State prescribing rules of civil conduct are not the supreme law of the State.

"Another clause authorized the legislature to make any additional qualifications for the right of suffrage, but prohibited from annulling any of those provided by the constitution.

"At its first session the legislature enacted an election law in which an additional qualification was prescribed. The Mormon Church had just issued the manifesto, and discussion of its meaning and the good faith of the church were in full swing. Therefore the legislature provided that no one should vote who practiced or ever had practiced polygamy, or who belonged to a church that taught or ever had taught polygamy, and so on. This was done to keep the Mormons from the polls pending such time as the people should become satisfied the church was acting in good faith. The Mormons had been disfranchised under the Territorial law, but under the manifesto of the church those who were not practicing polygamy could claim the right to vote; so this provision was made continuing the disfranchisement of all of them.

"But the people of this State were generous. After two years, a majority having become convinced that the church was acting in good faith, they removed the retroactive feature of the election law at the second session. That simply left the constitutional provision in the law and in the elector's oath. By that legislation all were enfranchised who were not practicing polygamy, since it was held that the church had abandoned not only the teaching of polygamy but also its claim to supremacy over the State in matters of civil conduct.

"The first insidious attack upon our laws was made at the next session. The legislation of 1903 was enacted after full discussion, but in the session of 1905 a further amendment was surreptitiously made which eliminated the constitutional provision from the election law. Very few people knew of that until long after it was done; it was the fruit of some trade made by the Mormons.

"That made the elector's oath a mere hollow shell, and at the last

session it was stricken out, as it was evidently an-unpleasant reminder to the Mormons of what had existed in the past.

"Following their success in 1895, they had a resolution introduced in 1897 providing for the calling of a constitutional convention. This was opposed vigorously, and it was finally dropped. The Mormons knew they could not proceed by amendment to accomplish their purpose, as the people could not be induced directly to remove those provisions from the constitution. The matter of a constitutional convention was discussed quietly at subsequent times, but it was not again seriously brought forward until the last session. Then it was quietly introduced and as quietly rushed through by the combination engaged in the trade. This was all arranged so cleverly that the resolution got the vote of practically all the legislature. Those not in the combine had learned enough to know that the Mormons wanted it, and they hastened to get aboard, so as to avoid giving offense to the element which had demonstrated its ability to accomplish anything it might undertake.

"That is, in brief, the history of the legislative action on this entire subject. It needs only to be added that in successive legislatures the Mormons have succeeded in preventing the enactment of a law providing for the punishment of those guilty of illegal cohabitation, and the State remains without any legislature on that subject.

"There is no reason why the Mormons should seek to eliminate the constitutional provision under consideration, either from the statute or from the constitution itself. As it stands it injures none who is acting in good faith and refraining from the practice of polygamy. If the church is acting in good faith, the provision can never serve as a bar to participation in elections by any Mormon who may not be personally indulging in the offensive practice.

"The people of the State of Idaho were magnanimous and generous in their treatment of the Mormon element of the population after the manifesto, removing their disabilities at the second session. They maintained the same generous attitude until accumulating evidences of bad faith indicated that the Mormon Church was determined to accomplish purposes subversive of the best interests of the State. This insidious, stealthy movement against the constitutional provisions respecting participation in elections and the final secretive passage of this constitutional convention resolution have been in themselves acts of bad faith, since they have demonstrated the existence of dangerous purpose, entertained in violation of every principle of their dealings with those who had so generously placed the Mormon people upon a footing of complete political equality with themselves.

"There can be no question about the bad faith and dangerous purpose of the church in this matter, and it is perfectly apparent, as the Statesman has heretofore pointed out, that it is necessary to defeat the proposed constitutional convention at the polls. No fair-minded man, even though he be a Mormon, can deny the impropriety of the action of the church in seeking to bring about the proposed change in our fundamental law."

[Idaho Daily Statesman, Saturday, April 23, 1904.]

CAN NOT CALL A CONVENTION—NECESSARY LEGAL REQUIREMENTS NOT COMPLIED WITH BY LEGISLATURE—ATTORNEY-GENERAL BAGLEY SO AVERS—RESOLUTION PASSED RECOMMENDING CALL FOR CONVENTION NOT SUFFICIENT—SHOULD HAVE BEEN FOLLOWED UP BY BILL PROVIDING METHOD BY WHICH ELECTORS MIGHT VOTE FOR OR AGAINST PROPOSAL TO HOLD CONSTITUTIONAL CONVENTION, AND AS THIS BILL FAILED TO PASS THE HOUSE THE QUESTION IS NOT LEGALLY BEFORE THE PEOPLE AND CAN NOT BE VOTED UPON IN NOVEMBER.

"In response to the question: 'Has there been any legal provision made for calling a constitutional convention?' Attorney-General John A. Bagley has rendered an opinion to the effect that the joint resolution passed by the seventh legislature, recommending that the electors vote upon the question of calling a constitutional convention at the next general election, has not been legally submitted to the electors and can not be printed upon the ballot or voted upon in November of this year. The resolution, in the opinion of the attorney-general, merely provided a mode of submitting the question to the electors, but the bill necessary to place the question before the electors in a legal manner failed to pass the house of representatives.

"The resolution recommending to the electors that a constitutional convention be called for the purpose of revising and amending the State constitution and that the question be voted upon at the coming election passed the senate on March 2, 1903, and the house of representatives on March 4, 1903. To give this resolution full effect it was necessary that a bill should be passed authorizing the secretary of state to publish a certified copy of the resolution for at least six weeks prior to the election in one paper of general circulation in each county in the State, in order to comply with constitutional provisions.

"Such a bill was introduced and passed in the senate, but was never acted upon by the house of representatives; hence, the attorney-general maintains, the question can not legally be submitted to a vote at the forthcoming election.

FULL TEXT OF OPINION.

"The opinion of Attorney-General Bagley, which was delivered yesterday, is in full as follows:

"BOISE, IDAHO, April 21, 1904.

"Hon. W. E. BORAH, Boise, Idaho.

"DEAR SIR: Replying to yours of April 14, in which you ask: 'Has there been any legal provision made for calling a constitutional convention?' will say:

"The members of the last legislature passed the following resolution:

"*Be it resolved by the legislature of the State of Idaho:*

"SECTION 1. That it is deemed necessary to call a constitutional convention to revise and amend the constitution of the State of Idaho; we recommend that the electors of the State of Idaho, at the next general election of this State, vote for or against a constitutional convention.

"SEC. 2. The question to be submitted to the electors of the State

of Idaho at the next general election shall be in form as follows: Shall there be a constitutional convention called by the eighth session of the legislature of the State of Idaho to revise and amend the constitution?

THE NECESSARY BILL.

"Senate bill No. 115 provided:

"*Be it enacted by the legislature of the State of Idaho:*

"SECTION 1. That senate joint resolution No. 10, which recommends that the electors of the State of Idaho vote at the next general election upon the question, Shall there be a constitutional convention called by the eighth session of the legislature of the State of Idaho to revise and amend the constitution? is hereby submitted to the electors of the State of Idaho to be voted upon at the general election to be held in November, 1904.

"SEC. 2. The secretary of state shall cause a certified copy of said resolution to be published for at least six weeks next preceding the said election in at least one newspaper of general circulation in each county of the State of Idaho, and shall require proof of publication to be made by affidavit filed with the secretary of state, which he shall preserve as part of the records of his office."

"Failed to pass house.

"This bill passed the senate March 6, 1903, and was transmitted to the house of representatives the same day. The legislature adjourned March 7, and before any action was taken upon this bill by the house. What was required?

"Article 3, section 20, of the constitution provides:

"Whenever two-thirds of the members elected to each branch of the legislature shall deem it necessary to call a convention to revise or amend this constitution they shall recommend to the electors to vote at the next general election for or against a convention, and if a majority of the electors voting at said election shall have voted for a convention, the legislature shall at the next session provide by law for calling the same; and such convention shall consist of a number of members not less than double the number of the most numerous branch of the legislature."

"Resolution valueless.

"The house having failed to pass senate bill No. 115, providing for the submission of the resolution recommending that the electors vote for or against the calling of a constitutional convention, leaves us with the resolution, but without authority or any provision to submit it to the people at the coming election. The legislature has the sole authority to submit this question to the people and to point out a mode for the expression of their will on the subject. (Cooley's Constitutional Convention, 39.)

"This resolution should be submitted to the people by an act of the legislature, which should pass both branches with the same formalities as any other law and receive the approval of the governor. Until this is done this question is not submitted to the people. There is no authority for anyone to print this resolution upon the ballot at the next election or for the electors to vote upon that question.

MERELY A SUGGESTION.

"The members of the legislature in adopting this resolution did not act in the capacity of a legislature, but in the capacity of a body, committee, or a convention, clothed with special authority. Their recommendation to the electors to vote upon the question of calling a constitutional convention, reduced to the form of a resolution, was not an act or a resolution of the legislature, but a resolution of that special body or convention.

"It could only operate by way of advice or recommendation. It amounted to nothing more than a proposition or suggestion to the people to decide whether they would or would not have a constitutional convention.

CAN NOT BE VOTED UPON.

"No provision has been made for submitting this question to the people, and, therefore, it can not be done. The legislature undertook to provide a mode of submitting it, but the measure failed in the house.

"I therefore am of the opinion that the resolution recommending that the electors vote upon the question of calling a constitutional convention, at the next general election, has not been legally submitted to the electors of the State and can not be printed upon the ballot or voted upon at the next general election.

"The following cases bear generally upon this subject:

"Wells v. Bain, 75 Penn. St., 39.

"Koehler v. Hill, 60 Iowa, 543 (at 614).

"Luther v. Borden, 7 Howard, 38.

"Jameson's Constitutional Convention, 525-576.

"6 A. E. & E., 901-903.

"Opinion of the justices, 6 Cush., 573.

"Collier v. Freersen, 24 Ala., 100.

"Hatch v. Stoneman, 66 Cal., 632.

"Respectfully,

"JOHN A. BAGLEY,
Attorney-General."

MR. TAYLER. I notice this letter or opinion of the attorney-general, expressing the opinion that the resolution was not properly adopted, is addressed to W. E. Borah, of Boise, Idaho. The letter is dated April 21, 1904, and begins, "Replying to yours of April 14, in which you ask, 'Has there been any legal provision made for calling a constitutional convention?'" Is that the same W. E. Borah who was announced in this case as one of the counsel for Senator Smoot?

MR. BALDERSTON. It was.

MR. TAYLER. That is all.

MR. WORTHINGTON. Now, let us look at the editorial, Mr. Tayler. We may want to ask him something about it.

MR. TAYLER. I wish you would.

THE CHAIRMAN. Mr. Worthington, shall Mr. Tayler proceed with this witness?

MR. WORTHINGTON. I would prefer to glance through this first. I want to get an idea of its general character. [After examining the paper.] I assume, under the ruling heretofore made, that this would

be competent in this case. I merely remark as it goes in that we do not think so.

The CHAIRMAN. I have not seen the editorial. I do not just now see its bearing, but it may go in.

Mr. WORTHINGTON. It undertakes to be a statement by this gentleman of a great array of facts about the Mormons in Idaho.

Mr. TAYLER. Mr. Chairman, in justice to myself I feel that I do not like to have this comment pass unnoticed or uncommented on.

This is the editorial appearing in a paper whose character we have heard described, not an organ in the sense that it is defined or declared by somebody or some party to be its organ, but a great organ of public sentiment, made so by its own public utterances in this State, whose people it reaches, and where, as in this instance, it promulgates a serious expression of its opinion upon a great public question.

Now, that is a part, and a most essential, important, and well understood part of the political history of that time, and its relation to this transaction is quite apparent. I can think of nothing that has been brought into the case more appropriate, more technically proper in an investigation of this kind, than this editorial.

Mr. WORTHINGTON. I agree with my brother that there has been very little offered in this case that is not just as competent as this.

Mr. TAYLER. Of course that is an observation, and is entitled to all the benefit that can be derived from it.

The CHAIRMAN. Is there anything further desired of this witness?

Mr. TAYLER. That is all, as far as we are concerned.

The CHAIRMAN. You may stand aside, Mr. Balderston, and Mr. Owen will resume the stand.

TESTIMONY OF CHARLES MOSTYN OWEN—Continued.

CHARLES M. OWEN, having been previously sworn, was examined and testified as follows:

Mr. TAYLER. Mr. Owen, I believe that when we took the recess we were talking about the prosecution of Brigham H. Roberts, in 1899 or thereabouts?

Mr. OWEN. Yes, sir; that and others. In the same year, and about the same time, I placed sworn informations before the county attorney of Salt Lake County, charging President Lorenzo Snow with unlawful cohabitation with two women, alleging Sarah to be the lawful wife, she having been so declared by the supreme court of the Territory of Utah, and the plural wife as Minnie Jensen or Snow. Minnie Jensen at that time had a small child, quite an infant, and there was no question as to the facts. Mr. Putnam, the county attorney, however, refused the information on the ground that he did not feel satisfied with the testimony upon which the supreme court of the Territory had declared Sarah to be the legal wife, and therefore the warrant was not issued.

The CHAIRMAN. What year was that?

Mr. OWEN. 1899.

I also laid an information against Brigham H. Roberts, of Salt Lake County, alleging that Margaret C. Roberts was the plural wife and that he was unlawfully cohabiting with her. It was a matter of great difficulty to get that warrant issued. It was, however, issued,

and upon trial in the following year, upon an agreed statement of facts between the prosecution and the defense, based upon the evidence laid before the Committee on Elections in the Roberts case in Washington, they admitted from the jury a verdict of guilty. It was appealed upon the question as to whether the indictment was properly drawn, it not having alleged that both wives were living in the same county or that one was living in one county and one in the other. Upon final determination by the supreme court of the State it was held that the indictment was faulty in that respect, and the information was quashed.

I also laid an information before the county attorney of Salt Lake County alleging that John C. Graham, of Provo and Salt Lake, was living in unlawful cohabitation. He was at that time United States postmaster at Provo. The plural wife had been, up to the month of May of that year, living in Salt Lake County, and a child was about to be born when she left the county and went into hiding. I discovered her later at Payson, in Utah County, and the prosecuting attorney refused the information upon the ground that the crime, if any, had been committed in Utah County. I denied that, and still stood on my statement in regard to cohabitation in Salt Lake County, alleging that the other wife was living in Utah County. She was also convicted, but upon appeal to the supreme court the information was quashed.

The CHAIRMAN. What year was that?

Mr. OWEN. 1899. The case was tried in 1900. In the case of the Roberts information in Davis County, where he was charged with unlawfully cohabiting with Celia Diddle, I had a great deal of trouble to get hold of Mr. Streeper at all.

Mr. TAYLER. He was the county attorney?

Mr. OWEN. The county attorney. First of all, he made appointments and then failed to keep them, at a great deal of trouble to myself, because he was 18 miles from Salt Lake and the connection is rather bad to make and do any business in Farmington. When, however, I did get him, after a second or third appointment, I took a stenographer with me for the purpose of having an accurate statement on both sides. He refused to allow the presence of the stenographer, fired him out of the office, and then proceeded to write and to take down my answers. I demanded the same privilege, and among other questions he asked me:

"Do you know of any injury to the sentiments of Davis County? Don't you think it would show a better motive if this were done by a resident of Davis County?"

To which I answered:

"I believe that the State of Utah and the United States of America are wider than Davis County. I believe that under our statutes I have the right to make this complaint, and now await your decision."

He then said:

"If any action for malicious prosecution should be instituted against you by these defendants, do you not think the fact that you had come out of your resident county would be against you?"

I asked him if he made that as a threat, and he said he did not.

He, however, refused to prosecute. That practically ended that campaign.

Mr. TAYLER. When was that?

Mr. OWEN. In October of 1899.

The CHAIRMAN. What position did he hold?

Mr. OWEN. He was county attorney.

The CHAIRMAN. Prosecuting attorney or county attorney?

Mr. OWEN. County attorney.

The CHAIRMAN. Do you know his religious affiliations?

Mr. OWEN. He is a Mormon.

Mr. TAYLER. Now, at Farmington Brigham H. Roberts had two wives living at that time, had he not?

Mr. OWEN. He had

Mr. TAYLER. And by both of them he had children?

Mr. OWEN. Yes, sir.

Mr. TAYLER. Was it not a fact notorious in that community that he had these two wives there and had these families?

Mr. OWEN. Yes, sir; most notorious.

Mr. TAYLER. Go on.

Mr. OWEN. Later in 1900, after my return from Washington in the Roberts campaign, I tried to force—

Mr. WORTHINGTON. Where was this? I did not catch the first word.

Mr. OWEN. I say later in 1900 I tried to force the county attorney of Cache County into some prosecutions there, and he refused, alleging that the evidence which I had cited to him or the persons whom I had cited to him as being competent witnesses would not testify and that he would not institute any proceedings in which the witnesses were not willing witnesses.

I then took up with him, instead of the whole 30 cases at once, which I thought were too much for his capacity, one case at a time. The first case I took up was the case of Charles Merrill, who appeared upon volume 2, page 552, among the licenses—a license for him to marry Chloe Hendricks, dated March 14, 1891, in which he swore that he was a single and unmarried man. It also appeared in the registry of births, in entry No. 186, that Charles Merrill is the father and Annie V. Merrill the mother of a male child named Roy Stoddard, born March 29, 1898, and signed by L. M. Hunt, obstetrician.

Mr. TAYLER. And that was another woman than the one named in the marriage license?

Mr. OWEN. Another woman than the one named Hendricks, who was his legal wife.

After some period had elapsed he did take up the Charles Merrill case on a charge of unlawful cohabitation only, and Merrill was fined \$50. The other cases, however, he refused and failed to prosecute in any manner, shape, or form, although in the case of Joseph E. Wilson Wilson was certified in the registry of births to be the father of two children by two different women within three months. I claimed that to be prima facie evidence that some crime had been committed, preferably adultery.

The CHAIRMAN. What is the date of that?

Mr. OWEN. The date of the Wilson births was 1899. It is well within the statute of limitations, however, and he refused to prosecute, and has still continued to refuse to prosecute.

The CHAIRMAN. Is this officer a Gentile or a Mormon?

Mr. OWEN. He is a Mormon. He was reelected as the county

attorney, and now is the district attorney, I believe. He was a candidate, anyhow, during the last election, and I think was elected.

During September of 1903 was my next attempt to have the law enforced, and I thereafter called upon the county attorney in Salt Lake County and offered an information against Joseph F Smith—

The CHAIRMAN. The president of the church?

Mr. OWEN. The president of the church, alleging him to have been guilty of unlawful cohabitation, upon the testimony which he himself admitted was correct in this room, namely, that he had gone to St. Louis with one wife, and later had attended, within some thirty days, I think, a lunch party at Senator Kearns's residence with another wife; and I was refused that information. That county attorney, however, was a Gentile; but I have found that the Gentiles are even more difficult, in some respects, than the Mormons to induce to enforce these questions, for the reason that their election, their renomination, depends wholly on the good will they have from these people, and he was afraid really to lose it.

Mr. VAN COTT. What was his name?

Mr. OWEN. George Westerfelt.

The CHAIRMAN. What other effort, if any, did you make?

Mr. OWEN. I have not made any other effort in that criminal line. I have found it—satisfied myself, at least—that it is impossible to achieve any preventive results.

The CHAIRMAN. Let me ask you why it is impossible?

Mr. OWEN. Fines are paid by public subscription. The defendants go right along in the same practices which they were in before, and I never thought it desirable to merely nag, nag, nag at them if no results were achievable.

The CHAIRMAN. How about the officers serving the processes when issued?

Mr. OWEN. That I have never questioned. That was beyond my province.

The CHAIRMAN. All right. Go on, Mr. Tayler.

Mr. TAYLER. Was there some suggestion of prosecution of polygamists in Idaho recently?

Mr. OWEN. Yes. During the past summer I spent some time in southeastern Idaho and western Wyoming with a view of checking up the practice of polygamy there. Shortly after my return I learned of a challenge by Mr. Borah, that if any sworn informations were presented he would prosecute to a conviction.

Mr. TAYLER. This is the same Mr. Borah who is one of Senator Smoot's counsel?

Mr. OWEN. Yes, sir; I so understand it.

Mr. TAYLER. All right.

Mr. OWEN. I thereupon drew up a list of twenty prominent polygamists in different sections of the State—

Mr. TAYLER. Of Idaho?

Mr. OWEN. Of Idaho; giving their names and the names of their wives; but, having been advised by those whom I believe to be competent attorneys that there was no sufficient law in the State of Idaho, I did not cite any statute to which their practice was contrary. The names of those twenty men I have.

Mr. TAYLER. Let me understand. What was it that Mr. Borah challenged the production of?

Mr. OWEN. This is the letter, quoting as nearly as possible what I had learned.

Mr. WORTHINGTON. A letter from whom to whom?

Mr. OWEN. From me to Mr. Borah, and directed from the Capital Hotel, Boise, Idaho, October 24, 1904.

Mr. TAYLER. You were in Boise at this time?

Mr. OWEN. I was in Boise at this time. The letter is as follows:

CAPITOL HOTEL,
Boise, Idaho, October 24, 1904.

Hon. W. E. BORAH, *Boise, Idaho.*

SIR: I have recently learned of the statements of Hon. Frank Gooding to the effect that there are only 19 polygamists in the State of Idaho, and of your own challenge that if any sworn charge be filed that you will prosecute the same to a conviction.

In accordance with your own statement I herewith hand you the following 20 informations, upon oath, charging the polygamists named with cohabiting with more than one woman as his wife. They are:

1. William Budge, of Paris, Bear Lake County, Idaho, cohabiting with Lizzie Budge, Julia Budge, and Ann Budge.
2. William C. Parkinson, of Whitney, Oneida County, Idaho, cohabiting with Nellie Nash Parkinson, of Hyrum, Cache County, Utah, and Lulu Benson, Oneida County, Idaho.
3. S. R. Parkinson, of Preston, Oneida County, Idaho, cohabiting with Maria Smart Parkinson, and her sister, Charlotte Smart.
4. J. U. Stucki, of Paris, Bear Lake County, Idaho, a trustee of the Pocatello Academy, a State institution, cohabiting with Margaret Stucki, Jane Stucki, and Clara Spori, all of Paris, Bear Lake County, Idaho.
5. O. C. Ormsby, of Rexburg, Fremont County, Idaho, cohabiting with Marilla Ormsby, of Logan, Cache County, Utah, and Rebecca Langton, of Rexburg, Idaho.
6. James Lowe, of Franklin, Oneida County, Idaho, cohabiting with Eliza D. Lowe and Lizzie Kingsford.
7. Samuel Kunz, of Bates, Fremont County, Idaho, cohabiting with Mrs. Samuel Kunz and Caroline Kunz.
8. E. Lorenzo Burgoyne, of Montpelier, Bear Lake County, Idaho, cohabiting with Mrs. E. L. Burgoyne and Binnie Cederlund, her sister.
9. Ira Call, of Bancroft, Bannock County, Idaho, cohabiting with Mrs. Ira Call and Carah R. Call.
10. Chet Call, of Chesterfield, Bannock County, Idaho, cohabiting with Mrs. Chet Call and Jane D. Call.
11. Mathias F. Cowley, of Preston, Oneida County, Idaho, cohabiting with Abbie H. Cowley, of Salt Lake City, Utah, and Luella Parkinson, of Preston, Idaho.
12. William Daines, of Preston, Oneida County, Idaho, cohabiting with Lizzie H. Daines and her sister, Chloe Hatch.
13. Gottfried Eschler, postmaster at Raymond, Toms Fork, Bear Lake County, Idaho, cohabiting with Mrs. Rose Kunz Eschler and Rose Kunzler.

14. Samuel Humphreys, of Dingle, Bear Lake County, Idaho, cohabiting with Mrs. Sarah Humphreys and her sister, Martha Clifton.

15. Robert Price, of Paris, Bear Lake County, Idaho, cohabiting with Mrs. Susan Price, Chrissie Price, and Mrs. Gray.

16. Walter Hoge, of Paris, Bear Lake County, Idaho, cohabiting with Mrs. Walter Hoge and Sarah Hoge, all of Paris. Mr. Hoge is the present candidate on the Republican ticket for sheriff.

17. L. L. Hatch, late postmaster of Franklin, Oneida County, Idaho, cohabiting with Mrs. Anna S. Hatch and Sarah Doney.

18. Hyrum Ricks, formerly probate judge, of Rexburg, Fremont County, Idaho, cohabiting with Mrs. Martha Ricks and Emily Ricks.

19. William Hymas, of Liberty, Republican candidate for the legislature, Bear Lake County, Idaho, cohabiting with Mrs. William Hymas and Jane D. Hymas.

20. Joshua Hawks, of Rexburg, Fremont County, Idaho, cohabiting with Mary A. Hawks, of Franklin, Idaho, and Sarah Smart, of Rexburg, Idaho.

If you will draw the formal complaint, conforming in substance with the inclosed, I stand ready to affirm the same and name competent witnesses in support of the charges.

Upon the completion of these prosecutions, I further stand ready to supply additional charges of a similar character against 100 more persons, residents, either temporary or permanent, of the State of Idaho.

Trusting that this grave matter will receive your earnest and immediate attention, I am,

Yours, most respectfully,

CHARLES MOSTYN OWEN.

MR. TAYLER. These twenty persons named were all prosecuted, I suppose?

MR. OWEN. They were none of them prosecuted. He replied a day or two later, at Lewiston, in a rather indefinite manner, stating in a rough way that he had received this matter; that he did not know this Charles Mostyn Owen; that he was not hunting the snipe of the valley, but that he was hunting the tiger in the jungle, Fred T. Dubois.

MR. WORTHINGTON. Have you that letter?

MR. OWEN. No; that was made in a speech.

MR. WORTHINGTON. What a pity!

MR. OWEN. Yes; I should like it.

MR. TAYLER. I believe that in this statement in reply to the challenge of Mr. Borah that if the name of the polygamist was furnished to him he would prosecute, you included the name of William Budge?

MR. OWEN. I did.

MR. TAYLER. And you charged him with having only three wives, I believe, there?

MR. OWEN. That is all, sir; three.

MR. TAYLER. Only the number that he himself confessed to?

MR. OWEN. Yes, sir

MR. TAYLER. And up to date Mr. Borah has not undertaken to make any trouble for Mr. Budge?

MR. OWEN. I believe that he has not, and is still hunting tigers.

THE CHAIRMAN. I want to ask about this man Borah. What is his position?

Mr. OWEN. He is an attorney, of Boise City, Idaho. He was then speaking on the stump.

The CHAIRMAN. A prosecuting attorney?

Mr. OWEN. No, sir; he is just an attorney.

Mr. VAN COTT. Is he a Gentile?

Mr. OWEN. I have understood so; yes.

Mr. TAYLER. I think his name appears as counsel in this case. That is what I wanted to make sure of.

The CHAIRMAN. The record will show.

Mr. WORTHINGTON. The record will show that his name is signed to the answer as one of the counsel for Senator Smoot. The record will also show that he has not since appeared in the case.

Mr. TAYLER. All right.

The CHAIRMAN. It is the same person who appears as associate counsel in this case for Mr. Smoot?

Mr. WORTHINGTON. He signed the answer, Mr. Chairman. He has not otherwise appeared in the case.

The CHAIRMAN. I did not remember to have seen him here.

Mr. TAYLER. Was any other answer received to this communication except what you learned Mr. Borah said in a speech?

Mr. OWEN. Not to that letter. I took up the question of his Lewiston speech, and wrote him——

Mr. WORTHINGTON. Mr. Chairman, I said that Mr. Borah signed the answer. I should say his name is signed to the answer in this case.

The CHAIRMAN. I want to inquire right there about this matter. Counsel says that he corrects the statement by saying his name is signed to it. Was that without his authority?

Mr. WORTHINGTON. We had intended to explain this matter later on. It was signed with the understanding that he was one of the counsel in the case, and signed by one of the counsel who was here. As to what his relation to the case is, in view of what has taken place here we may have something to offer on that matter later.

Mr. OWEN. I took up this question of his Lewiston speech with him, and I got a letter from him subsequently.

Mr. TAYLER. Have you the letter?

Mr. OWEN. I have the letter; yes.

Mr. TAYLER. Read it.

Mr. OWEN. It is headed "W. E. Borah, Attorney at Law, Boise City, Idaho, November 1, 1904," and is as follows:

W. E. BORAH, ATTORNEY AT LAW,
Boise, Idaho, November 1, 1904.

CHAS. M. OWEN,
Salt Lake City, Utah.

SIR: Yours of the 27th reached me here to-day. I observe that the contents of your letter consist of a poem. I am glad you have found time in your busy life of a sleuth to read poetry. I trust very sincerely that you will continue your reformation and indulge in a few poetic strains occasionally.

Very respectfully,

W. E. BORAH.

Mr. WORTHINGTON. What was the letter you wrote to him?

Mr. OWEN. I quoted a poem known as "Thomson of Angels," by Bret Harte.

Mr. TAYLER. Was there a reference in your letter to his challenge to produce the names of polygamists?

Mr. OWEN. He has never referred to that in any manner, shape, or form.

Mr. TAYLER. Then I do not care about these side issues.

Mr. WORTHINGTON. Could not that poem go in here, to complete the record?

Mr. TAYLER. If you like it, yes.

Were you ever called upon to produce the names of the additional hundred polygamists in Idaho?

Mr. OWEN. I have not been so called upon.

Mr. TAYLER. Was the evidence on which you base the statement that the 20 persons whose names you gave to Mr. Borah were polygamists of the same credibility as the evidence on which you based the statement that William Budge was a polygamist?

Mr. OWEN. It was.

Mr. TAYLER. And is there anything else you know in connection with these proposed or threatened prosecutions of polygamists in Idaho?

Mr. OWEN. There is nothing in Idaho. There is a small matter that came up in Wyoming. While in Star Valley, Wyoming, I learned that William H. Kennington, United States commissioner for the district of Wyoming, was a polygamist, and in that connection I wrote a letter inclosing an affidavit to Judge Riner, of the district court of the district of Wyoming, alleging that said William H. Kennington was a polygamist and cohabiting with more than one woman as his wife. Judge Riner immediately took the matter up and sent, by the hands of a deputy marshal, a citation to Mr. Kennington to appear before the district court and say why he should not be dismissed, which was all that was asked in my complaint.

The CHAIRMAN. What office did he hold?

Mr. OWEN. United States commissioner for the district court.

Mr. TAYLER. What happened further than that? Do you know?

Mr. OWEN. I do not know that that action is completed yet. I understand that he is to resign.

Mr. TAYLER. Is Star Valley the place where the Republican senator-elect is the president of the stake?

Mr. OWEN. George Osmond? Yes. He is a holdover senator, and I understand is an applicant to succeed Mr. Kennington.

Mr. TAYLER. As United States commissioner?

Mr. OWEN. As United States commissioner. He preceded him.

Mr. TAYLER. Mr. Owen, you have given a large amount of attention to the subject of prosecutions for polygamy and polygamous cohabitation in the State of Utah and elsewhere, and some comment has been made in the course of this hearing to the effect that the public has condoned the practice in Utah. I would like to have you state in a word what is your view on the question as to whether or not it is in the mind of anybody that successful prosecutions of cases of polygamous cohabitation could be carried on in Utah short of the price of destruction of a man's business or his situation as a member of society there to his own satisfaction.

Mr. OWEN. It is impossible to enforce any prosecution. The persons most interested, and many who resent the condition bitterly, are afraid to utter their sentiments. I remember one peculiarly obnoxious

ious feature to me. I believe that the gentleman I intend to refer to is in Washington, and I say it therefore hoping that he will appear.

While Judge Bartch was chief justice, in the year 1899—I think he was chief justice; at any rate, he was on the supreme bench—he approached me one night on West Temple street, near the Tribune office. The information against Lorenzo Snow was then pending. He told me that he thought the information was ill advised——

The CHAIRMAN. Was it in his court?

Mr. OWEN. No; he was on the supreme bench. That Mr. Snow was an exceedingly old man and the head of the church, and it would arouse a good deal of resentment by the Mormon people, etc.

I asked him if it was not a fact, whether he knew it or not, that Mr. Snow had a very young infant in the family by the ninth wife. He said he could not say as to that. I said: "Mr. Bartch, for your own information I will state that he has, and the reason of my prosecution of Mr. Snow is this, that I have never desired to prosecute any of the rabble, so to speak, of the Mormons—the poor class, those who are financially unable to help themselves," but that it was the leaders of the church and those most offensive that I was after; that Mr. Snow was the president of the church and had unlimited funds from the tithing fund to protect himself; that he was a member of the twelve apostles, who had signed the petition for amnesty addressed to the President of the United States, in which he had pledged his faith and honor for future compliance with the law, and that there was every feature in his case that was most offensive, and therefore I had sworn the information, and I proposed to stay with it. When a man on the supreme bench goes out of his way——

Mr. WORTHINGTON. Are we to have an argument from the witness or a statement?

Mr. OWEN. I beg your pardon. I considered it in this light——

Mr. WORTHINGTON. I object to how he considered it. He should state the facts.

The CHAIRMAN. Just state the facts, Mr. Owen.

Mr. OWEN. The facts are just as I have stated, that he did ask me practically to withdraw the complaint, that he thought it was ill advised. You can not get testimony—that is, those who can testify will not testify. The information that I get comes to me under the most solemn pledges of protection as to the name of the informant, and very largely from the members of the family themselves.

Mr. TAYLER. You may inquire, gentlemen.

The CHAIRMAN. Mr. Owen, you have been over Utah pretty generally, I understand. I will ask to what extent, in your judgment, is polygamy or polygamous cohabitation practiced in the State of Utah?

Mr. OWEN. There is hardly a settlement of any size without its polygamists. Some sections are worse than others.

The CHAIRMAN. What sections?

Mr. OWEN. I should say that Davis County is the worst; next to it, Cache County; then probably the St. George country. Of course, Salt Lake is always preeminent by reason of its larger population and of being the residence of many high officials of the church.

The CHAIRMAN. How prevalent is polygamy or polygamous cohabitation in Idaho?

Mr. OWEN. The same condition exists in southeastern Idaho, in

the Mormon settlement, as in Utah. They are scattered around, particularly in those settlements that seem farthest from the railroads. Star Valley, on the edge of Idaho and Wyoming, is probably the most condensed bunch of polygamists.

The CHAIRMAN. That is in Wyoming?

Mr. OWEN. It is on the line between Idaho and Wyoming. The State line runs through the valley, though most of the settlements are in Wyoming.

The CHAIRMAN. Do you know anything about the existence of polygamy in other States or Territories in that vicinity?

Mr. OWEN. My information goes to that point, that it exists in Colorado, Nevada, Oregon, Arizona, and New Mexico, besides Old Mexico and Alberta.

The CHAIRMAN. Do you know whether Mr. Grant's wives are with him in England?

Mr. OWEN. A plural wife is with him, I understand.

The CHAIRMAN. Where are the others?

Mr. OWEN. The legal wife is in Salt Lake City.

Senator DUBOIS. Is it your information that the present attorney-general of Idaho, Mr. Bagley, entered into polygamy after the manifesto of 1890?

Mr. OWEN. My information is that he married Lydia Austin as his plural wife about 1892. She is, however, dead.

Mr. WORTHINGTON. She died when?

Mr. OWEN. In 1897 or 1898, I think.

Senator DUBOIS. Have you any information as to whether he has taken another wife since she died?

Mr. OWEN. Well, I have heard, but I am not yet satisfied of the evidence in my own mind. The wife, if married, is far distant, and it is impossible for me to cover all the territory.

The CHAIRMAN. I do not know but that you have stated—if you have I have forgotten—when you went to Utah.

Mr. OWEN. I went there first in 1887.

The CHAIRMAN. And have you resided there ever since?

Mr. OWEN. I have.

Mr. WORTHINGTON. Mr. Owen, as to this matter in Idaho, do you know whether or not there is any statute in Idaho about polygamous cohabitation?

Mr. OWEN. There is a statute against cohabitation—lewd and lascivious cohabitation; and my advice from what appeared to me competent attorneys was that it would be impossible to convict under that statute.

Mr. WORTHINGTON. Have you any objection to stating who were the attorneys who gave you that advice? If you have, I will not ask you.

Mr. OWEN. No; I forget now. I took the matter up some two or three years ago—in 1900.

Mr. WORTHINGTON. Do you mean you do not remember the names of the attorneys or that you have no objection to giving their names?

Mr. OWEN. Well, I should rather not answer the question as to the names of the attorneys. They are Salt Lake attorneys in good practice, and it might be an injury to them in their practice.

Mr. WORTHINGTON. I will not press it. They are men upon whose

knowledge of the law you relied, or you would not have asked their opinion?

Mr. OWEN. I did rely upon it.

Mr. WORTHINGTON. They told you there was no statute in Idaho which covered this offense?

Mr. OWEN. It seemed to them questionable whether any conviction could be obtained under it.

Mr. WORTHINGTON. Did they simply say it was questionable, or that in their judgment no conviction could be obtained, that the statute would not apply?

Mr. OWEN. It seemed to them, as they told me at the time, as I recollect, that it was ineffective.

Mr. WORTHINGTON. That was the state of the law in Idaho, as you understood it, when you had this correspondence with Mr. Borah?

Mr. OWEN. Yes, sir.

Mr. WORTHINGTON. There is a law in Idaho against polygamy; that is, against the taking of plural wives?

Mr. OWEN. Oh, yes.

Mr. WORTHINGTON. In the list you presented to Mr. Borah, did you specify a charge against anyone of having taken a plural wife in Idaho?

Mr. OWEN. No, sir.

Mr. WORTHINGTON. The cases you submitted to him, then, were all cases of the class as to which you had been advised by the attorneys you had consulted in Salt Lake City that there was no law could reach the case?

Mr. OWEN. He had stated that there was law, and I was perfectly willing to furnish the information and swear to the conditions. Here is the form of my affidavit, if you would like to have it.

Mr. WORTHINGTON. No; I do not care about that. What you have said about the substance of it is sufficient. As to this challenge, as you call it, that Mr. Borah gave you, was that in writing?

Mr. OWEN. No; it was on the stump, published in the papers—the public prints.

Mr. WORTHINGTON. You did not hear it?

Mr. OWEN. I did not hear it. I read it in the papers.

Mr. WORTHINGTON. Can you give me the language that was published in the papers?

Mr. OWEN. As near as possible, it is what is quoted in my letter.

Mr. TAYLER. What is the date of your letter?

Mr. OWEN. October 24.

Mr. TAYLER. Do you recall where it was printed? Excuse me, Mr. Worthington. I want to get that information if I can get it.

Mr. WORTHINGTON. Certainly.

Mr. OWEN. I think in the Capitol News; in fact, practically in the papers of Idaho generally. I saw it in two or three.

Mr. WORTHINGTON. Were you content, in this matter, with taking the opinion of a single attorney as to whether there was any law that could be enforced against polygamous cohabitation in Idaho?

Mr. OWEN. Oh, no; I have had more than one attorney.

Mr. WORTHINGTON. And they all told you the same thing; did they not?

Mr. OWEN. They said the law, such as it was, seemed to be ineffective.

Mr. WORTHINGTON. I want to ask you as to the prosecutions which you instituted or attempted to institute in Utah, in which, either because of the failure of the prosecuting attorney to act or otherwise, there was no conviction, or, where there was a conviction, there was only a fine imposed—all those cases. How many of those cases were cases in which you charged the accused with having taken a plural wife since the date of the manifesto?

Mr. OWEN. I did not accuse any of that.

Mr. WORTHINGTON. They were all cases, too, of unlawful cohabitation?

Mr. OWEN. They were all cases of cohabitation. Of course, in the case of Margaret Shipp with B. H. Roberts, it was in my mind that he had married her since the manifesto.

Mr. WORTHINGTON. Was that part of the charge in your affidavit?

Mr. OWEN. Oh, no; it was not necessary.

The CHAIRMAN. What is the fact in regard to this matter, Mr. Owen? You charge in the affidavits a violation of the manifesto.

Mr. WORTHINGTON. Oh, no; Mr. Chairman. I was trying to find out whether he charged anybody with having taken a plural wife since the manifesto. He said he did not, but all the charges were of unlawful cohabitation. And I might say right here that in the answer in this case it is admitted that there are a large number of people living in Utah in polygamous cohabitation, and had been, so that all this evidence on this subject is about something which, so far as Senator Smoot is concerned, is not denied.

The CHAIRMAN. I remember.

Mr. WORTHINGTON. You said you were retained by these protestants?

Mr. OWEN. On their behalf.

Mr. WORTHINGTON. Might I ask you who retained you on their behalf?

Mr. OWEN. Doctor Paden.

Mr. WORTHINGTON. He is one of them?

Mr. OWEN. He is one of them; yes, sir.

Mr. WORTHINGTON. When did that relation between you and the protestants begin?

Mr. OWEN. The 1st of January, 1903.

Mr. WORTHINGTON. Does it continue still?

Mr. OWEN. It does.

Mr. WORTHINGTON. All you have done in this matter, have you done acting in this capacity for them?

Mr. OWEN. I have.

Mr. WORTHINGTON. You have not been employed in any otherwise to act in this matter?

Mr. OWEN. No, sir.

Mr. WORTHINGTON. You have not been employed on behalf of the Government or the committee?

Mr. OWEN. Oh, no; I never pretended to.

Mr. WORTHINGTON. That is what I understood. Do you know who your employers are? Of course you are compensated for this, and I do not care for the compensation; but do you know who the persons are behind Doctor Paden, or whether he is putting up this expense himself?

Mr. OWEN. I do not. Doctor Paden is the person who has paid me my retainer and to whom I report.

Mr. WORTHINGTON. And your expenses?

Mr. OWEN. Of course.

Mr. WORTHINGTON. You have not inquired who is back of it, if anybody?

Mr. OWEN. I have not.

Mr. WORTHINGTON. Have you any reputation or information on that subject?

Mr. OWEN. I have understood that the Woman's Interdenominational Council were the people who are putting up the money.

Mr. WORTHINGTON. You heard that from him, or from them?

Mr. OWEN. I think it has been talked between us.

Mr. WORTHINGTON. When you say "between us," whom do you mean?

Mr. OWEN. Between Doctor Paden and myself; but I have no affirmative evidence on that point.

Mr. WORTHINGTON. In going from place to place and making inquiries about this and that alleged violation of the law, have you gone on your own motion and information, or have you received instructions or requests from anybody as to where you were to go or what you were to do?

Mr. OWEN. I have been left absolutely to my own suggestions in the matter.

Mr. WORTHINGTON. Have you made reports to anybody?

Mr. OWEN. From time to time; yes.

Mr. WORTHINGTON. To whom?

Mr. OWEN. Doctor Paden.

Mr. WORTHINGTON. Anybody else?

Mr. OWEN. No, sir. Oh, excuse me. In 1899, of course, I reported to the New York Journal.

Mr. WORTHINGTON. I am speaking of the time since you were retained.

Mr. OWEN. Since 1899 I have reported to Doctor Paden entirely.

Mr. WORTHINGTON. As to Apostle Merrill, in reference to whom there has been some merriment here this morning, do you know anything about his age?

Mr. OWEN. Yes.

Mr. WORTHINGTON. What is his age, according to reputation?

Mr. OWEN. He must be over 70.

Mr. WORTHINGTON. How much over 70?

Mr. OWEN. I can not say without referring; but he is an oldish man.

Mr. WORTHINGTON. Have you seen him?

Mr. OWEN. I have seen him; yes.

Mr. WORTHINGTON. Have you seen him since this investigation began?

Mr. OWEN. No; I don't think I have.

Mr. WORTHINGTON. Did you see him when you went to his house?

Mr. OWEN. I didn't go to his house.

Mr. WORTHINGTON. Oh, I beg your pardon. I wish you would give me the names of the judges of whom you complain of having inflicted only nominal fines on defendants when convicted of polygamous cohabitation in Utah.

Mr. OWEN. Judge Norrell.

Mr. WORTHINGTON. What is the name?

Mr. OWEN. A. G. Norrell.

Mr. WORTHINGTON. Any other?

Mr. OWEN. Judge McCarthy and Judge Hart all tried cases.

Mr. WORTHINGTON. Those were the three?

Mr. OWEN. Those were the three.

Mr. WORTHINGTON. Who were the judges of the supreme court of the State who rendered the opinions to which you have referred, who reversed certain cases when there had been convictions?

Mr. OWEN. Bartch, Baskin, and Minor, I think. The record will show it, anyway.

Mr. WORTHINGTON. Judge Norrell is a Gentile, I believe?

Mr. OWEN. Yes, sir.

Mr. WORTHINGTON. Judge McCarthy is a Gentile?

Mr. OWEN. Well, McCarthy comes of Mormon parentage, and his father is a polygamist.

Mr. WORTHINGTON. I asked you whether Judge McCarthy is not a Gentile.

Mr. OWEN. I think that is an open question. I would not like to say whether he is Mormon or Gentile.

Mr. WORTHINGTON. What is the atmosphere of Utah about that, as to whether he is Gentile or Mormon?

Mr. OWEN. I think he is generally regarded as a Mormon.

Mr. WORTHINGTON. And Judge Hart is a Mormon?

Mr. OWEN. Certainly.

Mr. WORTHINGTON. Now, as to Judge Bartch, to whom you referred a moment ago. Is he a Mormon or a Gentile?

Mr. OWEN. We call him a Jack-Mormon.

Mr. WORTHINGTON. You mean by that that he is a Gentile, but that he has Mormon proclivities, do you, or what do you mean?

Mr. OWEN. No; he is a Gentile who, for the hope of political office or preferment, will be obedient, subservient to their wishes.

Mr. WORTHINGTON. And Judge Baskin. Is he a Gentile or a Mormon, or a Jack-Mormon, or how do you stigmatize him?

Mr. OWEN. Judge Baskin for many years was one of the most vicious Mormon fighters, I think you might call it, in the early days, that ever was. Of late years, however, he has bent the pregnant knee.

Mr. WORTHINGTON. He is a Gentile?

Mr. OWEN. He is a Gentile, certainly.

Mr. WORTHINGTON. How about Judge Minor? Is he Mormon or Gentile?

Mr. OWEN. Judge Minor is a Gentile—not very pronounced one way or the other. I think he tries to keep aloof from both difficulties.

Mr. WORTHINGTON. As to these prosecuting attorneys you have mentioned. One of them, you said, was a Mormon. Were all the prosecuting attorneys with whom you had these dealings Mormons?

Mr. OWEN. No, sir. Streeper is a Mormon; Nebeker is a Mormon; Ericson, of Sevier County, was a Mormon; Evans, of Provo, Utah County, was a Mormon, and Putnam, of Salt Lake County, was a very weak-kneed Gentile.

Mr. WORTHINGTON. I observe they are all weak-kneed if they do not fall into your views of what should be done.

Mr. OWEN. Well, where crime is so apparent and a man is afraid to prosecute it, I think I am right in my deduction.

Mr. WORTHINGTON. I did not understand who the Charles Merrill is to whom you refer. Is he a son of the apostle or a relation?

Mr. OWEN. He is a son of the apostle. He was one of the witnesses here last spring.

Mr. WORTHINGTON. Yes; he is the same one who has been here. Did you see, in the Washington Times within the last week, a picture purporting to represent the garments which the Mormons wear in the endowment ceremony?

Mr. OWEN. Yes, sir.

Mr. WORTHINGTON. Did you have anything to do with having that picture published in the paper?

Mr. OWEN. I had nothing to do with it to the effect of getting the paper to publish it. I stood for the pictures.

Mr. WORTHINGTON. Where did you go and stand for those pictures?

Mr. OWEN. In Clinedinst's gallery.

Mr. WORTHINGTON. Who inspired that proceeding?

Mr. OWEN. I did.

Mr. WORTHINGTON. Why did you inspire it?

Mr. OWEN. I thought it was a good thing to get out.

Mr. WORTHINGTON. Had you endeavored to have it presented to this committee, or do you not think that was the way to present it, if it was a good thing to get out?

Mr. OWEN. No; it seemed to be hardly germane to the proceedings of this committee.

Mr. WORTHINGTON. You think nothing is germane to the proceedings of this committee which is good to get out against the Mormons?

Mr. OWEN. There are some things it is possibly difficult to get into testimony that would be effective testimony. That is a matter, to my mind, of great public interest, but yet hardly within the scope, as I understand it.

Mr. WORTHINGTON. How were you led to understand that it was not within the scope of this inquiry?

Mr. OWEN. I talked the matter over with other people.

Mr. WORTHINGTON. With whom?

Mr. OWEN. Other counsel.

Mr. WORTHINGTON. Other counsel?

Mr. OWEN. I think I have talked the matter over with Mr. Tayler. I forget whether I have or not. I certainly have with my Salt Lake counsel.

Mr. TAYLER. There are some things, Mr. Worthington, you must admit that even I thought were not right.

Mr. WORTHINGTON. I wish to give you the credit, Mr. Tayler, of bringing this out. You know that I knew you had advised that you would not have anything to do with bringing that thing in here; and Mr. Owen takes it and puts it in the papers. That is all I wish to ask on that subject.

You say that by reputation J. M. Tanner has married some woman since the manifesto?

Mr. OWEN. Yes, sir.

Mr. WORTHINGTON. Give us the name of the woman, please.

Mr. OWEN. Carrie Petersen.

Mr. WORTHINGTON. Living where?

Mr. OWEN. She is in hiding now. I don't know where she is.

Mr. WORTHINGTON. Where was she reputed to live, or what does the atmosphere in Utah say on that subject?

Mr. OWEN. She was born in Freedom, and is a daughter, I believe, of Knute Petersen, formerly of Sanpete Valley. She then came to Salt Lake and worked as Mr. Tanner's stenographer for awhile, and later went into thin air.

The CHAIRMAN. What do you mean by that?

Mr. OWEN. She disappeared about a year ago, just about the time of the first investigation here.

The CHAIRMAN. You said she went into thin air. Do you mean she is translated?

Mr. OWEN. She seems to be. Her own parents——

The CHAIRMAN. Just express it so that we may understand what you mean.

Mr. OWEN. Her parents and her family do not know her whereabouts, but she has the reputation of having married J. M. Tanner and gone in hiding.

Mr. WORTHINGTON. You will observe the close relation, Mr. Chairman, between thin air and hot air.

Mr. TAYLER. I do not know. You could easily prove it is hot air; and if you can, why do it.

Mr. WORTHINGTON. The witness is giving us the hot air.

Mr. TAYLER. I say that may be; but it lies with you to prove it.

The CHAIRMAN. Go on with the case, gentlemen.

Mr. WORTHINGTON. As to Apostle Cowley; you have said that the atmosphere is that he married somebody since the manifesto?

Mr. OWEN. That is the repute; yes.

Mr. WORTHINGTON. What does the atmosphere say on that subject?

Mr. OWEN. The repute of Cowley is that he married Hattie Harker.

Mr. WORTHINGTON. Identify her. Where did she live?

Mr. OWEN. In Salt Lake City.

Mr. WORTHINGTON. And when did this reputed marriage reputedly occur?

Mr. OWEN. About three or four years ago.

Mr. WORTHINGTON. Now, as to Apostle Merrill. Who is he reputed to have married since the manifesto?

Mr. OWEN. Huldah Olsen.

Mr. WORTHINGTON. Give us enough to identify her.

Mr. OWEN. Of Richmond. She is now living.

Mr. WORTHINGTON. Richmond, Utah?

Mr. OWEN. Yes.

Mr. WORTHINGTON. Do you know whether Frank Nebeker was elected or defeated when he ran?

Mr. OWEN. I don't remember, sir. I don't remember paying a great deal of attention to that matter.

Mr. WORTHINGTON. I understood you to say he was elected.

Mr. OWEN. Well, he was a candidate, and I rather thought he was elected.

Mr. WORTHINGTON. Lots of people are candidates.

Mr. OWEN. Yes.

Mr. VAN COTT. He was a Democrat, was he not?

Mr. OWEN. I really could not tell you.

Mr. WORTHINGTON. I think that is all, Mr. Chairman.

Senator DUBOIS. Mr. Owen, a lady testified here by the name of Geddes, was it not?

Mr. OWEN. Yes, sir.

Senator DUBOIS. When did her husband, Mr. Geddes, die?

Mr. OWEN. In 1891.

Senator DUBOIS. She testified, I believe, that she had a child five years and a half old.

Mr. OWEN. Yes, sir.

Senator DUBOIS. Where does she live?

Mr. OWEN. Sometimes at Plain City and sometimes at Salt Lake City; usually at Plain City.

Senator DUBOIS. Do you know anything about her reputation for chastity or virtue in Plain City?

Mr. OWEN. It has always been good as far as I could learn of it.

Senator DUBOIS. Does she occupy a good social position there?

Mr. OWEN. Yes, sir.

The CHAIRMAN. You speak of the prevalence of polygamy and polygamous cohabitation in Utah, Idaho, and Wyoming. Among what class of people does this exist?

Mr. OWEN. Among the Mormon people entirely.

DOCUMENTARY EVIDENCE.

The CHAIRMAN. What further, Mr. Tayler?

Mr. TAYLER. Mr. Chairman, in the first place, I may say that except as to some documentary evidence, to which I will allude in a moment, all of the testimony that the protestants have intended and are able to present to the committee has been offered.

The committee will understand that a large amount of valuable testimony, which seemed to us to be available under such conditions as would meet our desires, was unavailable on account of the inability of the committee to go, or to send a subcommittee, to Utah. There we felt, and still feel, sure a very large amount of testimony cumulative to and emphasizing all that has been presented would have been produced before the committee. Then, as the evidence discloses, a large number of witnesses whose testimony seemed to us to be very important and, indeed, striking and conclusive on the points concerning which they were expected to testify are not found. They have disappeared. Without undertaking to attach any sinister purpose or meaning to the word "disappeared," whether it is thin air or thick air or dark air, where or how they have gone, we can not find them, and the reason why we wanted them has appeared in the testimony of Mr. Owen and has developed in the other testimony in the case.

While, as I say, we propose to close our case here, and while it is in the province of this committee to take testimony whenever it is inclined to do so, regardless of what may be the conduct of counsel or their desire, I do not mean, in so far as I might do so or could be charged with doing so, to foreclose myself from putting in before the committee at some future time testimony of any of these witnesses whom we have been unable to obtain; or, if there was anything that was so striking that upon presentation to the committee the committee would feel we ought to present it, to have that new testimony

offered. But I do not apprehend any such occasion will arise, and I advert to it now only that my words at this moment may not be quoted for the purpose of confounding me later on.

All we have left to offer is the documentary proof referred to in the protest signed by Doctor Paden and others and extracts from the newspapers. We have nearly all of those here, and some of them we will probably not offer, because they are relatively unimportant, and some of them because we are unable conveniently to get hold of the documents which contain them.

I do not know whether all of these that have not been admitted or have not already been offered in evidence are now available, but if they should not be I would ask leave to be able to put them in when the committee resumes its hearings. It will take nobody by surprise if we are able to produce the newspapers or other documents which contain the extracts that are now in the protest. Beyond that we have no purpose of offering anything.

The CHAIRMAN. You propose to offer those now?

Mr. TAYLER. We will see what we have of these ready, so that we may offer them. We have a large number of newspapers, Mr. Chairman, but it is quite difficult physically to compass this purpose of producing all of the extracts from various publications in various newspapers which are referred to in the protest.

Mr. WORTHINGTON. Mr. Chairman, this is a very embarrassing situation to us. We have been told, or rather we have expected from what has been said, that the testimony on behalf of the protestants would close this week, and I understand the chairman to say that he would require them to close this week. We wish to proceed as diligently as we can with our testimony, and we have arranged to go to work in the preparation of it and to give a number of the names to the chairman very soon, perhaps to-day; but we do not feel that we ought to be called upon to go on with our evidence until the prosecution in this case has closed and has announced it has closed.

The CHAIRMAN. The chair understands it is closed.

Mr. WORTHINGTON. Yes; it is closed; but counsel say it is closed with the reservation that if they find any more testimony they will ask leave to produce it.

The CHAIRMAN. I understand there is a reservation that if Apostle Grant, or any of these parties who have not been reached by subpoena, should appear he would claim the right to have them examined. That is as I understand the scope of the statement.

Mr. TAYLER. Surely; and, Mr. Chairman, more than all that—

Mr. WORTHINGTON. They have not been subpoenaed.

Mr. TAYLER. We want to get them. I close it without reservation, as far as that is concerned, but I give notice to the counsel on the other side, what must appeal to his sense of propriety, that if at any time in the future, in an investigation of this character, we should desire to present some testimony that was so significant and so important that the committee itself would say that it ought to be heard, surely, however much it might embarrass the other side, it would be heard. We have no expectation that any of these witnesses will be found, or that they will be here, but if they are, we are not going to be modest and say that the case is ended and that we must not again open our mouths, or endeavor, in other words, to inform the Senate. That is all.

Mr. WORTHINGTON. Mr. Chairman, if any of those witnesses who have been subpoenaed or have not responded, or those whom they have not been able to subpoena, should turn up or come here, and the committee should desire them examined, of course we understand that would be done.

The CHAIRMAN. There can not be any misunderstanding, then, between counsel about it. The case, as far as the protestants are concerned, is closed; but, of course, counsel could make no agreement by which the committee itself would be barred from inquiring into the matter further if any matter of importance should occur.

Mr. WORTHINGTON. Now, Mr. Tayler, about these matters of the newspaper extracts. As I recollect the answer in this case, it is a question whether some of those are not incorrect, and if we are to be called upon on our part to go into that, we ought to know very soon just what it is you offer. If you have the papers here of course there will be no question about the correctness of the petition, because we can compare them with you.

Mr. TAYLER. Perhaps it would be better for me to make out and furnish the gentlemen on the other side, in some way or other, a type-written copy of all of these, so that you may compare them, and then put them in the first thing upon the next meeting of the committee. Of course, as to a large amount of those there is no dispute, I presume.

Mr. WORTHINGTON. There is this that you ought to bear in mind, that where somebody has been getting up the memorial and has made extracts from a certain newspaper or other document we must have the document to see whether there are other parts of it which would affect the sense of what is published.

Mr. TAYLER. Undoubtedly.

Mr. WORTHINGTON. These are only extracts, and we might find something else that would put a very different phase on the meaning.

Mr. TAYLER. Of course, Mr. Chairman, if we have correctly quoted the document to which reference is made, then it will be for the other side to quote so much of the context as they imagine will give a fair interpretation of that which we have quoted. All that I understand we feel responsible for, and for which we are to be held responsible, is that we shall correctly quote, and I will be very glad to quote with fairness and quote the context, too, if I could have it called to my attention.

Mr. WORTHINGTON. All I ask about that is that as soon as possible you may have such of these documents as you are going to produce where we can see them. We do not want to have the excerpts produced and not the documents.

Mr. TAYLER. I understand. Of course if it is a large volume like that [indicating] and we refer to the volume, the page, and the place where the document can be found, then you can identify it for yourself; and that we will do, Mr. Chairman.

Mr. WORTHINGTON. How soon will you do it, Mr. Tayler?

Mr. TAYLER. We will have the full statement within two or three days. We will present it to the other side, Mr. Chairman.

The CHAIRMAN. Do I understand you are to have none of these put in at this time?

Mr. TAYLER. No. The chair will note this, just as illustrative of

the situation in which we find ourselves: When we consider this case as a lawsuit, with an answer in it sworn to by Senator Smoot—

Mr. VAN COTT. There is a charge under oath, too.

Mr. TAYLER. Is it under oath?

Mr. VAN COTT. I think so.

Mr. TAYLER. I think not.

Senator DUBOIS. Leilich's charge is under oath.

Mr. VAN COTT. I think so.

Mr. TAYLER. We have stated many times what the Leilich charge is. It is not the basis of this inquiry and I do not represent it. Here are 19 reputable gentlemen who just sign their names like ordinary citizens, and that is the end of it.

Mr. VAN COTT. We did not know when we put in an answer that you were going to repudiate Leilich's charge, and that is under oath.

Mr. TAYLER. That is all right. I am not criticising the fact that it is under oath at all. An answer of this sort sworn to is not proof of anything. It is the mere making up of the issue in this case.

What I refer to is this, that under Paragraph I, on the first page of the printed record, in the protest appear a number of quotations. Two of them are from the Doctrine and Covenants, one of them from a sermon by Apostle George Q. Cannon, one of them from a sermon by Doctor Gowans, another by Apostle George Q. Cannon in the Juvenile Instructor, another from the Key to Theology, another from a sermon by Brigham Young, jr., and so on—a number of extracts put in here because they did exist, and they are presumably accurately quoted.

Mr. Smoot, in his answer, says that "the quotation"—

The CHAIRMAN. What page are you reading from?

Mr. TAYLER. On page 33 of Senator Smoot's answer, at the top of the page.

"The quotation under said I, from the Doctrine and Covenants, so far as the same is quoted, is correct.

"The respondent denies each and every other allegation and statement contained under said I, except as admitted or alleged in this answer."

So that we have the denial of Senator Smoot under oath that any of these other things were thus said by these people.

The CHAIRMAN. You propose to offer them?

Mr. TAYLER. I want to prove those things, that is all, by the documents referred to in this protest.

And so with the next. Paragraph II contains a large number of significant and historic quotations from high officials of the church and from the books and publications of the church.

Now, in Paragraph II of Senator Smoot's answer there are some admissions. He says:

"So far as quotations are made from any of the above"—

That is, from the four authorized books of the church (the Bible, the Book of Mormon, the Doctrine and Covenants, the Pearl of Great Price) and the manifesto—

"and correctly quoted"—

So we do not have the admission even that we have correctly quoted from those—

"this respondent does not deny, but admits the same, but he denies the construction placed upon the same by protestants, and all other

quotations from any other source in whatever protests contained are denied, so far as the same are either alleged or claimed to be authority, as such quotations contain only the opinions of men."

Then at the close he denies each and every other allegation; so that we are confronted with a denial, apparently, of the fact that any such statements were made by men high in authority, as well as denying the proposition or suggestion that seems to be implied in it, that these statements thus made were inspired and were of authority upon the church.

And so on. There is a large amount of very important matter quoted from public documents, and from newspapers that intended to quote with authority, denied by the respondent, and we must prove it.

The CHAIRMAN. Do you propose to go on with that proof, taking up the first charge this afternoon? We have plenty of time, and you might go on for an hour. It is desirable to proceed as rapidly as possible.

Mr. TAYLER. Very well.

On page 2 of the protest is a quotation from the Key to Theology.

The CHAIRMAN. Mr. Tayler, read the first allegation in the protest.

Mr. TAYLER. The first charge itself is that—

"The Mormon priesthood, according to the doctrines of that church, is vested with supreme authority in all things temporal and spiritual."

Under that head quotations are made from publications of the church and statements of its high officers.

The CHAIRMAN. The Chair understands.

Mr. TAYLER. Then on top of page 2 is a quotation from the Key to Theology.

Mr. WORTHINGTON. Would it not be much better to submit to us a list of these papers, so that we can go over them and see whether there are other portions of the same documents to go in?

Mr. TAYLER. The trouble about that is they are all here, printed in our protest. We think they are right. We thought they were right.

The CHAIRMAN. The committee can proceed for an hour. Go on, Mr. Tayler.

Mr. TAYLER. These quotations were made, as I understand it, very carefully and with an intent to be accurate. I think they are.

Mr. WORTHINGTON. Who prepared them?

Mr. TAYLER. I believe the gentleman who prepared them is here.

Mr. WORTHINGTON. Mr. Critchlow, do you mean?

Mr. TAYLER. Mr. Critchlow.

Mr. VAN COTT. Some of them I know are quoted wrong. How many, I do not know.

Mr. TAYLER. If you would give us an indication of where an error may have occurred, we would be glad to see it is corrected.

Here is one that is not admitted, but is denied. I hold in my hand, and I will assume that it is authoritative, Mr. Chairman, unless it is disputed, The Key to the Science of Theology, by Parley P. Pratt. It has been referred to in the testimony, and possibly may have been identified. It is sold by the Latter-Day Saints' Book Depot, in London. In this edition, on page 68, is the following, in chapter 8, on the "Key of knowledge of the power and government"—

Mr. WORTHINGTON. Who does that book purport to be by?

Mr. TAYLER. Parley P. Pratt. It is entitled "Key to Theology."

Mr. WORTHINGTON. Is that offered here as representing his views, or the views of the church, or what?

Mr. TAYLER. It is offered here in support of the proposition I have just read:

"The Mormon priesthood, according to the doctrines of that church, is vested with supreme authority in all things temporal and spiritual."

Mr. WORTHINGTON. I object, then, to the introduction of that article, on the ground that there is nothing yet to show that the church had anything to do with its publication. The charge says "The Mormon priesthood, according to the doctrines of that church." Is everything that every Mormon happens to take it into his head to publish to be taken as representing the church?

Mr. TAYLER. Possibly not, but I want to know if Mr. Worthington, representing Senator Smoot, disputes this work as being one of the authoritative works of the church—not that everything in it is deemed to be of divine origin, and controlling, but—

Mr. WORTHINGTON. I have just been informed by those who are supposed to know that it is not a promulgation of the church and does not purport to be. It is simply the private views of Mr. Pratt.

Mr. TAYLER. Undoubtedly the private views of Mr. Pratt; that is what we put it in for.

Mr. WORTHINGTON. Then I object to it, Mr. Chairman. Under a charge that the Mormon priesthood, according to the doctrines of that church, do something, instead of giving us the official books of the church, which show what it proclaims, or the official pronouncements of its heads, here is a book published by one of its members purporting to state what he thinks and acknowledges.

Mr. TAYLER. I will ask one of these apostles, Mr. Chairman, a question about Parley Pratt. If he is going to discredit that leading man in the church, why let us know it.

Mr. WORTHINGTON. I do not discredit the fact that he was a leading man in the church; but I do say that no man, whether he is a leading man in the church or a mere layman, can speak for the church unless he has some authority to do it.

Mr. TAYLER. If the statement of a leading man of the church was the binding and controlling dogma and doctrine of the church, we would have the whole church convicted of treason to-day.

Mr. WORTHINGTON. You would have what?

Mr. TAYLER. If what some prominent leading and supposed-to-be controlling authority in the church said was supposed to fully represent all that the members of that church stood for, there would not be anything left of this case or of the church as an organization. We do not make any such claim as that. That very written work, by high authority—

Mr. WORTHINGTON. I think, Mr. Chairman, what everybody must have observed is that although the resolution under which this committee is acting directs it to inquire as to the qualifications of Senator Smoot to a seat in the Senate, this inquiry has been directed against the Mormon Church almost entirely and exclusively. I am not the representative of the Mormon Church, and of course I am not a Mormon and in sympathy with its peculiar doctrines, about which we have heard so much here; but I do say, in common fairness to

any person, or party, or church, or body accused before such a high tribunal as this of such serious offenses, that the committee ought not to allow to go into its records, as representing the theories, doctrines, or practices of that church, anything except what is proclaimed by the authority of the church; and if you were to say that the Mormon Church or the Presbyterian Church or the Roman Catholic Church is to be convicted by what any member of that church happens to say about it, it would be hard lines for any organization, even those which are represented here by the persons for whom it appears Mr. Owen has been acting.

The Mormon Church has published plenty of official documents. Its heads have made plenty of official promulgations; and I do submit that those and those only should be accepted as tending to show what the Mormon Church holds to be its doctrines and its tenets.

The CHAIRMAN. Let me ask, Mr. Worthington, would the declaration of the head of the church, President Joseph F. Smith, be, in your judgment, admissible upon the question of the doctrines of the church?

Mr. WORTHINGTON. If he was undertaking at the time to speak for the church, of course it would be evidence on the subject. If it happens to be in a casual conversation on the street or in a speech or something of that kind, it would not; because, let me remind you, Mr. Chairman, of what you and we all know, that Joseph F. Smith, although he is the president of the church, can not change the doctrines of that church or make any revelation, as they term it, until it has been submitted to and approved by the body of the church in conference assembled, and Joseph F. Smith has no more power to declare a certain thing to be the doctrine of the Mormon Church than I have. He can submit it to the people, and the people can say it is the doctrine of their church.

Mr. TAYLER. Would it give any information to the committee as to the doctrines of the church when the head of the church, in a sermon, should declare—

Mr. WORTHINGTON. I should say not the slightest.

Mr. TAYLER. That is what I supposed our friends would say.

Mr. WORTHINGTON. Not the slightest. If he says it in the form of a special proclamation, in order to bind the church he must submit it to the conference. If he says it anywhere else, any Mormon has the same right to repudiate it that I have, and that has been proved here twenty times, and not disputed by anybody.

Mr. TAYLER. I see, Mr. Chairman, that this book is published by Albert Carrington, 42 Islington, and at the bottom of the first page is "Latter-Day Saints' Book Depot, 20 Bishop's grove, Islington." I think it has been referred to as one of the publications by the church by more than one witness, but I do not now recall the place.

Mr. WORTHINGTON. I have a recollection that President Smith was asked about Orson Pratt, and said—

Mr. TAYLER. This is not Orson Pratt.

Mr. WORTHINGTON. Well, this Pratt, and he said he had some things which had been published by the authority of the church, and it so appeared; and many other things he had published, for which the church was not in the slightest degree responsible. If a thing of this kind is to be brought here to be accepted as what is done by the Mormon Church, there should certainly be some evidence tending to

show that it was issued by authority of the church, or that the church, if it has been published, has accepted it as an official promulgation. As a matter of fact, it has appeared by witness after witness, and is now an established fact, that there are certain books which have been named here which do contain the doctrines of the Mormon Church, and that nothing else does. It has been shown here that the Bible, the Old and the New Testaments, the Book of Mormon, the Doctrine and Covenants, the Pearl of Great Price, and the Manifesto contain those doctrines; that every revelation which has been made has to be submitted to the church and submitted to the people. Those have all been published and are all in the books which are here except the Manifesto. There is no other authority on the face of the earth, and no other publication which can speak for the Mormon Church as to its doctrines except those.

The CHAIRMAN. Perhaps, Mr. Tayler, this matter can be expedited by conference with counsel in looking this over and coming to an agreement as to what may be admitted, and concerning which there will be a controversy.

Mr. TAYLER. No; we never can agree, Mr. Chairman, upon any such basis as that. The exclusion of Parley Pratt is monstrous—that is, the idea of it would be to the true Mormon. I do not care anything especially about Parley Pratt, but Parley Pratt was a member of the church. The church does not admit that Parley Pratt had a revelation from Almighty God, and that the church has accepted this as binding upon them. Following a long speech by Heber Grant we have a speech by Brigham Roberts; we have a quotation from Elder George M. Cannon; we have a quotation from Brigham Young himself; we have Apostle John W. Taylor quoted; we have Apostle Heber Kimball quoted; we have Apostle Joseph F. Smith quoted; we have almost all the apostles in the last forty years quoted in this document as giving their view of what the church stands for, what they stand for, what their power is; and we are not going, because of this miserable little book of Parley Pratt's, to say that we shall not notice the statements of all this long line of saints and apostles who have been making the church what it is.

So that it goes to the entire question of the informing value, to the committee and the Senate and the country, of the declarations by its leading minds and leading authorities. Of course, on the theory that Joseph F. Smith and others here have stated, their declarations have not the force of the Word of God. They say they have not, although the Book of Doctrine and Covenants says they have. But they say they have not, because they must be submitted to the people. The people have to pass on the question as to whether God has to be obeyed or not; but we propose to undertake to put in all of the statements of these important Mormon officials.

Mr. WORTHINGTON. All of those whom somebody has selected for you.

Mr. TAYLER. I have no way of giving everything they have ever said. I certainly am not going to put in colorless matter, a thing that has no meaning at all; and I am surprised that counsel oppose this. This is historical matter, and it would appear as if the respondent in this case was afraid to face the facts of history. We do not want anything else.

Mr. WORTHINGTON. I have been too long a practitioner in contested

matters, Mr. Chairman, to be affected by the remark of the gentleman that we are afraid to do this or that. I have come here to represent Senator Smoot, with the idea that, wide as is the range of inquiry here, there are some limitations which would be placed upon it, and that common gossip and talk in the community of Utah or other States of this Union as to what the Mormon Church teaches as its doctrines would not be received as evidence of what those doctrines are, when the doctrines themselves have been formally promulgated for many years in books and documents.

Suppose the question was in regard to the doctrines of some church with which we are not concerned here; would I be allowed to bring here a sermon which some preacher had delivered, in which he said the doctrines of the Presbyterian Church, for instance, were so and so, instead of bringing here the books which show what they teach as their doctrines? It has been a matter of general knowledge as to one church which has many adherents in this country and in the rest of the world, that there has been for a great many years a controversy in respect to what they maintain as their doctrine, and as to what is required of their members in church matters, in morals, and everything else.

I have lately read some very interesting works on that subject which constitute a strong parallel to what we have here. If that were the subject of inquiry here, and a member of that faith were challenged, and it was said that he owed to that church allegiance paramount to that which he assumed to the Government when he took the oath of office as United States Senator, would I be allowed to introduce as proof of what the doctrines of that church are what some preacher had said to me on the street or promulgated in some discourse, and the substance of which a reporter had taken down?

No. I would be required to bring here the official documents of that church to show what the official doctrines are.

Here are the books which show the doctrines of the Mormon Church are thus and so. Every doctrine which binds the members of that church is here before this committee. Every sentence of it has either been introduced in evidence already or is in the books which the committee has in its possession. Why should we go around and hear what some member of that church said in Utah, or what some member of the church concocted in his closet and put in his book, as undertaking to state the doctrines of that church, when the doctrines are here? I say let us have them and not what somebody else has said as affecting other members of it, or perchance affecting Senator Smoot as a member of it, which he and every member of the Mormon Church would have the right to repudiate.

The CHAIRMAN. Mr. Tayler, it is evident that it will be impossible to conclude this matter this afternoon, and the Chair will adopt the suggestion of counsel that you prepare a statement of what you propose to put in under these various articles, and the committee will pass upon the question later.

Mr. WORTHINGTON. Let us know where the book or document is from which you quote, so that we can in the first place verify the quotation and then see whether there is anything further that we desire to have go in.

The CHAIRMAN. It will be impossible to conclude this afternoon.

Mr. TAYLER. I think so. It would seem to me that is the better way.

The CHAIRMAN. We may as well adopt the suggestion, and you can prepare a statement of what you propose to offer under each one of these charges and let counsel on the other side be advised of it, and then the committee will pass upon it. Is there anything further this afternoon? Under the statement, then, of counsel for the protestants, the committee will adjourn. And what is the wish of counsel for Senator Smoot as to the time of meeting again?

Mr. WORTHINGTON. Mr. Chairman this is an exceedingly important matter, because you will see at once that if extracts from what a certain member or priest of the Mormon Church has said here and there is to go in evidence then we want time to collect evidence of what other members and officers of the Mormon Church have said all over the world, and put it in to show——

The CHAIRMAN. Counsel will have ample time to meet anything that is admitted.

Mr. WORTHINGTON. You asked us, Mr. Chairman, what is our wish as to the time to which the hearing shall adjourn. That will depend very largely upon the result of this matter which is pending now, because it will take perhaps as much of our time to go into those matters and find out what members of the Mormon Church and officers of the church have said here and there during the last twenty years as it would to prepare all the rest of our case together.

Mr. TAYLER. I think it is fair to assume in advance that we have made this offer to prove, and to direct their answer to, the things that are quoted there.

Mr. WORTHINGTON. No; I do not intend to direct my energies toward meeting an offer of proof such as this. When this committee has solemnly ruled that such evidence as that is to be considered here against Senator Smoot, then I will address my mind to the subject of considering what reply to make to it, and not before.

Mr. TAYLER. I think the committee had better stay in session until it settles that question.

Mr. WORTHINGTON. I think so. I think we had better not be called upon to say what we propose to do until that is settled.

The CHAIRMAN. Do I understand you do not wish to fix any time for proceeding upon the part of the defense until this matter is passed upon?

Mr. WORTHINGTON. I do not.

The CHAIRMAN. The committee, then, will adjourn until to-morrow morning at 10 o'clock.

Mr. RICHARDS. Mr. Chairman, Mr. Budge asks if he is excused.

The CHAIRMAN. Do counsel want Mr. Budge any further?

Mr. TAYLER. Mr. Budge can be excused.

Mr. RICHARDS. And Mr. John Henry Smith?

Mr. TAYLER. No; I think we will want Mr. John Henry Smith here to-morrow to answer some questions.

Mr. RICHARDS. And Mr. Penrose?

Mr. TAYLER. And Mr. Penrose.

Mr. WORTHINGTON. Then the testimony is not closed, even as to the witnesses?

Mr. TAYLER. If we are going to have the standing of these lights of

the church questioned, I am going to inquire of Mr. Penrose and Mr. John Henry Smith as to who they are.

Mr. WORTHINGTON. I am not questioning the standing of these lights of the church, as you say. I am questioning the right of anybody, high or low, in the Mormon Church, to point out, by anything he says in an unofficial way, and except as it is done in a way in which the Mormon Church says it is accepted as a doctrine, what are the doctrines of the church.

Mr. TAYLER. Of course not, if some single man went off some place, as it is said, in a closet, and wrote some private view that he threw out to the world; but when we have here everybody, so far as we know, who has made history for the Mormon Church, quoted from, we think we have a pretty fair idea of what the Mormon Church stands for, and it is taking them all together that makes it important.

The CHAIRMAN. Mr. Jackson and Mr. Balderston would like to be excused, gentlemen.

Mr. TAYLER. I am through with them both.

The CHAIRMAN. Very well, gentlemen; you are both excused, then.

Mr. LUNDSTROM. Mr. Chairman, may I be excused this evening?

Mr. TAYLER. You can be excused, so far as we are concerned.

Senator DUBOIS. Mr. Morning asks if he can be excused?

Mr. TAYLER. Yes. I do not want to keep these two apostles, but the question has been made here, and we may have to call them to the stand to identify some of these things and to characterize some of these men.

The CHAIRMAN. Mr. Tayler, why can you not call them now?

Mr. TAYLER. I will. It suits me better.

The CHAIRMAN. The committee will remain in session a few minutes to see if we can not make further progress in this case.

Mr. TAYLER. I think one of these gentlemen can answer the questions I desire to ask.

TESTIMONY OF CHARLES W. PENROSE—Continued.

CHARLES W. PENROSE, having been previously sworn, was examined and testified as follows:

Mr. TAYLER. Mr. Penrose, you have already testified?

Mr. PENROSE. Yes, sir.

Mr. TAYLER. You are an apostle?

Mr. PENROSE. Yes, sir.

Mr. TAYLER. And you are also a kind of an ecclesiastical expert in your church, are you not?

Mr. PENROSE. I don't know that I have that reputation.

Mr. TAYLER. I do not intend the word offensively at all. I mean you were called——

Mr. PENROSE. I am very familiar with the doctrines of the church.

Mr. TAYLER. And you were called as a witness, I remember, in some recent case there, where the definition of sealings and all that sort of thing was required of you?

Mr. PENROSE. Yes, sir.

Mr. TAYLER. You are familiar with the history of your church and of its prominent men?

Mr. PENROSE. Yes, sir.

Mr. TAYLER. You know, of course, who Parley P. Pratt was?

Mr. PENROSE. Yes.

Mr. TAYLER. He was one of your most eminent writers?

Mr. PENROSE. That is correct.

Mr. TAYLER. And his work entitled "Key to Theology" is not what you call an inspired work at all?

Mr. PENROSE. No.

Mr. TAYLER. I mean it is not inspired in the sense that the four great books are inspired?

Mr. PENROSE. No.

Mr. TAYLER. But apart from that element of it, he is considered one of your greatest writers on the theology of the Mormon Church?

Mr. PENROSE. Yes; he is figured in that light.

Mr. TAYLER. And his books have not been published by the church?

Mr. PENROSE. I think not. They are the property of Parley P. Pratt and his heirs. They lay claim to them. They were his own property.

Mr. TAYLER. Has the church never published the Key to Theology?

Mr. PENROSE. Not as a church. I think probably the Liverpool office, which was conducted under the direction of the church, has published it, like they publish a great many other works, but not as an authority of the church.

Mr. TAYLER. Has it been published in Salt Lake City?

Mr. PENROSE. I am not aware of that. It may have been.

Mr. TAYLER. Has the Deseret News ever printed—

Mr. PENROSE. I could not tell you that. I think it was published by the Juvenile Instructor office, but I am not sure of it.

Mr. TAYLER. The Juvenile Instructor office is a branch of the Mormon Church?

Mr. PENROSE. No.

Mr. TAYLER. Is it not? Who is the president of it?

Mr. PENROSE. The Juvenile Instructor office?

Mr. TAYLER. Yes; the Juvenile Instructor.

Mr. PENROSE. The Juvenile Instructor is the property of the company called the Juvenile Instructor Company. The Juvenile Instructor is a religious publication.

(Mr. Penrose subsequently requested the stenographer to record his answer to the foregoing question as follows: "The Juvenile Instructor is published by the Sunday School Union.")

Mr. TAYLER. It is a Mormon religious publication?

Mr. PENROSE. Yes.

Mr. TAYLER. And the property of the Juvenile Instructor Company is the property of the Mormon Church, is it not?

Mr. PENROSE. No.

Mr. TAYLER. Whose is it?

Mr. PENROSE. Why, the company itself. It was originally George Q. Cannon & Sons. Who owns it now I do not know.

Mr. TAYLER. It is owned by the church, the way the Deseret News is owned by the church?

Mr. PENROSE. No.

Mr. TAYLER. The Key to Theology is referred to, is it not, in every book written by a Mormon on ecclesiastical subjects?

Mr. PENROSE. Oh, no.

Mr. TAYLER. Is it not?

Mr. PENROSE. Oh, no; it is referred to by some.

Mr. TAYLER. Do you know this work of Dr. Talmage?

Mr. PENROSE. Yes; the Articles of Faith, you mean.

Mr. TAYLER. Yes; the Articles of Faith. Was that published by authority of the church?

Mr. PENROSE. I believe it was.

Mr. TAYLER. By appointment? He was appointed by the church to do so, and the book was published by the church, was it not?

Mr. PENROSE. Yes; I believe so.

Mr. TAYLER. You remember the book of Brigham H. Roberts, the last that he wrote, I think, entitled "Mormonism?"

Mr. PENROSE. It was a little pamphlet.

Mr. TAYLER. Yes. That was published by the church, was it not?

Mr. PENROSE. No; I think it was published by Roberts, and I think the church bought it. They bought the copyright.

Mr. TAYLER. Was Parley P. Pratt the first of your great theological writers?

Mr. PENROSE. No.

Mr. TAYLER. Who was?

Mr. PENROSE. I don't know that there was any particular first. Orson Pratt ranked high as a writer, as well as Parley.

Mr. TAYLER. I did not mean first in authority or ability, but I meant first in time. Orson Pratt was before him, was he?

Mr. PENROSE. I couldn't tell that. Parley P. Pratt wrote a work in the early days of the church called "The Voice of Warning," which is one of the first that was published. The Key to Theology was later.

Mr. TAYLER. Apostle George Q. Cannon was a highly respected and capable apostle of the church in his lifetime, was he not?

Mr. PENROSE. He was.

Mr. TAYLER. Was his orthodoxy ever questioned in the church?

Mr. PENROSE. I don't think it was ever questioned by the church, but it may have been in the church. There may have been people who took different views from his.

Mr. TAYLER. I understand there were different apostles who had varying views on different subjects.

Mr. PENROSE. Yes.

Mr. TAYLER. Apostle John Tayler, who was afterwards president of the church, was recognized as an orthodox Mormon?

Mr. PENROSE. Yes; and a prominent writer and speaker.

Mr. TAYLER. There were publications known as the "Journal of Discourses?"

Mr. PENROSE. Yes.

Mr. TAYLER. They were published by the church?

Mr. PENROSE. I think they were published by George D. Watt and J. D. Long, originally, in Liverpool, England.

Mr. TAYLER. In the interest of the church?

Mr. PENROSE. Of course they were all supposed to be in the interest of the church, but I don't think the church published them. I am not sure about that.

Mr. TAYLER. Have you ever heard the authority of that publication questioned?

Mr. WORTHINGTON. What do you mean by the authority of it?

Mr. PENROSE. In what way do you mean? That is what I want to get at.

Mr. TAYLER. Can you answer the question—the correctness of the publication?

Mr. PENROSE. Do you mean the correctness of its contents?

Mr. TAYLER. Yes.

Mr. PENROSE. Oh, yes; there are some things in there that have been disputed.

Mr. TAYLER. That is, disputed by the persons who spoke them?

Mr. PENROSE. Oh, no; disputed by others.

Mr. TAYLER. By others.

Mr. PENROSE. Yes, sir.

Mr. TAYLER. I understand.

Mr. PENROSE. You were asking me about the authority of the publication.

Mr. TAYLER. I mean whether or not the fact that an address by Brigham Young, printed in the Journal of Discourses, was——

Mr. PENROSE. Actually delivered?

Mr. TAYLER. Actually delivered.

Mr. PENROSE. Yes; I think that is considered to be correct.

Mr. TAYLER. That is what I meant.

Mr. PENROSE. As far as that is concerned, but——

Mr. TAYLER. As to how authoritative or binding it was upon the church——

Mr. WORTHINGTON. Let him finish his answer, please.

Mr. TAYLER. Oh, no; I am going along all right.

Mr. WORTHINGTON. I submit a witness has a right to finish his answer without your going along all right.

Mr. TAYLER. The witness and I will have no trouble if you will only keep quiet.

Mr. WORTHINGTON. I shall not keep quiet when you interrupt the witness when you have the part of the answer you want and are trying to keep out, it would seem, the part you do not want.

Mr. TAYLER. There is nothing Mr. Penrose could say that I do not want.

Mr. WORTHINGTON. He was in the middle of an answer, and I ask that he be allowed to finish it.

Mr. TAYLER. If you would only keep quiet about it we would get through.

Mr. WORTHINGTON. I will not keep quiet about it until I get a ruling of the chairman.

Mr. Chairman, this witness was interrupted in the midst of an answer, and I am insisting that he should be allowed to finish an answer to one question before another is asked.

Mr. TAYLER. While all this storm is going on the witness says he does not know where he was, and can not answer it any further.

Mr. WORTHINGTON. I will ask the stenographer to read what the witness said, up to the point where he was interrupted.

The stenographer read as follows:

“Mr. TAYLER. I mean whether or not the fact that an address by Brigham Young, printed in the Journal of Discourses, was——

“Mr. PENROSE. Actually delivered?

“Mr. TAYLER. Actually delivered.

“Mr. PENROSE. Yes; I think that is considered to be correct.

Mr. TAYLER. That is what I meant.

Mr. PENROSE. As far as that is concerned, but——”

Mr. TAYLER. Now read my next question.

The stenographer read as follows:

Mr. TAYLER. As to how authoritative or binding it was upon the church——”

Mr. TAYLER. That, of course, might be matter of dispute.

Mr. PENROSE. Undoubtedly. We did not regard these books as authorities, only as works of reference, sometimes, to give the ideas that these men maintained on these subjects.

Mr. TAYLER. That is what I understood you to say, Mr. Penrose, and I want you to understand I am not seeking to have you say that those books, or what Brigham Young said, or what any other apostle said, is authoritative upon the members of the church.

You have stated that, so far as you understand, a sermon printed in the Journal of Discourses purporting to be a sermon of Brigham Young was in fact a sermon of Brigham Young, but its authority and effect upon the Mormons is an entirely different question.

Mr. PENROSE. I may add to that, Mr. Tayler, if you will allow me, that there are some sermons published in the Journal of Discourses the authenticity of which has been disputed—for instance, some of the sermons attributed to Joseph Smith, the prophet. They were taken down at the time in longhand and have been published in the Journal of Discourses and there have been disputes as to their correctness.

Mr. TAYLER. Those are the only ones, are they, that have been disputed?

Mr. PENROSE. They are the only ones I am reminded of now.

Mr. TAYLER. I am glad you said that. I believe there is no reference here to any such sermon of his. Roberts's Outlines of Ecclesiastical History is a work written by Brigham H. Roberts?

Mr. PENROSE. Yes.

Mr. TAYLER. Is it indorsed by the church officials?

Mr. PENROSE. I think perhaps it is, in the main, although there have been a great many disputes in regard to some portions of it that have arisen in the societies where it has been discussed—in the Mutual Improvement Associations, for instance, where it has been read—and some disputes have arisen in regard to its correctness.

Mr. TAYLER. I notice a book here called “The Story of the Mormons,” by W. A. Lynn. That you do not recognize as authority?

Mr. PENROSE. I should think not.

Mr. TAYLER. The Improvement Era is——

Mr. PENROSE. It is the organ of the Young Men's Mutual Improvement Association, and published by the Improvement Era Association.

Mr. TAYLER. Who is the editor?

Mr. PENROSE. Joseph F. Smith is the recognized editor.

Mr. TAYLER. That is the president of the church?

Mr. PENROSE. Yes, sir. I wish to say, however, that that is not altogether an authority. There are some things in that that have been subject to great disputes.

Mr. TAYLER. Doubtless. I think, Mr. Chairman, that I have now referred to all of the books indicated in this protest which have not already been identified in the testimony in the case.

Mr. WORTHINGTON. Are you through, Mr. Tayler?

Mr. TAYLER. Yes. Just wait a moment until I make sure I am right about that.

Mr. PENROSE. Is "New Witnesses for God" the book I asked you about?

Mr. PENROSE. No; I think you did not ask me about that. Its title is "A New Witness for God," by Roberts.

Mr. TAYLER. That is a highly thought of work, by Brigham H. Roberts?

Mr. PENROSE. Yes; highly thought of by Brigham H. Roberts. That is correct.

Mr. TAYLER. Is it not highly thought of outside of Brigham H. Roberts?

Mr. PENROSE. Yes, sir; a good many others think so.

Mr. TAYLER. Is the Logan Journal what you would call a Gentile paper?

Mr. PENROSE. Well, not altogether. I think there are some Mormons connected with it, but it is not a Mormon publication. It is not published under the auspices of the church, or with the church authority.

Mr. TAYLER. I understand. It is owned generally by Mormons, is it?

Mr. PENROSE. Yes, sir; some of both persuasions, I think.

Mr. TAYLER. Is it not an anti-Mormon paper?

Mr. PENROSE. No. I will say a good many Mormons there do not agree with the tone of it.

Mr. TAYLER. Was "Roberts' Outline of Ecclesiastical History" the work I asked you about?

Mr. PENROSE. You asked me about that.

Mr. WORTHINGTON. Mr. Penrose, will you tell me which, if any, of the publications to which Mr. Tayler has just referred is an accepted authority as to what are the doctrines of the Mormon Church, binding upon all Mormons?

Mr. PENROSE. None of them.

Mr. WORTHINGTON. What, if any, effect would it have upon the standing of a Mormon if he should openly dispute any proposition laid down in any one of them which was not taken from the books which you do accept as authority?

Mr. PENROSE. Not any of them whatever.

Mr. WORTHINGTON. Is it not a matter of fact that there are disputes in regard to them as to whether this and that passage is correct?

Mr. PENROSE. There are such disputes.

Mr. WORTHINGTON. If desired by anybody who was investigating the matter to ascertain what are the real true doctrines of the Mormon Church, the doctrines which alone are binding upon its members, would they be looked for in any place except in the books which I enumerated a few moments ago and in the manifesto?

Mr. PENROSE. Nowhere else. Those books are publicly endorsed by the church, and adopted as the written standards on purpose to disavow any absolute reliance upon any other works.

Mr. WORTHINGTON. The very purpose of having those books is so that the Mormons and the world will know exactly what your doctrines are?

Mr. PENROSE. Exactly.

Mr. WORTHINGTON. And to know that nothing else is a Mormon standard?

Mr. PENROSE. Yes, sir.

Mr. WORTHINGTON. These other things are merely the expressions of individuals, no matter how high they are in office?

Mr. PENROSE. Yes; we view them as valuable for what they are. If they do not agree with the standards, we do not adopt them.

Mr. WORTHINGTON. If you found a passage in this book not found in your standard books—

Mr. PENROSE. That is, if it did not agree with it.

Mr. WORTHINGTON. And you, for instance, should say you do not accept that as the voice of God, but that you believe it is the voice of the devil, you would have a right to say that anywhere to any of the Mormons, would you not?

Mr. PENROSE. Yes; if I believed it.

Mr. WORTHINGTON. And it would not affect your standing as a member of the church?

Mr. PENROSE. No, sir.

Mr. WORTHINGTON. That is all, Mr. Chairman.

Mr. TAYLER. That is all.

RULING BY THE CHAIRMAN.

The CHAIRMAN. The question raised by counsel is whether the declarations of the recognized heads and the leaders of the Mormon Church and the writings of the recognized teachers and instructors of the church are admissible in evidence as tending to show what the belief of the organization may be upon any given point.

I find the case of *Annie F. A. Hilton v. Rosa P. Roylance*, which was passed upon by the supreme court of Idaho and reported in 25 Utah Reports, page 129. It was decided in 1902.

One of the questions in that case was as to the meaning of the word "sealing," and its meaning was shown by the declarations of some of the leaders of the church and by the writings of its recognized teachers.

The court say:

"The most important subject of inquiry in this branch of the case, therefore, is what was meant by the term 'sealed' or 'sealing ceremony.' This point was made an issue in the pleadings. * * *

"Courts will take judicial notice of matters of history and the contents of the Bible; of the fact that there are various religious sects; of the creed and general doctrine of each sect, and hence will take notice of the creed and general doctrine of the Mormon Church and of the principle of 'celestial marriage' peculiar to the Mormon sect. These are matters of general history and may fairly be presumed to be subjects of common knowledge, of which the courts take notice without proof of the facts."

Continuing, on page 145, the court say:

"Having thus determined that we can take judicial notice of the works of history and theology offered in evidence and rejected, it now behooves us to ascertain what the particular meaning of the word 'sealing' is, according to the historical and the theological authority of the Mormon Church, and also to ascertain whether 'a sealing cere-

mony' performed as in the case at bar and under and by virtue of the authority of the church effects a marriage for time and eternity or merely for eternity, and whether such a ceremony is ever performed for eternity only. Counsel for the respondent insist that according to the theological authorities this ceremony relates to eternity or to the future life, and that the relations established by the sealing ordinances may begin after death. Upon careful examination we are of the opinion that this position is not sound."

The court then cite from Whitney's History of Utah, in regard to the doctrine of celestial marriage, and further say:

"It was to the Latter-Day Saints the key of the celestial kingdom, where, according to their faith, the family relationships formed on earth according to divine law will be perpetuated; hence the revelation enjoining celestial marriage was entitled 'Revelation on the Eternity of the Marriage Covenant, including Plurality of Wives.'"

The court then cite the revelation as recorded in the Book of Doctrine and Covenants.

In commenting further upon the meaning of the word "sealing," the court say, at page 150:

"Speaking on the subject of marriage or sealing, Brigham H. Young, of the Church of Jesus Christ of Latter-Day Saints, in February, 1868, among other things said, 'The Lord says, "Let my servants and handmaidens be sealed, and let their children be sealed." This great and happy Government, under which we have lived so long, says that we shall not perform the ordinance of sealing.' On that occasion he also said: 'The ordinance of sealing must be performed here.' (12 Jour. Disc., pp. 164, 165.) Upon the same subject President Young, in a discourse delivered May 8, 1870, said: 'I will say a few words on a subject which has been mentioned here; that is, celestial marriage. God has given a revelation to seal for time and for eternity, just as He did in the days of old. In our own days He has commanded His people to receive the new and everlasting covenant, and He has said, "If ye abide not that covenant, then are ye damned." We have received it.' (14 Jour. Disc., p. 43.) Again, speaking upon the same subject in a discourse delivered August, 1873, President Young used the word 'sealed' in the same sense as 'married.' (16 Jour. Disc., pp. 166, 167.)

"On another occasion, in a discourse, delivered June 28, 1874, President Young, speaking in relation to marriage and divorce, said: 'I say to my sisters in the kingdom, who are sealed to men, and who say, "We do not want this man in eternity if he is going to conduct himself there as he does here," there is not the least danger of your seeing him in eternity, or of his seeing you there, if he proves himself unworthy here. But if he honors his priesthood and you are to blame and come short of doing your duty and prove yourself unworthy of celestial glory, it will be left to him to do what he pleases with you. You will be very glad to get to him if you find the fault is in yourself and not in him. But if you are not at fault, be not troubled about being joined to him there, for no man will have the privilege of gathering his wives and children around him there unless he proves himself worthy of them.' On the subject of divorce, he said: 'I tell the brethren and sisters, when they come to me and want a bill of divorce, that I am ready to seal people and administer

the ordinances, and they are welcome to my services; but, when they undertake to break the commandments and tear to pieces the doings of the Lord, I make them give me something. I tell a man that he had to give me \$10 if he wants a divorce. For what? My services? No; for his foolishness. If you want a bill of divorce, give me \$10, so that I can put it down in the book that such a man and such a woman have dissolved partnership. Do you think you have done so when you have obtained a bill of divorce? No; nor ever can if you are faithful to the covenants you have made.' 17 Jour. Disc., pp. 117, 119. Can it be doubted that President Young, in his use of the word 'sealed,' meant married? Unquestionably he referred to the marriage status and used that word in reference to those who had assumed the relations of husband and wife."

The opinion then quotes at some length from language used by President Taylor, then an elder of the church, in a funeral sermon delivered December 31, 1876, found in 24 Jour. Disc., pp. 229-231; also from a discourse delivered by Wilford Woodruff, July 20, 1883; from a discourse delivered by Orson Pratt on July 11, 1875; from the Article of Faith, a work written by Dr. James E. Talmage; and from the Key of Theology, by Parley Pratt.

The court further say:

"In addition to the authorities already quoted from, see 19 Jour. Disc., pp. 163, 164; 21 Jour. Disc., pp. 292, 296; 23 Jour. Disc., p. 132. Roberts' Outline of Ecclesiastical History, p. 426. Richard's Compendium, pp. 131, 133; Historical Record (Ch. Enc.), pp. 514, 519."

Then the court say:

"In the light of these authorities can there be any doubt that in Mormon Church parlance 'sealed' means the same thing as the word 'married;' or that a sealing ceremony is with the Latter-Day Saints a 'marriage ceremony!'"

It appears, therefore, in this case that the declarations of the leaders of the church and the teachers of the doctrine were held admissible as tending to show the meaning of the word "sealing;" and in the light of this ruling, and of the generally recognized principles of evidence, the Chair admits this testimony without of course indicating its weight or its effect, as tending to prove the doctrines of the organization. So, Mr. Tayler, you may present those documents.

Mr. WORTHINGTON. You had better give us your list.

Mr. TAYLER. We propose to prove these things, so far as we have them available, that are recited in the protest.

Mr. WORTHINGTON. But we do not know as to many of them where they are.

Mr. TAYLER. We will supply you, probably by to-morrow, with the information we spoke of this afternoon.

Mr. WORTHINGTON. Then will the committee meet to-morrow morning at 10 o'clock?

The CHAIRMAN. There will be no necessity for that, it seems to me.

Mr. TAYLER. We are fully informed now as to what the ruling of the committee is, and what is the scope of these extracts. There are many others we might make, but we do not care anything about them. We will take the extracts referred to here.

ADJOURNMENT.

Mr. WORTHINGTON. Mr. Chairman, you asked us about going on again with the hearing. It has been intimated to us by the chairman that it is desirable we should go on as early as the 10th of January.

The CHAIRMAN. Yes; it is the desire of the committee, without of course pressing Mr. Smoot or his attorneys, to proceed with the case as soon as we can after the holiday recess.

Mr. WORTHINGTON. We wish to fall in with that proposition, and we think in all probability we will be able to do so. We will assume, therefore, that this hearing will be adjourned until the 10th of January, the date suggested by the chairman.

The CHAIRMAN. Until the 10th of January; and I will say that if you are able to furnish the chairman with the names of any witness you may desire, although they may not be all of your witnesses, I will take great pleasure in having a subpoena issued for them.

Mr. WORTHINGTON. We will furnish the chairman with a list of some of the witnesses to-day. The names of others we may not be able to get until later. We would like to have a conference with the chairman about the matter of our witnesses. There are some suggestions we have to make.

The CHAIRMAN. I will be very glad to confer with you at any time.

Mr. TAYLER. We have here the papers from which extracts are to be made, and we would like to have you go over them now, Mr. Worthington, and verify them right here in the committee room.

Mr. WORTHINGTON. Very well; we can go over the papers.

The CHAIRMAN. Counsel, then, will agree upon that among themselves?

Mr. WORTHINGTON. Yes.

The CHAIRMAN. Then the committee will stand adjourned until the 10th day of January next, at 10 o'clock in the forenoon.

Mr. TAYLER. I understand Apostle Smith and Mr. Penrose are excused?

The CHAIRMAN. Yes; you can all be excused.

The committee (at 3 o'clock and 55 minutes p. m.) adjourned until Tuesday, January 10, 1905, at 10 o'clock a. m.

WASHINGTON, D. C., January 10, 1905.

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

Present: Senators Burrows (chairman), Knox, and Overman; also Senator Smoot; also Robert W. Tayler, counsel for protestants.

The CHAIRMAN. Counsel for Senator Smoot are not ready to proceed this morning, but will be to-morrow morning at 10 o'clock. The committee will adjourn until to-morrow at 10 o'clock.

Thereupon the committee adjourned until to-morrow, Wednesday, January 11, 1905, at 10 o'clock a. m.

WASHINGTON, D. C., January 11, 1905.

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

Present: Senators Burrows (chairman), McComas, Dillingham, Knox, Pettus, Dubois, and Overman; also Senator Smoot; also

Robert W. Tayler, counsel for the protestants, and A. S. Worthington and Waldemar Van Cott, counsel for the respondent.

The CHAIRMAN. Mr. Worthington, are you ready to proceed?

Mr. TAYLER. Mr. Chairman, before Mr. Worthington proceeds, I should like to present—it seems not to have been printed in the record—the documentary evidence which was arranged for at the last meeting and which the stenographer has had typewritten.

The CHAIRMAN. Very well; that will be printed.

Mr. TAYLER. I should like to add to it, Mr. Chairman, that which is a matter of public record now, but it ought to appear in its proper place in this record—the plea for amnesty which is set out in the protest, but without the signatures of those who made the plea. I desire to have it printed in the record.

The CHAIRMAN. With the signatures?

Mr. TAYLER. With the signatures.

Mr. WORTHINGTON. Have you a certified or an authentic copy of it?

Mr. TAYLER. It is in many places. It appears here in a report of the governor of Utah and it also appears in many places in the reports of Congress.

The CHAIRMAN. The matter referred to will be printed.

The matter referred to is as follows:

[A New Witness for God. By Elder B. H. Roberts. Page 187.]

"It is proper here to say a few words upon the subject of priesthood. Priesthood is power which God confers upon man, by which he becomes an agent for God, authorized to act in His name. It may be to warn a city or nation of approaching calamity because of corruption; it may be to teach faith in God, or cry repentance to the wicked; it may be to baptize in water for the remission of sins, or lay on hands, as the ancient apostles did, for the baptism of the Holy Ghost; or it may be to lay on hands for the healing of the sick, or all these things combined. Men who hold 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—that is, in the sense of being part of the great governing power that extends throughout the universe. This is the authority of men that hold the priesthood, and when those who possess it walk in obedience to the commandments of God, men who honor the priesthood in them honor God, and those who reject it reject God, even the power of God."

[The Doctrine and Covenants of the Church of Jesus Christ of Latter-Day Saints, containing the revelations given to Joseph Smith, jr., the prophet, for the building up of the Kingdom of God in the last days. Divided into verses, with references, by Orson Pratt, sr.]

"5. All other authorities or offices in the church are appendages to this priesthood."

[The Juvenile Instructor, an illustrated semi-monthly magazine designed expressly for the education and elevation of the young. George Q. Cannon, editor. Page 745.]

"The priesthood is a sacred thing. Our Almighty Father sent angels from heaven to commit it to men on the earth; and the men who bear it are the ambassadors of the Lord and are clothed with Divine power to such an extent that when they officiate in ordinances their acts are acknowledged as though they were performed by the Savior Himself. The Lord has not given to the 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 officer to judge or censure or speak disrespectfully and condemnatory of his file leader or of the men who preside over him. Has any man in the church such a right? Certainly not. If file leaders or presiding authorities do wrong God will deal with them in the way He has ordained. Those who preside are accountable to authority; but it is to the authority which God has prescribed; it is to the tribunals for which He has made provision. There need be no fear that the Lord will neglect to hold His servants who lead or preside to a strict accountability for their conduct. He has made ample provisions, so that every person who is accused of wrong, however high his position in the church may be, can be brought to trial before a proper tribunal. No necessity will ever arise, therefore, for men to take upon themselves in their individual capacity the right to judge and condemn the Lord's servants."

[Key to the Science of Theology: Designed as an introduction to the First Principles of Spiritual Philosophy, Religion, Law, and Government; as delivered by the Ancients, and as restored in this age, for the final development of universal peace, truth, and knowledge. By Parley P. Pratt. Page 67.]

"Jesus Christ, being the first Apostle thus commissioned, and the president of all the powers thus delegated, is lord of lords, and king of kings, in the heavens and on the earth. Hence this priesthood is called the priesthood after the order of the Son of God. It holds the keys of all the true principles of government in all worlds, being without beginning of days or end of life. It was held by Adam, Seth, Enoch, Noah, Shem, Melchisedec, and others. Abraham obtained this priesthood, and an election of the same in his seed after him to all generations. The decree went forth in an everlasting covenant, that in Abraham and his seed all the nations and kindreds of the earth should be blessed.

"Of this lineage, according to the flesh, were the prophets, John the Baptist, Jesus Christ, and the Jewish Apostles. Since the covenant and election thus manifested the keys of revelation, government, and miraculous powers on earth have been held exclusively by the literal descendants of this noble and royal house.

"The Gentiles could partake of a portion of the same blessings, but this could only be done through their ministry, and by adoption into the same family.

"This election or covenant with the house of Israel will continue forever. In the great restoration of all things this lineage will hold the keys of priesthood, salvation, and government for all nations. As saith the Prophet Isaiah:

"The nation and kingdom that will not serve Thee shall perish; yea, those nations shall be utterly wasted."

"And again: 'Ye shall be the priests of the Lord; men shall call you the ministers of our God, but strangers shall build your walls, and the sons of the alien shall be your ploughmen and your vine dressers.'

"This priesthood, including that of the Aaronic, holds the keys of revelation of the oracles of God to man upon the earth; the power and right to give laws and commandments to individuals, churches, rulers, nations, and the world; to appoint, ordain, and establish con-

stitutions and kingdoms; to appoint kings, presidents, governors, or judges, and to ordain or anoint them to their several holy callings, also to instruct, warn, or reprove them by the Word of the Lord.

"It also holds the keys of the administration of ordinances for the remission of sins, and for the gift of the Holy Spirit; to heal the sick, cast out demons, or work miracles in the name of the Lord; in fine, to bind or loose on earth and in heaven. For the exercise of all of which powers the student of theology will find abundant precedents in the sacred Scriptures.

"Men holding the keys of the priesthood and apostleship, after the order of the Son of God, are his representatives or ambassadors to mankind. To receive them, to obey their instructions, to feed, clothe, or aid them, is counted the same in the final judgment as if all had been done to the Son of God in person. On the other hand, to reject them or their testimony or message or the word of God through them in any matter is counted the same as if done to Jesus Christ in his own person. Indeed, such ambassadors will be the final judges of the persons, rulers, cities, or nations to whom they are sent."

[Journal of discourses delivered by President Brigham Young, his two counselors, the twelve apostles, and others. Volume 5, page 187: "The rights of Mormonism. A discourse by Elder John Taylor, delivered in the Bowery, Great Salt Lake City, August 30, 1857."]

"God has established his kingdom; he has rolled back that cloud that has overspread the moral horizon of the world; he has opened the heavens, revealed the fullness of the everlasting gospel, organized his kingdom according to the pattern that exists in the heavens; and he has placed certain keys, powers, and oracles in our midst; and we are the people of God; we are his government. The priesthood upon the earth is the legitimate government of God, whether in the heavens or on the earth.

"Some people ask, 'What is priesthood?' I answer, 'It is the legitimate rule 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; and when the will of God is done on earth as it is in the heavens, no other power will bear rule.

"Then, if we look at it in this point of view, we are standing in a peculiar position; we are standing here as the representatives of God, and the only true representatives he has upon the earth; for there is not another power or government upon the earth that acknowledges God for their ruler, or head, but this; there is not another."

[The Doctrine and Covenants of the Church of Jesus Christ of Latter-Day Saints, containing the Revelations given to Joseph Smith, Jun., the Prophet, for the building up of the Kingdom of God in the last days. Divided into verses, with references, by Orson Pratt, Sen. Page 363.]

"SECTION 107.

"A revelation through Joseph, the prophet, given at Kirtland, Ohio, on priesthood; the fore part, or the first fifty-eight verses, being given March 28, 1835; the other items were revealed at sundry times.

"1. There are, in the church, two priesthoods, namely, the Melchisedec and Aaronic, including the Levitical priesthood.

"2. Why the first is called the Melchisedec priesthood is because Melchisedec was such a great high priest.

"3. Before his day it was called *the holy priesthood, after the order of the Son of God*.

"4. But out of respect or reverence to the name of the Supreme Being, to avoid the too frequent repetition of his name, they, the church, in ancient days, called that priesthood after Melchisedec, or the Melchisedec priesthood.

"5. All other authorities or offices in the church are appendages to this priesthood;

"But there are two divisions or grand heads—one is the Melchisedek priesthood, and the other is the Aaronic or Levitical priesthood.

"7. The office of an elder comes under the priesthood of Melchisedek.

"8. The Melchisedek priesthood holds the right of presidency and has power and authority over all the officers in the church in all ages of the world to administer in spiritual things.

"9. The presidency of the high priesthood, after the order of Melchisedek, have a right to officiate in all the offices in the church.

"10. High priests, after the order of the Melchisedek priesthood, have a right to officiate in their own standing, under the direction of the presidency, in administering spiritual things, and also in the office of an elder, priest (of the Levitical order), teacher, deacon, and member.

"11. An elder has a right to officiate in his stead when the high priest is not present.

"12. The high priest and elder are to administer in spiritual things, agreeable to the covenants and commandments of the church, and they have a right to officiate in all these offices of the church when there are no higher authorities present.

"13. The second priesthood is called the priesthood of Aaron, because it was conferred upon Aaron and his seed throughout all their generations.

"14. Why it is called the lesser priesthood is because it is an appendage to the greater or the Melchisedek priesthood, and has power in administering outward ordinances.

"15. The bishopric is the presidency of this priesthood and holds the keys or authority of the same.

"16. No man has a legal right to this office, to hold the keys of this priesthood, except he be a literal descendant of Aaron;

"17. But as a high priest of the Melchisedek priesthood has authority to officiate in all the lesser offices, he may officiate in the office of bishop when no literal descendant of Aaron can be found, provided he is called and set apart and ordained unto this power by the hands of the presidency of the Melchisedek priesthood.

"18. The power and authority of the higher, or Melchisedek priesthood, is to hold the keys of all the spiritual blessings of the church.

"19. To have the privilege of receiving the mysteries of the kingdom of heaven; to have the heavens opened unto them; to commune with the general assembly and church of the first born, and to enjoy

the communion and presence of God the Father, and Jesus the Mediator of the new covenant.

"20. The power and authority of the lesser, or Aaronic priesthood, is to hold the keys of the ministering of angels, and to administer in outward ordinances the letter of the gospel—the baptism of repentance for the remission of sins, agreeable to the covenants and commandments.

"21. Of necessity there are presidents, or presiding officers growing out of or appointed of or from among those who are ordained to the several offices in these two priesthoods.

"22. Of the Melchisedek priesthood, three presiding high priests, chosen by the body, appointed and ordained to that office, and upheld by the confidence, faith, and prayer of the church, form a quorum of the presidency of the church.

"23. The twelve traveling counselors are called to be the twelve apostles, or special witnesses of the name of Christ in all the world; thus differing from other officers in the church in the duties of their calling.

"24. And they form a quorum equal in authority and power to the three presidents previously mentioned.

"25. The seventy are also called to preach the gospel, and to be special witnesses unto the Gentiles and in all the world; thus differing from other officers in the church in the duties of their calling.

"26. And they form a quorum equal in authority to that of the twelve special witnesses or apostles just named.

"27. And every decision made by either of these quorums must be by the unanimous voice of the same; that is, every member in each quorum must be agreed to its decisions in order to make their decisions of the same power or validity one with the other.

"28. (A majority may form a quorum when circumstances render it impossible to be otherwise.)

"29. Unless this is the case their decisions are not entitled to the same blessings which the decisions of a quorum of three presidents were anciently, who were ordained after the order of Melchisedek, and were righteous and holy men.

"30. The decisions of these quorums, or either of them, are to be made in all righteousness, in holiness, and lowliness of heart, meekness and long-suffering, and in faith, and virtue, and knowledge, temperance, patience, godliness, brotherly kindness, and charity.

"31. Because the promise is if these things abound in them they shall not be unfruitful in the knowledge of the Lord.

"32. And in case that any decision of these quorums is made in unrighteousness, it may be brought before a general assembly of the several quorums, which constitute the spiritual authorities of the church, otherwise there can be no appeal from their decision.

"33. The Twelve are a traveling presiding high council, to officiate in the name of the Lord, under the direction of the presidency of the church, agreeable to the institution of heaven, to build up the church, and regulate all the affairs of the same in all nations—first unto the Gentiles, and secondly unto the Jews.

"34. The Seventy are to act in the name of the Lord, under the direction of the Twelve or the traveling high council, in building up the church and regulating all the affairs of the same in all nations—first unto the Gentiles, and then to the Jews,

"35. The Twelve being sent out, holding the keys, to open the door by the proclamation of the Gospel of Jesus Christ—and first unto the Gentiles, and then unto the Jews.

"36. The standing high councils at the stakes of Zion form a quorum equal in authority in the affairs of the church, in all their decisions, to the quorum of the presidency or to the traveling high council.

"37. The high council in Zion form a quorum equal in authority in the affairs of the church in all their decisions to the councils of the twelve at the stakes of Zion.

"38. It is the duty of the traveling high council to call upon the seventy when they need assistance, to fill the several calls for preaching and administering the Gospel instead of any others.

"39. It is the duty of the twelve in all large branches of the church to ordain evangelical ministers as they shall be designated unto them by revelation.

"40. The order of this priesthood was confirmed to be handed down from father to son and rightly belongs to the literal descendants of the chosen seed, to whom the promises were made.

"41. This order was instituted in the days of Adam and came down by lineage in the following manner:

"42. From Adam to Seth, who was ordained by Adam at the age of 69 years and was blessed by him three years previous to his (Adam's) death and received the promise of God by his father that his posterity should be the chosen of the Lord and that they should be preserved unto the end of the earth,

"43. Because he (Seth) was a perfect man and his likeness was the express likeness of his father's, insomuch that he seemed to be like unto his father in all things and could be distinguished from him only by his age.

"44. Enos was ordained at the age of 134 years and 4 months by the hand of Adam.

"45. God called upon Cainan in the wilderness in the fortieth year of his age, and he met Adam in journeying to the place Shedolamak. He was 87 years old when he received his ordination.

"46. Mahalaleel was 496 years and 7 days old when he was ordained by the hand of Adam, who also blessed him.

"47. Jared was 200 years old when he was ordained under the hand of Adam, who also blessed him.

"48. Enoch was 25 years old when he was ordained under the hand of Adam, and he was 65 and Adam blessed him.

"49. And he saw the Lord, and he walked with him, and was before his face continually; and he walked with God 365 years, making him 430 years old when he was translated.

"50. Methuselah was 100 years old when he was ordained under the hand of Adam.

"51. Lamech was 32 years old when he was ordained under the hand of Seth.

"52. Noah was 10 years old when he was ordained under the hand of Methuselah.

"53. Three years previous to the death of Adam he called Seth, Enos, Cainan, Mahalaleel, Jared, Enoch, and Methuselah, who were all high priests, with the residue of his posterity who were righteous,

into the valley of Adamondi-Ahman, and there bestowed upon them his last blessing.

"54. And the Lord appeared unto them, and they rose up and blessed Adam, and called him Michael, the Prince, the archangel.

"55. And the Lord administered comfort unto Adam and said unto him, I have set thee to be at the head—a multitude of nations shall come of thee, and thou art a prince over them forever.

"56. And Adam stood up in the midst of the congregation, and notwithstanding he was bowed down with age, being full of the Holy Ghost, predicted whatsoever should befall his posterity unto the latest generation.

"57. These things were all written in the book of Enoch, and are to be testified of in due time.

"58. It is the duty of the twelve, also, to ordain and set in order all the other officers of the church, agreeable to the revelation which says:

"59. To the church of Christ in the land of Zion in addition to the church laws respecting church business—

"60. Verily, I say unto you, says the Lord of Hosts, there must needs be presiding elders to preside over those who are of the office of an elder;

"61. And also priests to preside over those who are of the office of a priest;

"62. And also teachers to preside over those who are of the office of a teacher; in like manner, and also the deacons;

"63. Wherefore, from deacon to teacher, and from teacher to priest, and from priest to elder, severally as they are appointed, according to the covenants and commandments of the church.

"64. Then comes the high-priesthood, which is the greatest of all;

"65. Wherefore it must needs be that one be appointed of the high-priesthood to preside over the priesthood, and he shall be called president of the high-priesthood of the church;

"66. Or, in other words, the presiding high priest over the high-priesthood of the church.

"67. From the same comes the administering of ordinances and blessings upon the church, by the laying on of the hands.

"68. Wherefore the office of a bishop is not equal unto it; for the office of a bishop is in administering all temporal things;

"69. Nevertheless a bishop must be chosen from the high-priesthood, unless he is a literal descendant of Aaron;

"70. For unless he is a literal descendant of Aaron he can not hold the keys of that priesthood.

"71. Nevertheless, a high priest that is after the order of Melchisedec may be set apart unto the ministering of temporal things, having a knowledge of them by the spirit of truth,

"72. And also to be a judge in Israel, to do the business of the church, to sit in judgment upon transgressors upon testimony as it shall be laid before him according to the laws, by the assistance of his counselors, whom he has chosen or will choose among the elders of the church.

"73. This is the duty of a bishop who is not a literal descendant of Aaron, but has been ordained to the high-priesthood after the order of Melchisedec.

"74. Thus shall he be a judge, even a common judge, among the

inhabitants of Zion, or in a stake of Zion, or in any branch of the church where he shall be set apart unto this ministry, until the borders of Zion are enlarged and it becomes necessary to have other bishops or judges in Zion, or elsewhere;

"75. And inasmuch as there are other bishops appointed they shall act in the same office.

"76. But a literal descendant of Aaron has a legal right to the presidency of this priesthood, to the keys of this ministry, to act in the office of the bishop independently, without counselors, except in a case where a president of the high priesthood, after the order of Melchisedek, is tried, to sit as a judge in Israel.

"77. And the decision of either of these councils, agreeable to the commandment which says:

"78. Again, verily, I say unto you the most important business of the church, and the most difficult cases of the church, inasmuch as there is not satisfaction upon the decision of the bishop or judges, it shall be handed over and carried up unto the council of the church, before the presidency of the high priesthood;

"79. And the presidency of the council of the high priesthood shall have power to call other high priests, even twelve, to assist as counselors; and thus the presidency of the high priesthood and its counselors shall have power to decide upon testimony according to the laws of the church.

"80. And after this decision it shall be had in remembrance no more before the Lord, for this is the highest council of the church of God and a final decision upon controversies in spiritual matters.

"81. There is not any person belonging to the church who is exempt from this council of the church.

"82. And inasmuch as a president of the high priesthood shall transgress, he shall be had in remembrance before the common council of the church, who shall be assisted by twelve counselors of the high priesthood;

"83. And their decision upon his head shall be an end of controversy concerning him.

"84. Thus none shall be exempted from the justice and the laws of God, that all things may be done in order and in solemnity before him according to truth and righteousness.

"85. And again, verily I say unto you, the duty of a president over the office of a deacon is to preside over twelve deacons, to sit in council with them, and to teach them their duty—edifying one another as it is given according to the covenants.

"86. And also the duty of the president over the office of the teachers is to preside over 24 of the teachers, and to sit in council with them, teaching them the duties of their office, as given in the covenants.

"87. Also the duty of the president over the priesthood of Aaron is to preside over 48 priests, and sit in council with them, to teach them the duties of their office, as is given in the covenants.

"88. This president is to be a bishop; for this is one of the duties of this priesthood.

"89. Again, the duty of the president over the office of elders is to preside over 96 elders, and to sit in council with them, and to teach them according to the covenants.

"90. This presidency is a distinct one from that of the seventy, and is designed for those who do not travel into all the world.

"91. And again, the duty of the president of the office of the high-priesthood is to preside over the whole church, and to be like unto Moses.

"92. Behold, here is wisdom; yea, to be a seer, a revelator, a translator, and a prophet, having all the gifts of God which He bestows upon the head of the church.

"93. And it is according to the vision, showing the order of the seventy, that they should have seven presidents to preside over them, chosen out of the number of the seventy.

"94. And the seventh president of these presidents is to preside over the six.

"95. And these seven presidents are to choose other seventy besides the first seventy to whom they belong, and are to preside over them.

"96. And also other seventy, until seven times seventy, if the labor in the vineyard of necessity requires it.

"97. And these seventy are to be traveling ministers unto the Gentiles first, and also unto the Jews;

"98. Whereas other officers of the church who belong not unto the twelve, neither to the seventy, are not under the responsibility to travel among all nations, but are to travel as their circumstances shall allow, notwithstanding they may hold as high and responsible offices in the church.

"99. Wherefore, now, let every man learn his duty, and to act in the office in which he is appointed in all diligence.

"100. He that is slothful shall not be counted worthy to stand, and he that learns not his duty and shows himself not approved shall not be counted worthy to stand. Even so. Amen."

[Journal of Discourses by Brigham Young, President of the Church of Jesus Christ of Latter-Day Saints, his two counsellors, the twelve apostles, and others. Volume 1, page 161: "Materials for the Temple—The Clay and the Potter. An address delivered by President Heber C. Kimball in the Tabernacle, Great Salt Lake City, October 9, 1852, at the General Conference."]

"What need you care where you go if you go according to direction, and when you get to Coal Creek or Iron County be subject to that man who is placed there to rule you, just the same as you would be subject to President Young if you were here, because that man is delegated by this conference, and sanctioned by this people, and that man's word is law. And so it is with the bishops; they are our fathers, our governors, and we are their household. It is for them to provide for their household, and watch over them, and govern and control them; they are potters to mold you, and when you are sent forth to the nations of the earth, you go to gather the clay, and bring it here to the great potter, to be ground and molded until it becomes passive, and then be taken and formed into vessels, according to the dictation of the presiding potter. I have to do the work he tells me to do, and you have to do the same, and he has to do the work told him by the great master potter in heaven and on earth. If Brother Brigham tells me to do a thing, 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, and by your taking this course, I will tell you, brethren, you are on the top of the heap. We are in the tops of the mountains, and when

the stone shall roll down from the mountains it will smash the earth, and break in pieces everything that opposes its course; but the stone has to get up there before it can roll down.

"We are here in a happy place, in a goodly land, and among as good a people as ever the Lord suffered to dwell upon the face of the earth. Have I not a reason to be proud? Yes, I am proud of the religion of Christ. I am proud of his elders, his servants, and of his handmaids, and when they do well I am prouder still. I do not know but I shall get so proud that I shall be four or five times prouder than I am now."

[Journal of Discourses by Brigham Young, President of the Church of Jesus Christ of Latter-Day Saints, his two counsellors, the twelve apostles, and others. Volume 1, page 340: "Comprehensiveness of True Religion—The Saints but Stewards. A discourse delivered by President Brigham Young, at Great Salt Lake City, December 5, 1853."]

"I wish to impress another thing upon your minds. An elder, who is willing to preach the Gospel, borrows a hundred or a thousand dollars from you, and you never breathe the first complaint against him until you came home to this valley, but after you have been here for a few days you follow me round and fill my ears with complaints against this brother, and ask me what he has done with your money, I say, 'I do not know.' Thus you are distressed and in misery, all the day long, to get it back again. If an elder has borrowed from you, and you find he is going to apostatize, then you may tighten the screws upon him; but if he is willing to preach the Gospel, without purse or scrip, it is none of your business what he does with the money he has borrowed from you. The doctrine of Brother Joseph is, that not one dollar you possess is your own; and if the Lord wants it to use, let it go, and it is none of your business what He does with it. Should it be laid out to pamper the lazy? No; but you can see those who have been out on missions, working in the canyons, and traversing the country right and left, trying to get a living by the work of their hands.

"But you say, 'What has he done with my money?' He has, perhaps, helped that poor family to gather with it, or they would not have been here. If you murmur against that elder, it will prove your damnation. The money was not yours, but the Lord Almighty put it into your hands to see what you would do with it. The gold, the silver, the wheat, the fine flour, the buffalo, the deer, and the cattle on a thousand hills are all His, and He turns them whithersoever He will; and He turns the nations whithersoever He will, casting down one nation and setting up another, according to His own pleasure. All there is of any worth or value in the world is incorporated in our glorious religion, and designed to exalt the minds of the children of men to a permanent, celestial, and eternal station.

"No man need judge me. You know nothing about it, whether I am sent or not; furthermore, it is none of your business, only to listen with open ears to what is taught you, and serve God with an undivided heart."

[Deseret Evening News. Saturday, December 1, 1900, Salt Lake City, Utah. From an article entitled "Temple Work and Law of Tithing. Discourse delivered at the general conference of the Church of Jesus Christ of Latter-day Saints, in the Tabernacle, Salt Lake City, Sunday morning, October 7, 1900, by President Joseph F. Smith. Our labors relate to temporal as well as spiritual things—temple work—laws and ordinances administered now the same as administered in the days of the Prophet Joseph Smith—law of tithing—necessity for greater union—home industries."]

"I believe in union. I believe that except we are one in those things which pertain to the building up of Zion we are not God's children. But I want to say to you that we are not one. There is not that union amongst us that should exist. Sometimes when President Snow tells a brother what he would like him to do, he at once turns on his heel and says that comes in contact with his manhood and his independence, and he prefers to follow the bent of his own mind rather than to take such counsel. In that respect we are not always one. And I want to say that this lack of oneness is not confined to the people. It reaches into the higher ranks of the priesthood, if I have any power to discern spirits.

"Let me read what the Lord says:

"And now, verily, verily I say unto you concerning the laws of the land, it is my will that my people should observe to do all things whatsoever I command them.

"This is the first point. It is the hub of the wheel.

"And that law of the land which is constitutional, supporting that principle of freedom in maintaining rights and privileges, belongs to all mankind, and is justifiable before me;

"Therefore, I, the Lord, justify you, and your brethren of my church, in befriending that law which is the constitutional law of the land;

"And as pertaining to law of man, whatsoever is more or less than these, cometh of evil.

"I, the Lord God, make you free, therefore ye are free indeed; and the law also maketh you free.

"Nevertheless, when the wicked rule the people mourn;

"Wherefore, honest men, and wise men, should be sought for diligently, and good men and wise men ye should observe to uphold; otherwise whatsoever is less than these cometh of evil."

"GREATER UNITY ENJOINED.

"The question in my mind is this: Who is to judge who are the good men and the wise men? If you leave me to judge, I say one man; if you leave Brother Brigham to judge, he may say another man; or, if we leave it to the people to judge, one says this is the wise man, and another says that is the wise man. The question with me is: Am I in a frame of mind, that when I get the word from the Lord as to who is the right man, will I obey it, no matter if it does come contrary to my convictions or predilections? If I feel that I can obey the word of God on this matter, then I am in harmony with the spirit of the work of God. If I can not do it, I am not in harmony with that spirit."

[The Daily Tribune, Salt Lake City, Utah, Tuesday morning, April 6, 1897.
Extract from article entitled "Caanon Hits Thatcher."]

" BELIEF IN REVELATIONS.

"After the usual preliminaries at the afternoon session Apostle John W. Taylor spoke on the signs of the times and found several indications of the fulfillment of biblical prophecies. The gathering together of these people in the Rocky Mountains, he said, had been predicted by the old prophets, and the sending abroad of missionaries was in keeping with the words of Joseph, 'that this gospel shall be preached throughout the earth and then the end shall come.' He spoke of insufficiency of denominational beliefs and said that there were no inspired men in those churches; that they did not believe in revelations and that they did not want to. 'How,' he queried, 'can we obey the will and mind of God without their being revealed? Wilford Woodruff is the prophet and seer of this church, and the man who would not listen to Wilford Woodruff would not listen to the Lord Jesus Christ if he were here. Joseph Smith was a prophet; Brigham Young was a prophet; 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 Daily Tribune, Salt Lake City, Utah, Tuesday morning, October 5, 1897.
From an article headed "Conference in Session—Sixty-eighth Semiannual Mormon Gathering."]

" OPPOSED TO CRITICISM.

"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 in the church by the Lord, and that they did not seek these positions themselves. He advised the people to go to the bishop of their ward or the president of the stake whenever they intended to enter upon any new enterprise. He spoke of the great goodness of the Lord in granting living oracles and prophets to the Latter-Day Saints and said that the prophecies of the present were to be preferred to the Bible or to the Book of Mormon. If it were not for the presence in the church of living oracles, he declared, the church would be scattered to the winds."

"President Wilford Woodruff spoke briefly in support of the priesthood; that the Bible, Book of Mormon, and the Book of Covenants were the written word of God, but the power of the living oracles did not end with the books. Nor did the holy priesthood and the power of God stop with the presidency of the apostles, but every man on God's footstool should have the spirit of God and the power of God with him."

[Desert Evening News. Monday, October 4, 1897. Salt Lake City, Utah,
From an article headed "General Conference,"]

"The sixty-eighth semiannual conference of the Church of Jesus Christ of Latter-Day Saints convened in the Tabernacle, Salt Lake City, at 10 a. m., on Monday, October 4, 1897. President Wilford Woodruff, presiding.

"Elder Marriner W. Merrill, of the council of the apostle, opened with a strong testimony of the truth of the Gospel, bringing up personal evidences in its support.

"The fulfillment of the predictions of President Woodruff at the dedication of the Salt Lake temple was referred to and the saints were warned not to depart from the counsel and advice of men whose foreknowledge through the spirit of God had been proved to be so great. They could not stand alone, all needed the counsel of the priesthood and the guidance of the Holy Spirit. The value of the living oracles of God for the present guidance of the people was strongly emphasized.

"President Wilford Woodruff spoke briefly upon the comparative value of the living oracles and the written word of God; also upon the privilege of the priesthood and saints generally to possess the spirit of revelation and to know the mind of God in respect to their individual duties."

[Journal of Discourses delivered by President Brigham Young, his two counsellors, the twelve apostles, and others. "Necessity of adhering to the priesthood in preference to science and art." Remarks by Elder Wilford Woodruff, made in the Bowery, Great Salt Lake City, Thursday, April 9, 1857. Vol. 5, page 83.]

"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 researches, 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 might have been, I should consider it my duty, at the suggestion of my file leader, to abandon that 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 servants of God."

[Deseret Evening News, Salt Lake City, Utah Territory. Wednesday, October 7, 1885.]

AN EPISTLE FROM THE FIRST PRESIDENCY.

*To the officers and members of the
Church of Jesus Christ of Latter-Day Saints.*

BRETHREN AND SISTERS: As the time for holding our semiannual conference has again come around, and we are still prevented from addressing the saints in public, we deem it proper to take this method of communicating with you, that you may know the counsel we have to give and that we are not neglectful of the duties which devolve upon us as the first presidency of the church.

As all the saints doubtless understand, there has been no cessation since last we wrote in the work of persecution. It rages, if anything, more fiercely than ever. Under cover of what is called the Edmunds law, the most outrageous acts of oppression are being perpetrated against the Latter-Day Saints. The avowal has been openly made that this law was expressly designed for the destruction of a principle of our religion, and in this spirit all the persecutions have been conducted. Thus far no criminal, however guilty, who has not been a "Mormon" has been punished under it. Acts of the most sickening depravity have been committed by non-Mormons within easy

reach of its arm, but have scarcely had a passing notice. While it is also worthy of note that up to the present writing, out of all who have been accused and brought before the district court, only one Mormon has been acquitted. The man acquitted, we understand, was charged with being the husband of a woman, on the ground that he had camped in his wagon in a 10-acre lot in which her residence stood and had carried some chickens for her to market.

One of the most remarkable features connected with the administration of this law is the extraordinary rulings which are made in its enforcement. The judge who presided in the second judicial district in the recent trial of a case of unlawful cohabitation gave instructions to the jury at the request of the defense. Several accused persons would have been cleared in the third judicial district had the juries which rendered verdicts in their cases been similarly instructed. They are as follows:

1. Prior to the act of March 22, 1882, cohabitation with more than one woman was not unlawful.

2. If you find from the evidence that the defendant, since the passage of the Edmunds Act, March 22, 1882, and within the dates named in the indictment, has not held out to the world, introduced, or announced more than one of the women named in the indictment as his wife, you should acquit the defendant.

3. It is not necessary that the parties to a polygamous marriage, or who have lived in the practice of cohabitating with two or more women, should divorce themselves in order to entitle them to the presumption of innocence of cohabitation after the passage of the law.

4. As all children of polygamous marriages begotten before March 22, 1882, are legitimated and no cohabitation before that date was unlawful, no criminating inference can be drawn by the jury from the defendant's later acknowledgments of his paternity of such children by the women mentioned in the indictment, nor from later recognition of such women as their mothers, and as women whom he had before said date taken into the polygamous relation with him.

6. The law presumes innocence, and therefore that all persons who were cohabiting when the Edmunds Act took effect contrary to the provisions of that act then ceased to do so.

8. The law presumes that all persons charged with a criminal offense to be innocent until the presumption is overcome by proof; therefore it presumes that all persons who were living with more than one woman as wives prior to March 22, 1882, have since that date ceased to so live and cohabit.

9. If you find from the evidence that defendant had children by the women named in the indictment prior to March 22, 1882, then the defendant had a right to visit his children and support them and make arrangements as to their welfare. He had a right also to assist their mothers in their support, and for such a purpose could visit the house where they and their mothers live. He could furnish them a home, he could visit the mother, the same as if they had been divorced, or as if no such previous relations had existed between them, but he should not associate with her as a husband associates with his wife.

Do we say too much if we state that there are those now undergoing punishment in the penitentiary, in the society of thieves and murderers, who would be as free as the prosecuting officers themselves had the law been construed by the legal canons applied to other laws, and according to the instructions given above?

The practice in these attacks upon us has not been to presume the accused innocent until proved guilty, but to view him as undoubtedly guilty because accused; and the rulings of the court in several instances have been made to secure conviction where the evidence was open to question. The extraordinary ruling concerning "holding out" is one in point; notwithstanding the Edmunds law specifies that the penalty for unlawful cohabitation shall not be more than six months' imprisonment and \$300 fine, the notorious ruling from the same bench concerning the number of indictments which can be found against a person accused of unlawful cohabitation, states that he not only can be indicted once for the whole period since the passage of the law, but an indictment can be found for every week of that time; so that, if found guilty in this manner, a man's punishment would aggregate an imprisonment of ninety-two years and fines to the amount of \$55,200.

Still more extraordinary is the ruling of another judge, who, not to be outdone in his zeal, says that an indictment can be found for this charge against a man for every day, or other distinct interval of time since the enactment of the law. As about 1,292 days have passed since then, a man found guilty can be incarcerated in prison for 646 years and made to pay fines to the amount of \$387,600. Comment upon this absurdity is unnecessary.

Before the Edmunds bill became law, and while on its passage, it was claimed that its provisions were of general application and in the interests of morality, and not, as we asserted, a measure directly aimed at religious liberty and for purposes of persecution. But time has fully revealed its true character. Stripped of all disguise it stands out now in all its hideousness. The most shocking immorality flourishes in its presence and thrives under the very eyes of its administrators. All forms of vice, if not directly encouraged by those who are charged with the duty of administering the Edmunds law, are at least viewed by them with indifference. They appear to have no care as to the most flagrant sexual crimes if they are only committed by non-Mormons, or outside of the pale of matrimony. Mormons, also, under the present administration of the law, may do what they please with women, be guilty of the foulest injustice to them and their offspring, if they will only disown them as wives. The war is openly and undisguisedly made upon our religion. To induce men to repudiate that, to violate its precepts and to break its solemn covenants, every encouragement is given. The man who agrees to discard his wife or wives and to trample upon the most sacred obligations which human beings can enter into, escapes imprisonment and is applauded; while the man who will not make this compact of dishonor, who will not admit that his past life has been a fraud and a lie, who will not say to the world, "I intended to deceive my God, my brethren, and my wives by making covenants I did not expect to keep," is, besides being punished to the full extent of the law, compelled to endure the reproaches, taunts, and insults of a brutal judge.

Notwithstanding all these cruelties are practiced against us, we do not feel that, as Latter-Day Saints, we should mourn because of them. We should mourn because of our weaknesses, follies, and sins, and repent of them. But to be persecuted, to be discriminated against, to be separated from the rest of the world, to be imprisoned and abused are not causes of sorrow to true saints; they are causes

of rejoicing. If, in the great hereafter, we expect to be admitted to the society of the Son of God, our Redeemer, to the society of prophets and apostles, and holy men and women, ought we not to be willing to endure the tribulations which they received so joyfully? Where is the prophet or apostle who did not endure persecution, whose liberty and life were not in almost constant jeopardy? They did not have an Edmunds law, perhaps, enforced against them; but they had laws which emanated from the same source. With few exceptions they were all punished, deprived of liberty and of life, in the sacred name of law. Even the holiest being that ever trod the earth, the great Redeemer of mankind himself, was crucified between two thieves to satisfy Jewish law.

There has probably never been a time in the history of mankind when those whom we now revere as martyrs and whose sacrifices adorn and glorify our humanity and lift it nearer to God could not, by being recreant to the truth intrusted to them, have escaped the fate which made them so admirable to the generations which followed them. The Savior himself had it in his power to compromise with his enemies and escape the cruel and ignominious death inflicted upon him. Abraham might have bowed to the gods of his idolatrous father and needed no angel to rescue him from his impending doom. Daniel and his three brethren, also, might have submitted to the decree and law of the ruling powers under which they lived and escaped the fiery furnace and the den of lions. Their refusals to obey the decree and law doubtless appeared to those who had not the knowledge of God which they possessed as acts of wicked obstinacy that should be summarily punished. But had they, to escape the threatened penalty, obeyed these edicts posterity would have lost the benefit of their example and the great God would not have been glorified before their contemporaries as He was by their acts. Instead of their names being, as now, radiant with light and resplendent with heroism they would, had they reached us, been covered with odium and been mentioned in the same category with the Jews concerning whom the prophet Jeremiah said: "*They bend their tongues like their bow for lies; but they are not valiant for the truth upon the earth, for they proceed from evil to evil, and they know not me, saith the Lord.*"

Well-meaning friends of ours have said that our refusal to renounce the principle of celestial marriage invites destruction. They warn us and implore us to yield. They appeal to every human interest and adjure us to bow to a law which is admitted on all hands to have been framed expressly for the destruction of the principle which we are called upon to reject. They say it is madness to resist the will of so overwhelming a majority. They say they see the gathering clouds, that they hear the premonitory mutterings of the resistless tempest which is about to break in destructive fury upon our heads, and they call upon us to avert its wrath by timely submission. But they perceive not the hand of that Being who controls all storms, whose voice the tempest obeys, at whose fiat thrones and empires are thrown down—the Almighty God, Lord of heaven and earth, who has made promises to us and who has never failed to fulfill all His words.

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 utmost, they have not understood the gospel. If there is a weak spot in our nature, or if there is a fiber that can be made to quiver or to shrink, we may rest assured that it will be tested. Our own weaknesses will be brought fully to light, and in seeking for help the strength of our God will also be made manifest to us. The Latter-Day Saints have been taught this from the beginning. Such scenes as we now witness in these mountains and hear about in lands where the elders are preaching the gospel ought not to be a surprise to us. The prophets and apostles and elders of this dispensation would be false prophets and apostles and elders if these events did not take place; for they have predicted them and warned the people unceasingly concerning them.

Speaking concerning law, the Lord, in a revelation given through the Prophet Joseph, August 6, 1833, says:

"4. And now, verily I say unto you concerning the laws of the land, it is my will that my people should observe to do all things whatsoever I command them;

"5. And that law of the land which is constitutional, supporting that principle of freedom in maintaining rights and privileges, belongs to all mankind, and is justifiable before me;

"6. Therefore, I, the Lord, justify you, and your brethren of my church, in befriending that law which is the constitutional law of the land;

"7. And as pertaining to law of man, whatsoever is more or less than these cometh of evil.

"8. I, the Lord God, make you free, therefore ye are free indeed; and the law also maketh you free.

"9. Nevertheless, when the wicked rule the people mourn.

"10. Wherefore, honest men and wise men should be sought for diligently, and good men and wise men ye should observe to uphold; otherwise whatsoever is less than these cometh of evil.

"11. And I give unto you a commandment, that ye shall forsake all evil and cleave unto all good; that ye shall live by every word which proceedeth forth out of the mouth of God;

"12. For He will give unto the faithful line upon line, precept upon precept, and I will try you and prove you herewith;

"13. And whoso layeth down his life in my cause, for my name's sake, shall find it again, even life eternal:

"14. Therefore be not afraid of your enemies, for I have decreed in my heart, saith the Lord, that I will prove you in all things, whether you will abide in my covenant even unto death, that you may be found worthy;

"15. For if ye will not abide in my covenant, ye are not worthy of me."

Fifty-two years have passed since this was given to the church, and we are now witnessing its fulfillment. The saints are required to do whatsoever the Lord commands them, to live by every word which proceedeth forth out of the mouth of God. They are also

instructed to befriend every constitutional law of the land, for such laws support the principle of freedom—they maintain rights and privileges. This, as a people, we have striven to do from the beginning of our organization. We have ever been a law-abiding people. Times without number we have suffered the most grievous wrongs without resenting them. We have ever thought it better to suffer wrong than to do wrong.

Such was the case when we suffered expatriation from the State of Missouri. We were robbed and pillaged, despoiled and persecuted, yet we had no idea of retaliating, on account of these wrongs, upon the Government and its institutions, which to us are sacred. The same loyal spirit animated us when we were beset by bloodthirsty mobs in Illinois, one of which murdered Joseph Smith, our prophet, and Hyrum Smith, the patriarch, while they were under the pledged protection of the State, given through the governor. On the same occasion one of the signers of this address was also brought to the gate of death by being shot by the same band of assassins. When driven from the homes we had established in Illinois, we had no disposition to hold the nation at large nor the Government of our beloved country responsible for those inhuman deeds, nor to allow the spirit of vengeance to rankle in our hearts. We took the first opportunity to exhibit the spirit of true patriotism. While undergoing great hardship on account of being subjected to a compulsory exodus, when called upon by the Government to furnish a body of men to take part in the war with Mexico 500 of the flower of our camp responded with alacrity and, in accordance with the call of our country, traversed the great American desert, penetrated to Mexico, and completed an arduous and hazardous campaign, and journeyed to California.

You have no doubt read, through the papers, an account of the terrible affair which recently occurred at Rock Springs, in Wyoming Territory. We could not help feeling a little anxiety lest some of our people should have been connected with that bloody riot, and immediately requested Brother Cluff, president of Summit stake, to inquire into the matter. So far as we have obtained information to the present, however, we find that not more than one has been in any way mixed up with that matter, and he a person of doubtful standing. We are pleased to learn of this, because we can not associate with any deeds so revolting and inhuman, and we take this opportunity to express our opinion on this subject to the saints. A great number of secret societies are formed with which we can not affiliate. Such organizations are generally inimical to law, to good order, and in many instances subversive of the rights of man. We can not amalgamate with them. They are very distinctly spoken against in the Book of Mormon as among the calamities which should afflict the people.

We are expressly commanded, and it becomes our duty, to uphold and sustain every law of the land which is constitutional. We have always had a strong desire to obey such laws and to place ourselves in harmony with all the institutions of the country.

We repeat that we desire that all men should be aware of the fact that we have been the upholders of the Constitution and laws enacted in pursuance of that sacred instrument.

We still entertain the same patriotic disposition and propose to continue acting in conformity with it to the last. Neither have we

any desire to come in active conflict even with statutes that we deem opposed to the Constitution both in letter and spirit. Whatever opposition has been offered in that line has been only of such a character as is justified by the usages and customs of this and all other civilized countries and such as the laws and institutions of this nation provide. Nor have we the least desire to shun the consequences of our acts in their relationship to the laws to which we refer, providing there were any assurance that our cases would be submitted to a fair and just adjudication. Events of the past few months give no ground for hope that such treatment would be accorded. It must be contended, however, that, as stated elsewhere, connected with this disposition to have our conduct passed upon, as provided by law administered in the genius of justice, there never can be any hope of our yielding up, under any circumstances, a principle of conscientious or religious conviction. Were we to make such a surrender our conduct in that respect would not be in harmony with the guaranties of the Constitution, which we are in duty bound to uphold.

In order to place our people at a disadvantage and to crush out their religious system, the Constitution has been violated in a number of ways. It does not require any depth of legal learning to understand what is meant by a religious test, which is forbidden by the "supreme law of the land." Yet laws have been passed applicable to a wide section of this Northwestern country, disfranchising and inflicting total political disability upon our people without regard to their acts. The offense for which this restriction has been prescribed is simply religious belief and the means of application is a religious test. It is consequently unconstitutional upon its face. This and other laws—notably the Edmunds Act—inflict disabilities upon those of our people who are not in any way associated, by their acts, with polygamy. Thus probably about nine-tenths of our community are punished for alleged offenses for which they are in no way responsible and in which they have taken no part. Surely no person who is unbiased, that gives this subject even the most casual attention, can characterize such treatment as other than flagrantly unjust.

It has been estimated that out of a community of about 200,000 people, more or less, from 10,000 to 12,000 are identified with polygamy. When the Edmunds Act was passed this small minority who were deprived by it of the right to vote or hold office, voluntarily, without the application of coercion, withdrew from those privileges, notwithstanding the high estimate they placed upon them. It may well be asked wherein is the justice of placing the bulk of the people at a disadvantage as well, seeing they have done nothing to furnish an excuse for such treatment. Granting that the small minority connected with polygamy are criminals before the law, what justification is there on that account for punishing, as the Edmunds and other acts do, the overwhelming majority? If such doings were perpetrated in any other connection, they would be unsparingly denounced as oppressive and tyrannical in the most extreme degree. If one portion of a community are designated as criminal, to hold the other and much the greater portion responsible for such condition is not only unjust, but decidedly absurd.

Statements upon this subject have been made to the Chief Executive of the nation in the form of a protest and petition for redress of

grievances. Knowing that misrepresentations have taken the place of impartial scrutiny of the question with which the Latter-Day Saints are associated, the consequences being a general misapprehension of the community and their affairs, we presumed that Mr. Cleveland was not acquainted with the real situation. An opportunity was thus sought to acquaint him with the facts. The very reasonable desire was expressed in this connection that a commission of inquiry be appointed that the truth might appear and be given to the nation. Was it too much to expect that this action, supported by a representation of 200,000 people, would meet with some favorable response, which thus far has not, however, been made? Yet it would be unfair to attribute the delay of the President either to indifference or a disposition to refuse to accord justice to a people whose liberties are being trampled upon to an extent that is almost past human endurance. It is still hoped that he will take some consistent and humane action in the premises. In alluding to the delay in granting a response to the representations made to the President, we must not forget the extensive and arduous character of the duties devolving upon him as the head of the administration of a great Government. We mention this that you may not be disposed to be too censorious in regard to the actions of men in high places who have the power to redress our grievances. And even when we feel that we are wronged it is proper for us to follow the example of our Lord and Master, and say: "Father, forgive them; they know not what they do."

Referring once more to the situation in a more local sense, we are not oblivious to the anomalous position in which the Federal judicial officers are placed in dealing with a subject which appears to occupy a large share of popular attention. While it is impossible for them to escape pronounced exceptions being taken to their official course on account of its harshness, undue rigor, and unjust discrimination in administering the laws, they are entitled to some consideration, justified by well-understood circumstances. The Latter-Day Saints are the objects of popular obloquy. Their institutions appear to be greatly disliked. The officers are doubtless influenced by the general clamor for the application of heroic treatment to the saints. They themselves have doubtless been influenced to some degree by personal prejudices, and their official conduct, by these conditions, is thrown out of balance. While their course can not be sustained in the light of fair play, some allowance should be made on account of the liability of the human mind to be warped by influences in conflict with the principles which should universally obtain in courts of law and presumed justice. Neither would it be justifiable on the part of the saints to entertain toward them, on account of their departures from their proper line of duty, any rancorous or vengeful feeling. A spirit of that character is not in unity with the genius of the gospel of peace. All men are in the hands of a just God, whose mighty, penetrating power is capable of analyzing all the motives which prompt human action, and He can and will deal with us and them and all men according to the principles of eternal justice.

Upward of forty years ago the Lord revealed to His church the principles of celestial marriage. The idea of marrying more wives than one was as naturally abhorrent to the leading men and women of the church at that day as it could be to any people. They shrank with dread from the bare thought of entering into such relationships.

But the command of God was before them in language which no faithful soul dare disobey.

"For, behold, I reveal unto you a new and an 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."

Damnation was the awful penalty affixed to a refusal to obey this law. It became an acknowledged doctrine of the church; it was indissolubly interwoven in the minds of its members with their hopes of eternal salvation and exaltation in the presence of God. For nearly twenty years this continued to be our faith and practice. Then a law was enacted against it. Another twenty years elapsed and the Edmunds law was passed. Nearly forty years had thus elapsed from the first revelation of this doctrine, during which period thousands had lived and died firmly believing and solemnly testifying that it was divine. At great sacrifice they had obeyed it, and based their hopes of eternal felicity upon the promises which the revelation contained. They never dreamed that they had not a constitutional right to obey God, especially when in obeying Him they did not interfere with nor encroach upon the rights of any human being, either man or woman. It never entered into their minds to suppose for a moment that man had a right, after God had given a law to His church for its salvation and exaltation, to enact a counter law forbidding, under severe penalties, man's obedience to God's law.

Who could 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? Or that, under a plea of maintaining a certain form of civilization, God's authority to direct his people how to escape from the abominable corruptions and evils which are eating out the vitals of man's much vaunted civilization should be disputed and utterly rejected? What is this "Mormon" problem, so-called, and why should it disturb the people? It is an unpopular religion. But so was that of the ancient prophets. Jesus told the Jews that they garnished the tombs of the dead prophets, but killed the living ones. They crucified Jesus, and were almost as unanimous in their cry to crucify Him as the people and rulers of the United States are to-day to destroy the "Mormons." They killed all of his apostles except one, and he was banished to work as a slave on the isle of Patmos. It is said they cast him into a caldron of boiling oil, but he was not killed; and if the Scriptures are true he still lives, for he was to tarry till the coming of the Savior.

We receive as the word of God, and so do millions of the human family, the writings and testimony of the prophets who were killed. It is published by the millions of copies and sent to the various nations of the earth by the very people who would now seek to destroy us. Jesus, who was crucified between two thieves, is now worshiped by millions in Christendom as the Son of God, the Redeemer of the

world. The twelve apostles, his disciples, who suffered such ignominious contumely and death are now designated by the millions of Christendom as "The Apostles of the Lamb of God," and churches and cathedrals are called after them, as St. Peter, St. John, St. Mark, St. Luke, etc. It was then the "Christian problem;" it is now "the Mormon problem"—the same problem though called by a different name. Was Jesus the enemy of the people in His day? Only as He told them the truth. "What evil hath he done?" asked Pilate, the Gentile judge. "No matter what evil or what good," vociferated the Jews. "Crucify him! Crucify him!" "What evil have the Mormons done?" is asked; and the cry comes back, "No matter, no matter; let them be destroyed."

By the circulation of endless slanders and falsehoods concerning us and our marriages, wrath and indignation have been aroused against us in our nation. The ignorance of the people concerning us and our doctrines and system have been taken advantage of. Constant attempts have been and still are being made to induce the world to believe that our motive in espousing patriarchal marriage has been the gratification of gross sensuality—that our belief in and practice of the doctrine had its origin in licentiousness, and that the sanction of religion is merely invoked to furnish greater license for the indulgence of base passions and devouring lust. This, as you know, is the exact antipodes of the truth. But the world generally do not know it. Those of them who know how utterly false are these charges are either so cowed down by a fierce public opinion that they dare not speak, or if they have the courage to speak are almost unheard amid the noisy clamor against us. Thousands upon thousands of honest people in this and other nations, whose voices, did they know the truth, would be raised in our favor, are deceived by these lies and arrayed against us. This persecution, if it serve no other purpose, will do good in this direction. It brings home to the hearts of the people, as no protestations or arguments of ours ever could do, that there is something more in this doctrine and practice than they have been led to believe. Reflecting people will see that there must be a great principle involved in this, or men and women would not be willing to suffer fines, bonds, and imprisonment as they do.

Is there any necessity for lustful men and women in this age and nation to suffer martyrdom to gratify their passions? Who ever heard of a people preferring imprisonment and all manner of cruel treatment for the indulgence of appetites which they could gratify to the fullest extent in popular ways, especially when the judges upon the bench, the prosecuting attorneys at the bar, the juries who bring in verdicts, point out the way in which marriage obligations can be discarded and sensuality be gratified without risk or without punishment? The press and sectarian pulpits also echo the advice. The universal voice is: "Put away your wives, cease to support them and their children; *be as we are*, and you need not be put under bonds, be fined, or be incarcerated in prison."

Foul desire opens wide her arms and invites all to her lecherous embrace by easier paths than honorable marriage and the begetting of numerous children to be carefully trained and educated and made respectable and useful citizens.

Will the world see this? Every man who goes to prison for his

religion, every woman who, for love of truth and the husband to whom she is bound for time and eternity, submits to bonds and imprisonment, bears a powerful testimony to the world concerning the falsity of the views they entertain respecting us and our religion. If such noble and heroic sacrifices as men and women are now called upon to make for their religion by Federal courts do not teach the world the truth concerning us, then woe to the world, for nothing but the wrath of Almighty God will reach it.

We join with all saints in invoking blessings upon the noble men and women who have exhibited their integrity to God and His cause, and their devotion to principle by submitting to bonds and imprisonment rather than deny their faith or break their covenants. If anything were needed to show to the world that our marriages can not be reduced to the level of the vile practices to which our defamers would drag them down, their heroic conduct has furnished it. Thank God that so far in this persecution at least as large a proportion have stood the test without flinching or cowering as Jesus in His parable of the ten virgins intimated would be ready to meet the bridegroom at his coming. Their names will be held in everlasting honor in time and eternity, not only as martyrs for religious truth, but as patriots who suffered in defense of the principle of religious liberty.

Truths such as God has revealed in these days are not established without suffering and sacrifice on the part of those who espouse and advocate them. It was for these truths that we were driven time and again from our homes, and were finally compelled to seek refuge in this mountain country, then known as the "American desert." And now, again, we are menaced with ruin; and for what? Whom have we injured? Upon whose rights have we trespassed? It can be truthfully said we have not injured or trespassed upon any. Have we not, under the blessing of the Lord, changed these barren valleys into fruitful fields and gardens? Have we not established and maintained good and cheap government in every place which we have settled? Has not every man who came into our borders and behaved himself been safe in his property, person, and religion? Have not peace and good order been the fruits of our presence? To all these we can answer in the affirmative. Have we endeavored to force our doctrines or practices upon anyone? Have we in any manner threatened the peace of our neighbors or of the nation? We certainly have not.

Respecting the doctrine of celestial marriage, we could not, however much we might be disposed to do so, teach it to or enforce it upon others not of our faith without violating a command of God. We do not stand in the attitude of propagandists of polygamy. We never have believed or taught that the doctrine of celestial marriage was designed for universal practice. The Lord has made this clear, and recent events among us have also made it clear. "Strait is the gate," says Jesus, "and narrow the way that leadeth unto the exaltation and continuation of the lives, and few there be that find it."

There appears to be a fallacious idea abroad regarding this doctrine. It has been asserted that there was a design to propagate it outside of our community, and thus introduce into the United States an element opposed to the Christian views of this and other nations. On the contrary, our elders have been instructed not to introduce the

practice of that principle anywhere outside of the gathering place of the saints; and they do not preach it abroad to any extent even in theory, except on occasions when it is called for or when they are assailed on account of it. At such times they respond by defending it as a doctrine of the Bible and not inconsistent with the laws of nature. It should also be understood that the practice is not generally admissible even among the Latter-Day Saints. It is strictly guarded, the intention being to allow only those who are above reproach to enter into the relationship. The practice of the doctrine is not for extension beyond the church and is even limited within its pale. The idea, therefore, that plural marriage is a menace to the general monogamous system is without foundation. This fallacy is further exhibited by the fact of the popular antipathy with which it is regarded, people outside of our church exhibiting a disposition the reverse of favorable to its establishment in other communities, making the extension of its practice abroad impossible. Furthermore, being strict believers in free will, you Latter-Day Saints know that no man or woman has ever been coerced into obligations of that kind, much less would we desire to enforce it upon any other class of people.

But in all these events which are now taking place we recognize and acknowledge the hand of God. There is a wise purpose in it all which He will yet more fully make plain to us. One thing is clear, the saints are being tried in a manner never before known among us. The faithful rejoice and are steadfast; the unfaithful fear and tremble. Those who have oil in their lamps and have kept them trimmed and burning now have a light for their feet, and they do not stumble or fall; those who have neither light nor oil are in perplexity and doubt; they know not what to do. Is not this the fulfillment of the word of God and the teachings of His servants? Have not the Latter-Day Saints been taught all the day long that if they would remain faithful and endure to the end they must live their religion by keeping every commandment of God? Have they not been continually warned of the fate which awaited them if they committed sin? Can adulterers, fornicators, liars, thieves, drunkards, Sabbath breakers, blasphemers, or sinners of any kind endure the trials which saints must pass through and expect to stand? If there are any who entertain such a hope they deceive themselves. Upon these sins God has pronounced judgment. No man or woman who is guilty of any of these transgressions of God's law can stand and retain His spirit. They must repent of them and put them far from them or they will be left in darkness, and misery will be their doom. The Lord will not be mocked. He will not bear with hypocrites; but they will be spewed out.

If all who call themselves Latter-Day Saints were true and faithful to their God, to His holy covenants and laws, and were living as saints should, persecution would roll off from us without disturbing us in the least. But it is painful to know that this is not their condition. There are secret abominations practiced by those who are called saints, which the trials we are now passing through will reveal in a manner terrible to them. Open sins are also winked at and condoned by presidents, bishops, teachers, and parents in a manner offensive to God and grievous to man. Proper care and vigilance are not exercised to keep wards and stakes cleansed from iniquity and to have transgressors dealt with. The innocent are thus made to suffer with

the guilty; for the Lord has commanded that the inhabitants of Zion must purge themselves from iniquity, folly, covetousness, and vanity, and listen to and obey His laws, or they can not have His protection. He has also said that if His people will obey His laws and keep His commandments, to do them, not in name only, but in reality, He will be their shield and protector and strong power, and no man will be able to hurt them, for He will be their defense. These trials of our faith and constancy which we are now passing through will be overruled for our good and future prosperity. In days to come we shall be able to look back and perceive with clearness how visibly God's providence is in all that we now witness. Let us do all in our power to so live before the Lord that if we are persecuted it shall not be for wrongdoing, but for righteousness.

At the present time we may very pertinently inquire: Why are the people of these mountains treated as we now are? Where in this broad land is the virtue of women so amply guarded or so jealously protected as here? No cry of hungry, naked, or outraged humanity has ever ascended to heaven from our borders against the men whom the courts are now so busy in sending to prison and treating as criminals. There was a time in these mountains when adultery, fornication, whoredom, and illegitimacy were almost unknown. A woman was as safe from insult in traversing over our streets and highways as if she were under her husband's or father's roof. Marriage was encouraged; vice was repressed. Women were free to form connections with the opposite sex to suit themselves, so long as those connections were sanctified by marriage. But what a change we now behold! A tide of evil surges around us. It threatens to overwhelm us and to reduce us to ruin. The floodgates of vice are opened upon us, and not content with the rush of this filthy stream in our cities and settlements, those who hate us would do more. They would invade our dwellings; they would destroy our families; they would loosen every bond which has held society together; they would array wife against husband, child against parent, friend against friend; they would make every man, woman, and child a spy, an informer, and a betrayer; they would sap the foundation of faith, confidence, and honor, and make every one distrust his fellow.

Satan never wrought greater ruin in Eden than these enemies of ours would work in our midst if we would listen to their blandishments or be frightened by their threats. And is all this havoc to be wrought because of our wickedness? No; ten thousand times, no. Let those who are so loud in denouncing us, so active in persecuting us, look around them. Are there no people but the Mormons to regenerate and purge from sin? Read the daily record of black crime which fills the journals of the land. If the correction of evil, the improvement of morals, the uprooting of vice, the repression of violence and crime were the objects which animate those who seek to destroy society in these mountains, then we could say in the language of the Savior: "Thou thyself beholdest not the beam that is in thine own eye. Thou hypocrite, first cast out the beam out of thine own eye; and then shalt thou see clearly to cast out the mote out of thy brother's eye."

We speak to you, a people who have traveled and mingled much in society all over the world. You are not ignorant of the world, its ways, or its corruptions. You know, therefore, how great is the beam

that is in the eyes of those who reprove us for the mote they imagine they perceive in our eye. We know that from the household of every faithful Latter-Day Saint daily and fervent thanksgiving ascends to the God of heaven for having shown them how to escape from the frightful evils under which society groans in so-called civilized lands. Nevertheless, we will not indulge in recrimination. We sincerely mourn over the existence of the dreadful sins which are permitted to flourish and to spread with unblushing front through the land. As a people we have lifted our voices in warning against the sins and against those who practice them. We shall continue to do so. If in return for all this we are treated with violence and reproach, it is no more than our Lord and Master was before us. We may rest assured that the predictions concerning the calamities and judgments which are about to fall upon the wicked, the unbelieving, and the unrepentant will all be fulfilled, as will every word and promise which the Lord has spoken to us. But while we warn others let us not forget ourselves or our families. Let us look well to our own lives and the conduct and lives of those who belong to our households. If we keep ourselves unspotted from sin, rest assured the Lord will never forget or forsake us.

Upon presidents of stakes, bishops, and other leading officers great responsibility rests. They are placed as shepherds over the flock of Christ. If through any neglect of theirs the flock is injured or destroyed, the blood of those souls will be found upon their garments. The Melchisedec and Aaronic priesthoods confer great power and authority upon man. They lift man nearer to God and make him His representative. But woe to the men who use their priesthood for base purposes and fail to use it for God's glory and the salvation of His children. Far better for them if they had never received it.

We have been commanded of the Lord to set our households in order. Apostles, presidents of stakes, and bishops, have you done this with your own households? Have you also seen that the saints have done the same? Have you impressed upon the people under your charge the absolute necessity of purity if they desire the blessing and protection of the Most High? Wolves never watched with greater cunning and more ravenous hunger a flock of sheep and lambs than the people of your wards and stakes are now being watched by those who are ready to devour them. Are you awake to this danger, and do you take every precaution against it?

Parents, are you full of fidelity yourselves to every principle of godliness, and do you surround your sons and daughters with every safeguard to shield them from the arts of the vile? Do you teach them that chastity in both man and woman should be more highly esteemed than life itself? Or do you leave them in their ignorance and inexperience to mix with any society they may choose, at any hour that may be convenient to them, and to be exposed to the wiles of the seducer and the corrupt? These are questions you will all have to answer either to your shame and condemnation or to your joy and eternal happiness. Know this—that God, in giving us the precious blessings we possess, demands from us a suitable return. By receiving them we are placed under obligations. If these are not discharged, condemnation inevitably follows.

We hear favorable accounts of the action of primary associations, Sunday schools, young men's and young women's mutual improve-

ment associations, and relief societies. These organizations have unlimited opportunities of doing good. If those who have them in charge are faithful in attending to their duties, great will be their reward. If we desire the prosperity of Zion we will carefully guard and train our young. They come to us pure from the Lord. By proper training we can make them mighty instruments for good. But, superintendents and teachers of primary associations and Sunday schools, and presidents of young men and young women's associations and relief societies, remember this—that God will never bless an unvirtuous people, and while a flood tide of corruption, destructive of all true morality and virtue, is sweeping over the land we must erect barriers to stop its contaminating influence. You have the young in your charge. Teach and impress upon them by every means in your power how dreadful a sin is unchastity. They are taught to shrink in horror from murder, but they should be taught to shrink with abhorrence from the next great sin to shedding blood, and that is *unchastity*.

From the elders who are abroad in our own and in other lands we hear generally favorable reports. They have much to contend with. The world is waxing worse and worse. Iniquity abounds. Men's hearts are hardened against the truth and the nations are fast being prepared for the judgments which the Lord has said He will pour out in the last days. The elders are required to carry the message which God has sent to mankind to every nation and to warn them, not in anger or in scorn, but in meekness and humility, that they may flee from the wrath to come. To them we say: Be pure in all your thoughts, words, and acts. Keep yourselves unspotted from every evil. Avoid all vulgarity of act and expression. Put away all your light speeches, and be sober men of God, filled with the Holy Ghost and the power of your priesthood.

To the twelve apostles and their counselors we say: Remember the weight of your high calling in Christ Jesus. You are called to be His special witnesses in all the world, to bear testimony that He lives and reigns on high, to see that the Gospel is preached to all the inhabitants of the earth and that the earth is prepared by suitable warning for the coming of the Son of Man. How great and all-important is your calling. It may be said that the souls of a world are intrusted to you. Through your labors and testimony, either in person or through other chosen messengers whose labors you direct, the inhabitants of the earth will be judged. Is there any law of God, then, which you should neglect? Is there any degree of purity which you should not reach? Is there any sacrifice which you should not be willing to make? Can men with such a calling as yours be other than holy and yet please our God? Who among you can neglect the duties of your high calling to devote time and care to the world and its pursuits? We say to you in all truth and solemnity that no one of you can do this without displeasing your God and endangering your salvation.

To the saints we say that President Woodruff, at our last accounts, was in good health and spirits, notwithstanding his advanced age, and as full of zeal and faith as ever.

President Joseph F. Smith, our fellow laborer in the first presidency, though not with us is actively employed in the ministry and rejoicing greatly in the work of God. He is as ardent, as devoted,

and as persevering as ever. Were he here his name without doubt would appear with ours to this epistle.

Notwithstanding all that we are now passing through, our hearts are filled with joy and peace. We can truly say, "Hosanna to God in the highest." We know that Zion will not be overthrown or be made desolate. Every promise made concerning Zion by the Almighty God will be fulfilled. The only thing which ever disturbs our serenity is the report of wrongdoing by those who are called Latter-Day Saints.

Praying that God will bless and preserve you and lead you in the path of righteousness, and that you may all operate together any accomplishment of the purposes of God and the purification of His church and the establishment of His kingdom, we remain, with much love,

Your friends and fellow laborers in the new and everlasting covenant,

JOHN TAYLOR,
GEORGE Q. CANNON,

*Of the First Presidency of the Church of
Jesus Christ of Latter-Day Saints.*

SALT LAKE CITY, October 6, 1885.

[Improvement Era, organ of Young Men's Mutual Improvement Associations. Volume 1. Published by the general board. Jos. F. Smith, B. H. Roberts, editors. Heber J. Grant, business manager. Thomas Hull, assistant. "Comment on Dr. Reiner's letter." By Elder B. H. Roberts. Page 473.]

"Relative to the servants of God in ancient times being justified in having a plurality of wives, he was informed that it was because they had received them by commandment from God, and in nothing had they sinned except wherein they had acted outside the commandments of the Lord. 'God commanded Abraham,' says the revelation, 'and Sarah gave Hagar to Abraham to wife. And why did she do it? Because this was the law, and from Hagar sprang many people. This, therefore, was fulfilling, among other things, the promises. Was Abraham, therefore, under condemnation? Verily I say unto you, nay; for I the Lord commanded it. * * * David also received many wives and concubines, as also Solomon and Moses, my servants, as also many others of my servants, from the beginning of the creation until this time, and in nothing did they sin, save those things which they received not of me.' Subsequently Joseph Smith received a commandment from the Lord to introduce that order of marriage into the church, and on the strength of that revelation, and not by reason of anything that is written in the old Jewish Scriptures, the Latter-Day Saints practiced plural marriage."

[From the same document and the same article, page 475.]

"If a plurality of wives—I mean, of course, as practiced by Abraham, Jacob, and the prophets—is a sin at all, it must be adultery; it can be classed as no other. Paul says:

"Now, the works of the flesh are manifest, which are these: Adultery, fornication, uncleanness, * * * and such like, of the which I will tell you before, as I have also told you in times past, that they which do such things shall not inherit the kingdom of God."

"The adulterer, then, can not inherit the kingdom of God; but we find the following coming from the lips of Jesus concerning Abraham, Jacob, and the prophets: 'There shall be weeping and gnashing of teeth when ye shall see Abraham, Isaac, and Jacob, and all the prophets in the kingdom of God, and you yourselves thrust out.' Again: 'And I say unto you that many shall come from the east and the west and shall sit down with Abraham, Isaac, and Jacob in the kingdom of heaven.' We are driven to the conclusion by this testimony that polygamy is not adultery, for were it so considered, then Abraham, Jacob, and the prophets who practiced it would not be allowed an inheritance in the kingdom of heaven; and if polygamy is not adultery, then it can not be classed as a sin at all."

[From the same document and the same article, page 478.]

"We learn from the description given of the New Jerusalem that there will be twelve gates in the wall surrounding the holy city, and on these gates will be written the names of the twelve sons of Jacob, born of his four wives. We have already quoted the words of Jesus, showing that polygamous Abraham, Jacob, and the prophets will be in the kingdom of God, and will doubtless have their abode in this New Jerusalem, so that it appears that if our modern friends, who so bitterly oppose the practice of the saints in having a plurality of wives, ever go to heaven, gain an admittance into the 'heavenly city,' it will be by passing through a gate upon which is written the name of a polygamous child, only to be ushered into the presence of such notorious polygamists as Abraham, Jacob, and many of the old prophets. It appears to the writer that modern Christians must either learn to tolerate polygamy or give up forever the glorious hope of resting in 'Abraham's bosom'—a hope which has ever given a silvery lining to the clouds which hang about the deathbed of the dying Christian. But the indignant unbeliever in the rightfulness of a plurality of wives, rather than associate with polygamists, may prefer to pluck off his crown, lay aside the golden harp of many strings, give up the pleasure of walking the gold-paved streets of the holy city, whose 'builder and maker is God,' and take up his abode outside, where the whoremonger, the liar, and hypocrite dwell, and where there is weeping and gnashing of teeth. Surely he must do this or make up his mind to honor those who have believed in and practiced plurality of wives—more properly, celestial marriage."

[From the same document and the same article, page 480.]

"The following is a summary of reasons we have for believing that God approved of a plurality of wives as practiced by the ancient patriarchs and many of the leaders and prophets of Israel, and that in this sense polygamy is justifiable 'from a biblical standpoint:'

"First.—When a polygamous wife deserted the family of which she was a member, the Lord sent an angel to bid her return to that family and promised to make her seed a great nation.

"Second.—The Lord heard and answered the prayers of polygamous wives, blessing their marriage by granting them children; and, in the case of Rachel, the second wife of Jacob, performing

what men call a 'miracle'—making the barren fruitful—in attestation of His approval of her polygamous marriage with Jacob.

"Third.—The men who practiced plural marriage by no means forfeited the peculiar blessings promised to them before they were polygamists; on the contrary, the promises were renewed to them and greater blessings added, God continuing to be their friend and revealing Himself and His purposes to them.

"Fourth.—God himself gave unto David a plurality of wives, thus becoming a party to the evil, if polygamy be sinful.

"Fifth.—God owned and blessed the issue of polygamous marriages, making a marked contrast between them and illegitimate children.

"Sixth.—So far as the earthly parentage of Jesus is concerned he came of a polygamous lineage, which certainly would not have occurred had polygamy been unlawful and the issue spurious.

"Seventh.—The Lord gave unto ancient Israel a number of laws under which polygamy was not only permitted, but in some instances made obligatory.

"The force of the cases here cited does not depend upon technical translations of particular passages of Scripture, they sweep through the whole history of Israel and are interwoven in the legislation of the Hebrew race.* And while all this may not justify men now—without further commandment from God—in marrying a plurality of wives, what is here set forth does establish the fact that God did approve of a plurality of wives as practiced by His ancient servants, and presents an array of testimony so strong that not even the authoritative voice of Rome can strike down its force, nor the odium that may attach to some of the coarse utterances of Martin Luther and his associates on the subject affect the fact of God's approval of that form of marriage. And that which He approves, and so strikingly approves, must be not only not bad, but positively good, pure, and holy. Therefore I conclude that since God did approve of the plural-marriage custom of the ancient patriarchs, prophets, and kings of Israel it is not at all to be wondered at that in the dispensation of the fullness of times, in which He has promised a restitution of all things, that God should again establish that system of marriage. And the fact of God's approval of plural marriage in ancient times is a complete defense of the righteousness of the marriage system introduced by revelation through the Prophet Joseph Smith."

[The late corporation of the Church of Jesus Christ of Latter-Day Saints v. United States. Romney v. United States. Nos. 1031, 1054. Argued January 16, 17, 18, 1889. Decided May 19, 1890. 136 U. S. Reports, page 27.]

"On behalf of the court, Mr. Justice Bradley stated the case, as follows:

* * * * *

"After this article was written it occurred to me that in order that no question might arise between Doctor Reiner and myself about the proper translation of passages quoted I had better quote from the Roman Catholic English translation of the Scriptures, but on comparing the texts in that version of the Scriptures with the King James translation, the one commonly used by us, the difference was so slight and immaterial that I judged it to be unnecessary to make the change.

"The court (the supreme court of Utah) found as follows:

"That certain of the officers of said religious sect, regularly ordained, and certain public preachers and teachers of said religious sect, who are in good standing, and who are preachers and teachers concerning the doctrines and tenets of said sect, have, since the passage of said act of Congress of February 19, 1887, promulgated, taught, spread, and upheld the same doctrines, tenets, and practices, including the doctrine of polygamy, as were formerly promulgated, taught and upheld by the said late corporation, and the said teachings of the said officers, preachers, and teachers have not been repudiated or dissented from by said voluntary religious sect, nor have their teachings and preachings or their actions created any division or schism in said voluntary religious sect.'"

"Mr. Justice Bradley, after stating the case, delivered the opinion of the court:

"We have carefully examined the decree, and do not find anything in it that calls for a reversal. It may perhaps require modification in some matters of detail, and for that purpose only the case is reserved for further consideration."

[The Salt Lake Tribune. Salt Lake City, Utah, Tuesday morning, November 25, 1902.]

"Oppose Apostle Smoot—Ministers adopt resolutions of protest because he is apostle—Resolutions passed unanimously at meeting of ministerial association yesterday—Charged that Smoot would be bound to act first as apostle and second or third as a citizen and American—Reference made to polygamy—Union of church and state feared.

"At the regular meeting of the Salt Lake Ministerial Association, held yesterday morning, a series of resolutions protesting against the candidacy of Apostle Reed Smoot for the United States Senate were introduced and, after a general discussion, were unanimously passed by the association. Practically the entire membership of the association was present, and when the roll was called the resolutions were adopted without a dissenting vote. One of the members of the body stated last evening that the resolutions, as presented by the committee on public morals, were calmly and dispassionately discussed, several changes were made, and that, as finally passed, the resolutions represent the sentiment of every member of the association. Those present were Rev. Messrs. Barnett, Clarence T. Brown, John Richelsen, Koepsal, Wishard, Worrell, Rydberg, Simpkin, McLain, Padden, Johnson, Pinkerton, Lincoln, Wake, and McNiece.

"Following is the full text of the resolutions adopted:

"THE RESOLUTIONS.

"Whereas the election of Mr. Reed Smoot, an apostle of the Mormon Church, to the office of United States Senator from Utah seems imminent; and

"Whereas The Deseret News, the organ of the first presidency and twelve apostles of the Mormon Church, has declared that Apostle Smoot's fitness for such office is, if anything, brought out brighter and clearer by his having secured a place in the Mormon apostolate: Therefore be it

Resolved, That while we, as members of the Salt Lake Ministerial Association and citizens of Utah, have no protest to register against the election of members and lesser officials of the Mormon Church to a fair share of the offices of trust and emoluments which are within the gift of the citizens of this State, we do protest against the election of Apostle Reed Smoot to represent this State in the United States Senate.

"OBJECT TO APOSTLE.

"We make this protest because Reed Smoot is one of the quorum of the twelve apostles, who, with the quorum of the first presidency, are ultimate sources of authority for the Mormon Church throughout the world. According to the approved teachings of the Mormon Church the president, in his quorum—i. e., with his two counselors—is to be likened to Moses. Therefore he is the prophet and lawgiver unto the church—the mouthpiece of God unto it. The twelve apostles are a traveling presiding high council, and have the power to officiate in the name of the Lord, under the direction of the first presidency of the church, to build up the church and regulate all affairs of the same in all nations. These twelve apostles form the second general presiding quorum in the church, and are equal in power and authority to the quorum of the first presidency. (See 'Outlines,' by B. H. Roberts, p. 368.) We protest, therefore, against the election of a man as our representative who belongs to the quorum of twelve Mormon high priests, whose unanimous vote must be accepted by their coreligionists as the voice of God.

"ULTIMATE AUTHORITY.

"We protest against the election of a member of the quorum of twelve Mormon apostles to the United States Senate, because by virtue of their ecclesiastical office such apostles may be, and in connection with the first presidency are, ultimate sources of authority in the government of the Mormon Church; in their hands is the power to set up or pull down whom they will. A few years ago they unfrocked one of their own quorum for asserting his political independence, and to-day Reed Smoot would not dare to announce himself as a candidate for election to the high office he seeks without the permission of the president of the church and his fellow-apostles.

"CHURCH AND STATE.

"We protest against this endeavor to elect Apostle Smoot to the United States Senate as an endeavor to force upon the citizens of Utah a union of the church and the state. The election of a man who holds the highest office save one in the gift of the Mormon Church to the highest office save one in the gift of the people of the

United States would be a menace to our civil and religious liberty. No other church has dared to attempt such an ecclesiastical invasion of Congress. As a matter of fact, other religious bodies do not give their church officers such absolute authority. The authority which a Mormon apostle claims and which is accorded to him by his co-religionists is almost unique in our country. A Methodist or Episcopal bishop claims no such authority in the church he represents. A cardinal of the Catholic Church makes no such autocratic claims.

" WILL OF CHURCH.

"The election of Apostle Reed Smoot to the United States Senate would virtually be the election of the will of the Mormon first presidency and twelve apostles of that body. As a consistent member of the Mormon apostolate Apostle Smoot can not make an important move without getting permission or taking counsel of the quorum of Mormon high priests to which he belongs. By virtue of his apostolic vows he must act first as a Mormon apostle and second or third as a citizen of Utah and patriotic American.

" AS TO POLYGAMY.

"We protest against the proposed election of Apostle Smoot to the United States Senate because the majority of the Mormon apostolate to which he belongs and with which he works in harmony are living in polygamous relation in violation of covenants made by the people of the United States, as well as in violation of the criminal statutes of Utah. The two or three apostles who may be living monogamists' lives are obliged to defend the righteousness of a polygamous system of marriage and to wink at the lawbreaking polygamous relation of their fellow-apostles. The Mormon apostolate stands as directly or indirectly encouraging or conniving at the continuance of polygamous relations throughout the Mormon Church.

"The vigorous and rigorous execution of a law like the Edmunds-Tucker law in this State would drive the president of the Mormon Church and the majority of his apostles into exile or throw them into prison within twelve months; and Apostle Smoot dare not oppose such polygamous conditions.

" MANDATES INSTEAD OF ARGUMENTS.

"We also protest against the proposed election of Apostle Smoot to the United States Senate that in so doing we may protest against the manifest tendency of certain leaders in the ecclesiastical management of the Mormon Church to look upon civil office as an ecclesiastical perquisite, and to use ecclesiastical opportunities in working for political preferment. Moreover, it is an open secret here in Utah that in this pursuit of civil preferment these ambitious church leaders are in the habit of using the mandates of ecclesiastical authorities as a substitute for legitimate political argument.

" PLURALITY OF POSITION.

"We protest against the tendency of high Mormon authorities to insist on having a plurality of high official positions—an apostleship

and a Senatorship, for example. We do not believe that ecclesiastical and political timber is so scarce in the Mormon Church and the State of Utah that it is necessary to try and make an apostle and United States Senator out of the same stick. We object to being represented in the United States Senate by a man who is chiefly Mormon apostle, a man on whose time, talents, devotion, and vote the quorum of apostles to which he belongs has a registered first mortgage.

"In brief, we protest against the election of Apostle Smoot to the United States Senate, not because he is a member or a minor official in the Mormon Church, but because he is one of the quorum of the twelve apostles who, with the first presidency, rule that church as with a rod of iron.

" CHURCH REPRESENTATIVE.

"And inasmuch as the purpose of this resolution has been to show that Mr. Reed Smoot is bound by prior ties to an organization within the Republic, and in a sense apart from it, and as a Senator would be a representative of that organization and second only of the Commonwealth, we deem it timely to recall the historic position of our nation upon the entire separation of church and state and point to the fact that Mr. Smoot, as apostle of the church to which his pledges compel prior allegiance, would, in the United States Senate, stand as an anomaly in its history, the representative of a sect whose avowed hope and aim is the increasing extension of that church's temporal sway.

"Which protest we respectfully submit to our fellow-citizens of this State and the United States.

"Done by order of the Ministerial Association of Utah this 24th day of November, 1902.

- " NO FURTHER STATEMENT.

"Members of the Ministerial Association who were seen yesterday and asked if they had any further comment to make in regard to the matter, stated that they did not desire to add anything at present. They said the resolutions fully set forth their views and that they would say nothing more for a time, at least. Rev. Richard Wake was president of the association and Rev. D. A. Brown secretary.

" ' MINISTRY OF ANGELS. ' "

"The resolutions were introduced and passed after the presentation of a paper by Rev. J. C. Lincoln on the 'Ministry of Angels.' Rev. Mr. Lincoln held that there was a ministry of both good and bad angels, and that personal angelic ministry ceased with the apocalypse."

[The Salt Lake Tribune. Salt Lake City, Utah, Wednesday morning, December 3, 1902. From an article entitled "Smith Talks of Smoot. President of church speaks of Apostle."]

" ' The church does not desire to enter into any controversy over the subject, but is anxious that its own people as well as the people of the country generally should understand its position. ' "

“ ‘Does the Mormon Church solemnize or permit plural marriages?’ President Smith was asked.

“ ‘Certainly not,’ he replied. ‘The church does not perform or sanction or authorize marriage in any form that is contrary to the laws of the land. The assertion that prominent Mormons practice polygamy is evidently done to mislead the public. Polygamy under the law is the marrying of a husband or wife while the legal husband or wife is living and undivorced.’

“ SUPPORTING FAMILIES.

“ ‘There is no such offense committed by sanction of the Mormon Church. But when the prohibition of polygamy was proclaimed by the president of the Mormon Church there were many persons who had contracted plural marriages, and that relation has been continued in many instances, because the men in that position determined not to abandon their families, but to care for and provide for them and educate and cherish their children. This is erroneously construed as practicing polygamy, and creates the impression that polygamous marriages are still permitted in and by the church.’

“ WHAT CENSUS SHOWED.

“ ‘It was ascertained by a careful census of 1890, when President Woodruff issued his manifesto against further polygamous marriages, there were 2,451 such families belonging to the Church of Jesus Christ of Latter-Day Saints in the United States. In May, 1902, a complete and thorough inquiry showed that the original number in 1890 had been reduced 63 per cent, leaving then only 897, the great majority of whom were of advanced age, and many of them have since departed this life. It is evident that with no additions to this total, but a rapid and continual decrease, the number of polygamous families will soon be reached [reduced] to zero.’

“ SMOOT’S CHURCH POSITION.

“ President Smith was asked to define the position of Mr. Smoot in the church, his position as an apostle having been compared to that of a cardinal or archbishop in other churches.

“ ‘The two positions are not parallel,’ President Smith said. ‘An apostle, or seventy, or elder, or bishop in the Church of Jesus Christ of Latter-Day Saints is usually engaged in some secular vocation, or laboring in some capacity for his daily bread. He is ordained to the office he holds in the priesthood so that he may act in that calling when required. He gives his services gratuitously to the church.

“ ‘There are instances, of course, when a man’s whole time is taken up with some church duty that he receives remuneration therefor, but as a rule men holding these positions in the priesthood are engaged in secular callings and are men of affairs.

“ PRAISE FOR SMOOT.

“ ‘Reed Smoot is a banker, the manager of the largest manufacturing institution in the State, is interested greatly in mining opera-

tions and other temporal pursuits. He is recognized as a capable and enterprising citizen, and his position in the church need not interfere in any way with his services to the State or to the nation in any political office to which he may be elected.

"It is not true that he has been put forward by the church as a candidate for public office, but he has the same right that any other American citizen enjoys to accept any office to which his fellow-citizens may elect him to occupy. Mormon Church officials have served in Congress for years, and no objection has been offered on that account. Every Mormon official has been one holding the priesthood, and that has never interfered with his official duties. The objection in the present case is without substantial reason or foundation."

[Deseret Evening News, Monday, January 8, 1900. Salt Lake City, Utah. From the editorial columns.]

"POLYGAMY AND UNLAWFUL COHABITATION.

"From the reading of the various editorials and articles of the public press it is evident that there is much misconstruction and misunderstanding as to the present attitude of our church respecting the subjects of polygamy and unlawful cohabitation; and, believing that many good and conscientious people have been misled and much adverse criticism occasioned thereby, I feel it but just to both Mormons and non-Mormons to state that, in accordance with the manifesto of the late President Wilford Woodruff, dated September 25, 1890, which was presented to and unanimously accepted by our general conference on the 6th of October, 1890, the church has positively abandoned the practice of polygamy or the solemnization of plural marriages in this and every other State, and that no member or officer thereof has any authority whatever to perform a plural marriage or enter into such a relation. Nor does the church advise or encourage unlawful cohabitation on the part of any of its members. If, therefore, any member disobeys the law, either as to polygamy or unlawful cohabitation, he must bear his own burden; or, in other words, be answerable to the tribunals of the land for his own action pertaining thereto.

"With a sincere desire that the position of our church as to polygamy and unlawful cohabitation may be better understood, and with best wishes for the welfare and happiness of all, this statement is made, and is respectfully commended to the careful consideration of the public generally.

"LORENZO SNOW,
President of the Church of Jesus Christ
of Latter-Day Saints.

"SALT LAKE CITY, January 8, 1900."

[The Daily Tribune, Salt Lake City, Utah, Wednesday morning, January 10, 1900. From an article entitled "Views on Snow statement. No church member's standing will be affected by committing unlawful cohabitation. Opinions as to purpose of the declaration."]

"Angus M. Cannon, president of the Salt Lake stake, was one of the few who discussed the matter unreservedly. President Cannon is of the opinion that the law against unlawful cohabitation is uncon-

stitutional, and was incorporated in the code through inadvertence, and that the church authorities would not have the right to discipline a member of the church for its violation, even though they felt so inclined.

"President Cannon also expressed the fear that 'some sneaking whelps might use the declaration of President Snow as a pretext for deserting some of their wives. And if they do,' he declared, 'they are the fellows that should be disciplined.'

"Speaking further with regard to the matter, President Cannon said: 'I consider it a reaffirmation of the manifesto of President Woodruff, and it means, to my mind, that President Snow will not be held responsible for any violation of the law against unlawful cohabitation. I wouldn't think, however, that those in that condition would believe that President Snow had the right to command them to give up their wives whom they took before President Woodruff's manifesto was issued. If a man now claimed the right to take another wife I would view him as an apostate, as such action is not allowable by the president of the church, who has absolute power in the premises.'"

* * * * *

"Charles W. Penrose, editor of the Deseret News, and counsellor to President Angus M. Cannon, of the Salt Lake Stake, was of the opinion that no church member would suffer, so far as his standing in the church was concerned, because he had been convicted: It was the business of the courts to prosecute all violations of law. If a member of the church desired to reach another member who had been convicted of unlawful cohabitation, it would be necessary that he should go at it in the regular way provided for one brother to bring charges against another. When a man possesses the priesthood, the bishops' courts simply sit as a court of committal, but has no further jurisdiction in the case. It sifted the testimony and reported it to the high council. No one outside of the church, however, could lodge a complaint against a member of the church that would be entertained by the church officials, and a certain amount of evidence was the all-important factor. Mr. Penrose was not ready to say what might be done in case a man was complained against in church circles after he had been convicted of or had pleaded guilty to unlawful cohabitation. No one had ever yet lost religious prestige because he had been convicted in a criminal court, and so far as he knew no complaint looking to that end had ever been lodged with the proper authorities. If church members take exception to the acts of an official or a member, there is always a way by which the matter, when properly presented, can be reached."

"George M. Cannon: I could not say what President Snow's ideas in the case may be. I read the letter as it came. I believe he means what he says. He does not encourage any violation of the law; true, neither does he discourage it, leaving the question of punishment, if any follow, to the man against whom the law is directed. I do not believe that any man who entered into polygamous relations prior to the manifesto should be disturbed in those relations by the church or any members of the same. I do not believe that any man who continues such relations is guilty of moral turpitude. I, speaking individually, can see no reason why a man holding an office in the church should be disciplined by that body because he had been convicted of living

with his wives, which he had taken by and with the consent of that church. It is not a matter of church, it is a question for the courts. If a man continues to live with more than one woman after the church has taken the attitude it has, then he must take consequences. President Snow, it appears to me, is very plain on that point."

[The Salt Lake Tribune, Salt Lake City, Utah, Friday morning, September 8, 1899. From the editorial columns.]

" THAT AWFUL MOUTH AGAIN.

" Yesterday morning we imputed these words to Apostle Heber J. Grant: 'I am a lawbreaker; so is Bishop Whitney; so is B. H. Roberts. My wives have brought me only daughters. I propose to marry till I get wives who will bring me sons.'

" Last night the News had from Apostle Grant the following denial: 'I have never made those remarks at any time in public or in private, in writing, or by word of mouth. The fact that I have not taken any wives since the manifesto was issued is evidence against any such intention on my part.'

" The proof of the fact that Apostle Grant said what we charge him with saying is easy. The remark was made by him in the Herald office in this city, in the presence of E. A. McDaniel, Alfaes Young, and J. H. Moyle, all good Democrats, and two of whom at least will never deny it.

" The remark was substantially as we gave it, and was of so remarkable a character that it was taken down in writing and signed by two of those who heard it. There was other conversation at the same time, some of it of a character that would not look well in print, but that can easily be called to Apostle Grant's mind. That he made the statement is beyond question.

" We have never seen the document, but heard of it at the time, have known of it for months, and have heard it recited and referred to from time to time. It is in the custody of Alfaes Young, who is out of the city on a hunting trip. He will undoubtedly permit the use of it when he returns home.

" Apostle Grant's denial is unquestionably through perversity or because of a failing memory. The record will easily establish its complete falsity."

[The Deseret Evening News, Thursday, February 1, 1900, Salt Lake City, Utah. From an article entitled "Opposition to the Truth." Remarks made at the Tabernacle, Salt Lake City, Sunday afternoon, January 28, 1900, by President George Q. Cannon.]

" Then comes the doctrine of marriage. We have had revelations from God concerning marriage. We have been taught of the Lord that marriage can be solemnized on the earth for time and for all eternity; and that when men and women receive their highest glory they will be joined together as husbands and wives. I need not dwell on all the features connected with this principle. You are familiar with them. I need not say to you how extensive our belief is in this matter; for it is a matter that has been agitated and talked about until it has become at least partially understood. I need only say that Latter-Day Saints believe, because God has revealed it to them, that when wives and husbands are united there is an authority and a

power that can unite them together for time and for all eternity. This is in line with the remark of Paul, where he says: 'Neither is the man without the woman, neither the woman without the man, in the Lord.' They are united together; their posterity will be theirs, and they will reign over them in eternity. One of the glories of eternity will consist of the fact that the family organization will be complete, and will be of such a character as to enable them to increase and spread abroad until they shall become innumerable. This is another principle for which we have suffered.

"I mention these to bring to your mind, my brethren and sisters, how much we have loved the truth, and how desirous we have been to obtain a knowledge of the truth. We have been willing to make sacrifices for the truth's sake. We have not only prayed and talked with our lips concerning truth, but we have actually obeyed the truth as far as we have known it. For this reason we have been persecuted. The world seems to be anxious that we should confine ourselves to the truths already revealed. But that is not our desire. We are progressing; we are seeking to comprehend more truth. We are earnestly seeking to understand the laws that govern truth, and through continued obedience to those laws we hope after a while to get back to the presence of our Father and God. We therefore love the truth, and we expect to suffer for the truth.

"All truth has not been revealed. Paul said once he knew a man who had ascended into the third heaven and he had heard things that were not lawful for man to utter. That has been a good deal the case with us. Many things have been revealed to us, which, if we had taught, men would have sought to kill us, so entirely opposed would they have been to the prevailing religious sentiment. This has been the case even with the small amount of truth which we have taught. We dare not tell all the truth we know, because it would not be lawful to utter some things that God has revealed. That which we do teach, and which has enabled us to progress to our present condition, sometimes gets us into trouble when we attempt to tell it. It arouses hatred and prejudice; and the class that manifest this spirit of hatred are, strange to say, those who profess to be the followers of Jesus Christ and ministers of his word. They can not bear it. I do not know what they would have done with Paul if they had lived in his day and he had told them some of the truths which were 'not lawful to utter.' No doubt they would have done with him as they did with the prophet Joseph Smith. It was the truth he told that caused them to slay him.

"From the chapter read by Brother Talmage we learn that the people in that day sought to kill the Saviour because He told the truth; and they killed Joseph Smith because he told the world truths they would not receive. Our elders in going out to preach the gospel have to be exceedingly cautious lest they shall give strong meat to people who are only prepared to receive the milk of the word. If they give strong meat, persecution is raised immediately. For this reason they have to reserve eternal truths with which they are familiar, or the people would do with them as they did with Jesus, and as they have done with all the prophets who have declared truths which the people would not receive. The Saviour had to caution His disciples on this very point, in the following language:

"Give not that which is holy unto the dogs, neither cast you your pearls before swine, lest they trample them under their feet, and turn again and rend you." (Matt. vii, 6.)

"New truths are unwelcome and you have to lead mankind along by degrees to comprehend truth."

[The late Corporation of the Church of Jesus Christ of Latter-Day Saints v. United States. Romney v. United States. Nos. 1031, 1064. Argued January 16, 17, 18, 1889. Decided May 19, 1890. 136 U. S. Reports, page 48.]

"Mr. Justice Bradley, after stating the case, delivered the opinion of the court.

* * * * *

"It is distinctly stated in the pleadings and findings of fact that the property of the said corporation was held for the purpose of religious and charitable uses. But it is also stated in the findings of fact, and is a matter of public notoriety, that the religious and charitable uses intended to be subserved and promoted are the inculcation and spread of the doctrines and usages of the Mormon Church, or Church of Latter-Day Saints, one of the distinguishing features of which is the practice of polygamy—a crime against the laws and abhorrent to the sentiments and feelings of the civilized world. 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 of 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; and whether the funds accumulated for that purpose shall be restored to the same unlawful uses as heretofore, to the detriment of the true interests of civil society.

"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. Under these circumstances we have no doubt of the power of Congress to do as it did."

[Cannon v. United States. Error to the supreme court of the Territory of Utah. Argued November 20, 23, 1885. Decided December 14, 1885. 116 U. S. Reports. October term, 1885. Mr. Justice Blatchford delivered the opinion of the court. Page 72.]

"It is the practice of unlawful cohabitation with more than one woman that is aimed at, a cohabitation classed with polygamy and having its outward semblance. It is not, on the one hand, meretricious unmarital intercourse with more than one woman. General legislation as to lewd practices is left to the Territorial government. Nor, on the other hand, does the statute pry into the intimacies of the marriage relation. But it seeks not only to punish bigamy and polygamy when direct proof of the existence of those relations can be made, but to prevent a man from flaunting in the face of the world the ostentation and opportunities of a bigamous household, with all the outward appearances of the continuance of the same relations which existed before the act was passed, and without reference to what may occur in the privacy of those relations."

[The Mormon Monster; or, The Story of Mormonism, Embracing the history of Mormonism, Mormonism as a religious system, Mormonism as a social system, Mormonism as a Political System, with a full Discussion of the Subject of Polygamy, By Edgar E. Folk, A. M., D.D., Editor of the "Baptist and Reflector," Nashville, Tenn., with an introduction by George A. Lofton, D. D. From Chapter XI, page 92.]

"Brigham Young had said in a sermon delivered in the Salt Lake Tabernacle, July 12, 1875:

"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 issues. 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.'"

[The Daily Tribune, Salt Lake City, Utah, Wednesday morning, June 15, 1898.
An article published on page 8.]

*"Stands up for polygamy—As much a part of the faith as ever—
The Government did wrong in suppressing it—Reactionary talk
at joint conference at Castle Dale.*

"Castle Dale, June 13.—The conjoint conference of the Y. M. and Y. L. M. I. A. for the counties of Emery and Carbon was in session at Castle Dale during Saturday and Sunday, and proved to be a very profitable and successful gathering. So large was the attendance that it was impossible to accommodate half of those who sought admission at any session. Apostle Woodruff and wife, Mr. Holt, and Mrs. Freeze, of Salt Lake, were present and assisted in the work of the conference. Mr. Holt preached Sunday morning and Apostle Woodruff in the afternoon. Mrs. Freeze took for her theme the subject of polygamy, and defended the practice as not only being right but a divine command of God. Apostle Woodruff and Mr. Holt also took up the matter, and stated the 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 marriage was not practiced at the present time, it was nevertheless believed to be right, and the Government was condemned for suppressing it. It was impressed upon the minds of the young people that they could not deny this part of the Mormon belief without at the same time denying the prophet Joseph Smith, on whose advice it was first practiced."

"THE PRESIDENT OF THE UNITED STATES:

"We, the first presidency and apostles of the Church of Jesus Christ of Latter-Day Saints, beg respectfully to represent to Your Excellency the following facts:

"We formerly taught to our people that polygamy or celestial marriage, as commanded by God through Joseph Smith, was right; that it was a necessity to man's highest exaltation in the life to come.

"That doctrine was publicly promulgated by our president, the late Brigham Young, forty years ago, and was steadily taught and impressed upon the Latter-Day Saints up to a short time before September, 1890. Our people are devout and sincere, and they accepted the doctrine and many personally embraced and practiced polygamy.

"When the Government sought to stamp the practice out our people, almost without exception, remained firm, for they, while having no desire to oppose the Government in anything, still felt that their lives and their honor as men were pledged to a vindication of their faith, and that their duty toward those whose lives were a part of their own was a paramount one, to fulfill which they had no right to count anything, not even their own lives, as standing in the way.

"Following this conviction hundreds endured arrest, trial, fine, and imprisonment, and the immeasurable sufferings borne by the faithful people no language can describe. That suffering in abated form still continues.

"More, the Government added disfranchisement to its other punishment for those who clung to their faith and fulfilled its covenants.

"According to our faith, the head of the church receives from time to time revelations for the religious guidance of his people. In Sep-

tember, 1890, the present head of the church in anguish and prayer cried to God for help for his flock, and received permission to advise the members of the Church of Jesus Christ of Latter-Day Saints that the law commanding polygamy was henceforth suspended.

"At the great semiannual conference, which was held a few days later, this was submitted to the people, numbering many thousands and representing every community of people in Utah, and was by them, in the most solemn manner, accepted as the future rule of their lives. They have since been faithful to the covenant made that day.

"At the late October conference, after a year had passed by, the matter was once more submitted to the thousands of people gathered together, and they again in the most potential manner ratified the solemn covenant.

"This being the true situation, and believing that the object of the Government was simply the vindication of its own authority and to compel obedience as to its laws, and that it takes no pleasure in persecution, we respectfully pray that full amnesty may be extended to all who are under disabilities because of the operation of the so-called Edmunds and Edmunds-Tucker law.

"Our people are scattered, homes are made desolate, many are still imprisoned, others are banished or in hiding. Our hearts bleed for these. In the past they followed our counsels, and while they are thus afflicted our souls are in sackcloth and ashes.

"We believe that there is nowhere in the Union a more loyal people than the Latter-Day Saints. They know no other country except this. They expect to live and die on this soil.

"When the men of the South who were in rebellion against the Government in 1865 threw down their arms and asked for recognition along the old lines of citizenship, the Government hastened to grant their prayer.

"To be at peace with the Government and in harmony with their fellow-citizens who are not of their faith, and to share in the confidence of the Government and people, our people have voluntarily put aside something which all their lives they have believed to be a sacred principle.

"Have they not the right to ask for such clemency as comes when the claims of both law and justice have been fully liquidated?

"As shepherds of a patient and suffering people we ask amnesty for them and pledge our faith and honor for their future.

"And your petitioners will ever pray.

"WILFORD WOODRUFF.

"GEORGE Q. CANNON.

"JOSEPH F. SMITH.

"LORENZO SNOW.

"FRANKLIN D. RICHARDS.

"MOSES THATCHER.

"FRANCIS M. LYMAN.

"H. J. GRANT.

"JOHN HENRY SMITH.

"JOHN W. TAYLOR.

"M. W. MEIRILL.

"ANTHONY F. LUND.

"ABRAHAM H. CANNON.

"SALT LAKE CITY, UTAH, December, 1891."

"SALT LAKE CITY, UTAH, December 19, 1891.

"To the PRESIDENT:

"We have the honor to forward herewith a petition signed by the president and most influential members of the Mormon Church. We have no doubt of its sincerity and no doubt that it is tendered in absolute good faith. The signers include some who were most determined in adhering to their religious faith while polygamy, either mandatory or permissive, was one of its tenets, and they are men who would not lightly pledge their faith and honor to the Government or subscribe to such a document without having fully resolved to make their words good in letter and spirit.

"We warmly recommend a favorable consideration of this petition, and if your excellency shall find it consistent with your public duties to grant the relief asked, we believe it would be graciously received by the Mormon people, and tend to evince to them, what has always been asserted, that the Government is beneficent in its intentions, only asks obedience to its laws, and desires all law-abiding citizens to enjoy all the benefits and privileges of citizenship. We think it will be better for the future if the Mormon people should now receive this mark of confidence.

"As to the form and scope of a reprieve or pardon, granted in the exercise of your constitutional prerogative, we make no suggestions. You and your law advisers will best know how to grant what you may think should be granted.

"We are, very respectfully,

"ARTHUR L. THOMAS,
"Governor of Utah.

"CHARLES S. ZANE,
"Chief Justice of Utah Territory."

The CHAIRMAN. Mr Worthington, are you ready to proceed?
Mr. VAN COTT. Call Mr. McConnell.

TESTIMONY OF WILLIAM M'CONNELL.

WILLIAM J. McCONNELL, being duly sworn, was examined, and testified as follows:

Mr. VAN COTT. Mr. McConnell, what is your full name?

Mr. McCONNELL. William John McConnell.

Mr. VAN COTT. What is your age?

Mr. McCONNELL. 65 years.

Mr. VAN COTT. Where do you live?

Mr. McCONNELL. In Moscow, Idaho.

Mr. VAN COTT. What part of Idaho is that in reference to the capital city, Boise?

Mr. McCONNELL. It is what is known as the panhandle of Idaho.

Mr. VAN COTT. The northern part?

Mr. McCONNELL. The northern part of Idaho.

Mr. VAN COTT. How long have you lived there?

Mr. McCONNELL. It is approximately twenty years since my residence was in Moscow.

Mr. VAN COTT. Were you born in Idaho?

Mr. McCONNELL. I was not.

Mr. VAN COTT. Where were you born?

Mr. McCONNELL. In Michigan.

Mr. VAN COTT. When did you leave Michigan?

Mr. McCONNELL. In 1860.

Mr. VAN COTT. Where did you go?

Mr. McCONNELL. To California.

Mr. VAN COTT. And then when did you first arrive in Idaho?

Mr. McCONNELL. In 1863; in April.

Mr. VAN COTT. What is your profession?

Mr. McCONNELL. I have not any.

Mr. VAN COTT. Have you ever had?

Mr. McCONNELL. At times I have been a merchant. I suppose I have been a half politician at times. I am now following mining. Mining is my business at present.

Mr. VAN COTT. You have never practiced law?

Mr. McCONNELL. No, sir; only incidentally, for my friends.

Mr. VAN COTT. During the time that you have lived in Idaho have you held any public offices?

Mr. McCONNELL. Yes, sir.

Mr. VAN COTT. What?

Mr. McCONNELL. I was mayor of our town first for two terms. I was also a delegate to the constitutional convention and assisted in framing our present constitution. I was next elected to the United States Senate, and after returning was chosen twice as governor of my State.

Mr. VAN COTT. During what years were you United States Senator?

Mr. McCONNELL. I was here on the last term of the Fifty-first Congress.

Mr. VAN COTT. And during what years were you governor of Idaho?

Mr. McCONNELL. 1893 and 1894; 1895 and 1896.

Mr. VAN COTT. Do you belong to the Mormon Church?

Mr. McCONNELL. No, sir.

Mr. VAN COTT. Have you ever?

Mr. McCONNELL. No, sir.

Mr. VAN COTT. Do you belong to any church?

Mr. McCONNELL. I do.

Mr. VAN COTT. What church?

Mr. McCONNELL. The Presbyterian Church.

Mr. VAN COTT. In your long residence in Idaho have you had opportunity to become acquainted with the Mormon people there?

Mr. McCONNELL. Yes, sir.

Mr. VAN COTT. Will you indicate how thoroughly?

Mr. McCONNELL. My first acquaintance with the Mormon people in Idaho was in 1882. At that time Nez Perces County embraced what is now Nez Perces and Latah counties. While I was not then residing in Idaho, being a resident at that time of Oregon, I was largely interested in business in Idaho, and the people of the town of Moscow were ambitious to be detached from Nez Perces and set off in a separate county, known as Latah.

I was requested to go to Boise City to see if I could not get a bill through the Idaho Territorial legislature to submit the question of division to a vote of the people.

I accordingly went there, and there was where I made my acquaint-

ance with the Mormons first; that is, in any considerable number. I came through Salt Lake in 1860, and I met a few people there, but made no extensive acquaintances. My first acquaintance was with these members of the house and council in the Territorial legislature, which convened in 1881. It terminated in 1882. It was known as the "Twelfth session of the Territorial legislature," I think.

Those were Territorial days. The country was Democratic, and there seemed to be a great many Democrats drift into Idaho in early times, and they were of the frontier class of people. Although all Democrats were not bad men, yet, as a rule, all bad men were Democrats. The laws were not well administered. It was, however, the fault of ourselves, the residents in the Territory, because in all countries I have ever visited, and I have visited all the frontier States and Territories in the United States, the good men are largely in the majority, and if they had performed their duty, I with the others, they could have controlled the conventions and nominated good men.

The laws were practically the same as they are now. I believe our statute originally was taken from the New York law. I think the New York statute was adopted by the Territory of Idaho when we were admitted. That is my impression.

Mr. VAN COTT. After that time, did you have occasion to become acquainted with the Mormon people in other parts of Idaho?

Mr. McCONNELL. Will you permit me to explain this?

Mr. VAN COTT. I beg pardon. I thought you had finished.

Mr. McCONNELL. I found that the Mormon members who were there were a different type of men from the average Gentile. A great many of the Gentiles were practicing the science of what we call "poker" out in that country during the night and sometimes day time. I found the Mormons clannish. They seemed to stay by themselves, and my business as a lobbyist took me around wherever I could find the members. I never found any of the Mormons either drunk or gambling.

I will admit that I had a prejudice against the Mormons at that time, owing to their peculiar institution of polygamy, and I was rather surprised to find that they were really more moral in their behavior than the other members.

At that time I believe the first efforts to disfranchise the Mormons was made in the legislature. A bill was introduced by the president of the council—Mr. Wall, I think he was; I forget what county he was from, but if it is necessary to know I have it. He was president of the council.

At the time I visited there they voted me the privileges of the council, and when I was in that body I was given a seat. The only vacant seat in the council happened to be by the side of a Mormon bishop from Bear Lake County, by the name of Robinson. I did my writing at the desk. It was a double desk. Some days after we had got acquainted he submitted to me this bill, which was looking to the disfranchisement of the Mormons, and asked me what I thought of it. "Well," I said, "Bishop, you realize, I suppose, that I am a Gentile, and we Gentiles hold that plurality or plural marriages constitute bigamy—adultery. I am not prepared to say whether it would be a proper thing to disfranchise all adulterers or not. But this occurs to me as class legislation. If you will permit me to suggest an amend-

ment to this bill I think you will see the propriety of supporting it." He asked me to do so, and I drafted as an amendment—

"And provided further, That you have not cohabited with any other than your legal wife."

He looked at it and said that if the council would adopt the amendment he would support the bill. But the council would not adopt the amendment, and he did not support it. There was a motion made to table it, and it carried the bill with it. The bill was defeated.

That was my first acquaintance with the Mormons.

Mr. VAN COTT. Now, in a general way, have you had opportunities to become acquainted with them since then?

Mr. McCONNELL. Yes, I think so.

Mr. VAN COTT. Have you traveled among them?

Mr. McCONNELL. I have.

Next, my attention was called to the manifesto that was issued by the Mormon Church in 1890, I think. At that time no Mormons voted or held office.

The CHAIRMAN. In Idaho, you mean?

Mr. McCONNELL. Yes, sir; in Idaho. I am speaking only of Idaho now, because I do not know anything about the conditions in these other Territories.

In 1892 the Republican State convention met, which nominated me for governor. There were no Mormons in that convention. The Mormons in Idaho were understood to be Democratic. A resolution was introduced into that Republican convention looking to the restoration of the right of suffrage. It was adopted by the convention and made a plank in the Republican platform on which I ran for governor. The Republicans carried the State, and I was elected, together with the other nominees.

When the legislature convened the following year, they proceeded to carry out that plank in the platform. My understanding of it was that it was for a double purpose—that it was un-American to disfranchise a large portion of the home builders and the wealth producers of the State, the taxpayers. The great proportion of the taxpayers and wealth producers and home builders in southeastern Idaho, what is known as the Mormon counties, were taxed, but had no representation.

Furthermore, we were looking to the adoption of female suffrage, which we could not adopt if the test oath had remained on our statute book. No self-respecting woman would qualify as an elector or an officeholder if she had to be subjected to the questions or take the oath which citizenship required.

The gist of what was termed the "test oath" was embodied in our State constitution, and is still in that instrument, and it was self-enacting. There seems to be a difference of opinion as to that, but I was present and participated in the arguments at the time that article was adopted, and it was the understanding of the members of the constitutional convention that with the exception of section 1 the article was self-enacting, and it carries with it all the provisions necessary to prevent the practice of polygamy or plural marriage. It prohibits a man or woman from holding office and from voting, from taking part in elections, if they are polygamists or if they belong to any church or organization which teaches polygamy or encourages it.

Mr. VAN COTT. In other ways have you become acquainted with the Mormon people by traveling among them?

Mr. McCONNELL. I have.

After encouraging and assisting in repealing the test oath, I felt it my duty to go among these people, many of whom were colonists from foreign nations, the States of Europe, and who never had voted, who knew nothing about our Government, its responsibilities and duties—I felt it my duty, I say, to go among these people, which I did, and delivered a lecture in all the prominent towns and wards in Idaho on the duties and responsibilities of American citizenship.

I was their guest in the towns and at their homes. I had an opportunity to observe their manners and methods. It was, of course, quite a revelation to me. I was, like everybody else would be, I presume, curious as to the people and their methods. I found one peculiarity, which was that in every family the father at the head of the table might ask a blessing himself in the morning, or he might ask his wife or one of the children. There was no hesitancy on the part of any member of the family who was asked to say grace. They would immediately proceed to do it.

All my meetings were opened with prayer, the same as though they were religious meetings.

In Malad, the first Mormon settlement I visited, they had organized to receive me; had a marshal of the day, who was a Gentile, a doctor. I was to deliver but one lecture in Malad, but he told me there was the same rivalry among the wards in a Mormon settlement that we had in villages in other places, and that if I only made a speech in Malad the other wards would feel hurt. He suggested that the meetings be changed so that I would deliver three lectures in that valley, and it was accordingly done.

He told me that that was the fifty-fourth anniversary of his birthday and the eighteenth anniversary of his arrival in Malad Valley, Oneida County; and that during those eighteen years—I questioned him particularly about the morals of the people and the place, anxious to gain what information I could, of course—he told me that during those eighteen years he had never known but one Mormon girl to go astray and she was married by the young man who caused her ruin. The man's name was Doctor Drake.

Mr. VAN COTT. The man who told you this?

Mr. McCONNELL. Yes; Doctor Drake.

As I have said, I made a very thorough tour, so that at different times I covered practically all the Mormon settlements in Idaho.

Mr. VAN COTT. What was your last opportunity to become acquainted with the Mormon people in that State?

Mr. McCONNELL. I have known them continuously up to the present time.

Mr. VAN COTT. I suppose it is unnecessary to ask you if you are a Republican?

Mr. McCONNELL. I think everybody understands that.

Mr. VAN COTT. And all your offices have been held under the Republican party in the State of Idaho?

Mr. McCONNELL. Yes, sir.

Mr. VAN COTT. Have you been active in politics in Idaho?

Mr. McCONNELL. I have even been termed an offensive partisan.

Mr. VAN COTT. Then I call your attention, first, to Mr. Morrison, who was governor of the State of Idaho. He failed to secure a second nomination?

Mr. McCONNELL. Yes, sir.

Mr. VAN COTT. In your opinion was that due to the Mormons?

Mr. McCONNELL. He would not have been renominated had the Mormons all supported him.

Mr. VAN COTT. I will go a little further, and ask you if, in your opinion, it was due to the Mormons that he did not secure his renomination?

Mr. McCONNELL. It was not.

Mr. VAN COTT. Was it due, in your opinion, to other causes?

Mr. McCONNELL. It was.

Mr. VAN COTT. Entirely separate from the Mormons?

Mr. McCONNELL. Entirely separate from the Mormons or any other church.

Mr. VAN COTT. Do you know of any unwritten law in Idaho that a governor shall always receive a second nomination?

Mr. McCONNELL. Our constitution provides that the term of the governor shall be two years, and in the case of the governor it is a good deal the same as with the United States Senators. They always try to succeed themselves if they can. That has been our experience.

Senator OVERMAN. What is the rule or custom in the State? Has the governor been succeeding himself?

Mr. McCONNELL. I succeeded myself. The former governor did not. Governor Steunenberg succeeded himself. Governor Hunt was renominated, but did not succeed himself, because he failed of election; and the reason we did not renominate Governor Morrison was because we feared we could not reelect him.

Senator OVERMAN. I do not care to go into that. I want to know whether that was the rule or not.

Mr. VAN COTT. Have you finished, Senator?

Senator OVERMAN. Yes, sir.

Mr. VAN COTT. Was Mr. Hunt a Republican?

Mr. McCONNELL. No, sir.

Mr. VAN COTT. A Democrat. Who is the present governor of Idaho?

Mr. McCONNELL. Mr. Gooding.

Mr. VAN COTT. Frank R. Gooding?

Mr. McCONNELL. Yes, sir.

Mr. VAN COTT. Is he the one who was nominated in opposition to Mr. Morrison?

Mr. McCONNELL. Yes, sir.

Mr. VAN COTT. As a matter of fact, did Mr. Gooding receive a larger vote in the southern part of Idaho, where the Mormons are, than he did in the northern part of Idaho?

Mr. McCONNELL. Yes.

Mr. VAN COTT. Is there any reason for that, in your opinion?

Mr. McCONNELL. Please repeat the question.

Mr. VAN COTT. Let the reporter read it.

The reporter read as follows:

"**Mr. VAN COTT.** As a matter of fact, did Mr. Gooding receive a larger vote in the southern part of Idaho, where the Mormons are, than he did in the northern part of Idaho?"

“ Mr. McCONNELL. Yes.

“ Mr. VAN COTT. Is there any reason for that, in your opinion? ”

Mr. McCONNELL. Yes.

Mr. VAN COTT. Why?

Mr. McCONNELL. Mr. Morrison's friends expected the support of certain delegations in the north, which he did not receive, and the disappointment, of course, made his vote lighter in the north. I think Mr. Morrison thought he would receive the vote of Latah County, which is my county, and the county from which Congressman French came, though there was no pledge given to the delegates. A great many of them favored the renomination of Mr. Morrison, but when the convention convened they failed to support Mr. Morrison.

The Gooding delegates supported Mr. French. Consequently the man who was opposed to Mr. French threw all the strength he could for Mr. Morrison as against Mr. Gooding.

Mr. VAN COTT. Is there any reason, in your judgment, why Mr. Gooding should receive a larger vote in the southern part of Idaho than in the northern part?

Mr. McCONNELL. Yes; the delegates, after arriving in Moscow, obtained information concerning the administration of Mr. Morrison which they did not have—many of them—when they left home. And they thought that information was sufficient to make it dangerous to nominate Mr. Morrison.

Mr. VAN COTT. Now, Mr. McConnell, I particularly call your attention to the vote that was cast for Mr. Gooding as governor of the State by the people, and not in the convention. Was there any reason when the people came to vote why he should receive a larger increase of Republican votes in the southern part of Idaho than he received in the northern part of Idaho?

Mr. McCONNELL. Yes.

Mr. VAN COTT. What are the reasons?

Mr. McCONNELL. There are several reasons. Senator Dubois was on the campaign canvass for the Democratic party—

Senator KNOX. Perhaps the counsel will be willing to state for my information to which one of the issues involved in this investigation this testimony is relevant?

Mr. WORTHINGTON. I would say, Senator, that that is a conundrum which we are unable to answer. To this line of examination and to two-thirds of the testimony—perhaps to four-fifths of it—introduced here we very strenuously objected, on the ground that it had nothing to do with any issue in the case. But it was admitted, and we are replying to it. You will find the evidence to which we are about to reply on page 198 of the second volume, where Charles H. Jackson, a Democratic politician from Idaho, testified that the Mormon Church had defeated Governor Morrison for renomination. All that testimony was in this line. There was an attempt to show what had taken place in political matters in Idaho and in Utah; that the Mormon Church interfered in politics and controlled elections whenever it chose to interfere; and Mr. Jackson testified—

“ It is impossible for any man or any party to go against the Mormon Church in Idaho, whether he is a Republican or a Democrat. * * * Unless the Mormon Church supports the individual you might as well give up. There is no hope for you.”

And again he says:

"It was a matter known to the politicians of both parties that it was absolutely necessary to secure the Mormon support in order to be successful in the State."

And he gives a great many details of the defeat of Governor Morrison.

Senator KNOX. That answers my question. I am not questioning the course of procedure, but I merely wanted to know to what this testimony was directed.

Mr. WORTHINGTON. It is supposed to bear upon the proposition that the Mormon Church interferes in politics and other temporal affairs, and absolutely controls its members, and that Senator Smoot, being a member of the church, has to vote as it directs.

The CHAIRMAN. The protestants in their protest, among other charges, affirm that the Mormon Church dominates politics in the State of Utah and other places, and I suppose this is in answer to that charge.

Mr. WORTHINGTON. It is intended to be.

The CHAIRMAN. Evidence was submitted to the committee on that point.

Mr. VAN COTT. Resume, Mr. McConnell.

Mr. McCONNELL. I do not know where I left off.

Mr. VAN COTT. Let the stenographer read it.

The reporter read as follows:

"Mr. VAN COTT. Now, Mr. McConnell, I particularly call your attention to the vote that was cast for Mr. Gooding, as governor of the State, by the people, and not in the convention. Was there any reason, when the people came to vote, why he should receive a larger increase of Republican votes in the southern part of Idaho than he received in the northern part of Idaho?"

"Mr. McCONNELL. Yes.

"Mr. VAN COTT. What are the reasons?"

"Mr. McCONNELL. There are several reasons. Senator Dubois was on the campaign canvass for the Democratic party——"

Mr. McCONNELL. I was acting for the Republican party. Mr. Dubois, with a man named Stalker, was discussing what was termed by them the paramount issue in the politics of Idaho, the Mormon question. They were to appear in the town where I live on the 12th day of October to hold a meeting on the evening of the 12th. I challenged Mr. Dubois, together with his man Stalker, to meet me in joint debate on that question. Mr. Dubois refused to do so. I have a lithographic copy of his letter, which is as follows——

The CHAIRMAN. Do you regard that as material?

Mr. VAN COTT. Yes, sir.

The CHAIRMAN. All right; go ahead.

Mr. McCONNELL. It is very brief; and all I wonder is that after the Mormons saw this letter any of them voted the Democratic ticket. It is addressed to "Hon. W. J. McConnell, Moscow, Idaho."

It is dated from "The Spokane, Spokane, Wash., Oct. 3."

Mr. WORTHINGTON. What year?

Mr. McCONNELL. 1904, during the progress of the campaign. The letter is as follows:

"MY DEAR GOVERNOR: I have yours of September 28 asking me

to meet you in joint debate at Moscow on October 12. As you are not a candidate for any high office and do not hold any official position and are not now in a position of responsibility, I can not give up my time, which is valuable, for a discussion with you.

"I sincerely hope you will take part in the campaign and answer my written arguments or my spoken arguments. The Review published a long article from me about two weeks ago, to which I invite your attention. I do not intend any discourtesy to you in refusing to debate with you, but I hardly think I would be justified in debating with anyone unless they are candidates for or now occupy positions which call upon them either to make or to enforce laws against criminals, as I regard the Mormon people to be.

"Sincerely, yours,

"FRED T. DUBOIS."

Mr. VAN COTT. Was that letter circulated among the Mormons in the southeastern counties by the Republican party in Idaho?

Mr. McCONNELL. It was.

Senator DUBOIS. Is that a personal letter to you?

Mr. McCONNELL. This is a reply to my challenge, written by yourself, or signed by yourself. It was not marked, "Personal."

Mr. VAN COTT. Were there any other reasons, in your opinion, for Mr. Gooding's vote? For instance, did the sheep or the cattle business enter into the reasons why Mr. Gooding would receive a larger vote in the southern part of the State than in the northern? And, if so, will you explain the cause? The committee may not be familiar with what you call the 2-mile-limit law.

Mr. McCONNELL. We have had quite a contest in Idaho, a very unpleasant state of affairs, too, between the sheep men and the cattlemen, the sheep men and the farmers. Our legislature passed an act a good many years ago, what is known as the "2-mile-limit law," which prohibits a man owning a band of sheep or herding a band of sheep from driving them within 2 miles of a residence of any family or individual. The sheep men have naturally wanted to have this law repealed. The supreme court of the State of Idaho decided that it was a proper law; was not unconstitutional. But the parties have vied with each other in the districts where the sheep were trespassers upon the public domain in claiming that their party was in favor, each of them, of the maintenance and upholding of this 2-mile-limit law.

In counties where they raise alfalfa and have not any quantity of sheep among the settlers they like to have the sheep brought around to buy their alfalfa hay. I think both parties adopted a plank in their platforms the last time in favor of the 2-mile limit law. May I ask Senator Dubois if that is not true?

Senator DUBOIS. The Democratic party did. The Republican party did not.

Mr. McCONNELL. Yes; the Democratic party adopted a plank in their platform in favor of the 2-mile limit law, as the Senator says. But, although the Senator, I do not think, perhaps, knew it—I would not believe or could hardly be made to believe that he would adopt such politics—there were two platforms printed by the Democratic committee to be used in different places. One of them contained the 2-mile limit law and the other did not. I happened to get hold of

one of those platforms. I have it here with me [exhibiting]. It is the one I used in the campaign. Now, possibly, and very likely, the Senator did not know that. But he has henchmen who are offensive partisans, the same as we all have, and when this was shown to the people some who perhaps would have voted the Democratic ticket were so disgusted with the methods practiced by that party that they voted the Republican ticket.

Mr. VAN COTT. Now, right here, Mr. McConnell. Is the northern part of Idaho occupied by sheep men or cattle men?

Mr. McCONNELL. The northern part of Idaho is not so much of a stock country as the south, although some portions of it have a good many cattle and a good many sheep.

Mr. VAN COTT. To put it in another way, is the central and northern part of Idaho opposed to the sheep men; that is, to allowing them to range their sheep where they desire?

Mr. McCONNELL. Yes, sir; they are.

Mr. VAN COTT. How is it with the southern part of Idaho on that question?

Mr. McCONNELL. A great many of them there are opposed to it. But some localities are not.

Mr. VAN COTT. Now, was Mr. Gooding a sheep man or a cattle man?

Mr. McCONNELL. He is a sheep man. I believe a great many Republicans did not vote for Mr. Gooding, or quite a good many, because he was a sheep man. They were afraid he would sign a bill repealing the 2-mile limit law if he was elected, although he was pledged not to.

Mr. VAN COTT. You stated, Mr. McConnell, that in early days in Idaho most of the people were Democrats. I wish you would give us, in a general way, the persuasion of the people from Democracy to Republicanism, and showing some of the causes for it, bearing particularly in mind, as you proceed, the Mormon Church.

Mr. McCONNELL. The Republicans at one time made the Mormon question an issue. I think I have the date here. I ask the Senator Dubois to correct me if I am wrong, because he remembers this perhaps better than I, for the reason that he was our nominee. He was a Republican at that time, and we nominated him for Congress. I was with him, although at that time I did not live in Idaho; I lived in Oregon. Having business in Idaho, I came up and assisted Mr. Dubois and the Republicans in that campaign by making speeches.

I find that Mr. Dubois took his seat in Congress in 1887, on March 4. So I presume the election in which we made the anti-Mormon fight was in 1886, the fall preceding the March when he took his seat.

We succeeded in getting enough Democrats to unite with us to carry the then Territory Republican, and we held it Republican until Mr. Dubois and his following went with the Democrats as Silver Republicans on a fusion ticket in 1896.

At the time the resolution was adopted by the Republicans in convention in 1892, it was seriously opposed by some of the delegates, notably the present Senator, Mr. Heyburn. I think their reason for opposing it was that they thought by adding the increased Demo-

cratic vote, which would be delivered by the Mormons, we might possibly lose the State.

Senator DUBOIS. Do you think that was Senator Heyburn's reason, Governor?

Mr. McCONNELL. Well, it is one of his reasons.

Senator DUBOIS. You would not give him credit for having any higher motive than that?

Mr. McCONNELL. The higher motive might have been another reason. He might have had two reasons.

Mr. VAN COTT. Had you finished your answer, Mr. McConnell?

Mr. McCONNELL. What else does it require? Is there anything else? I have forgotten.

Mr. VAN COTT. I asked you in regard to the persuasion of the people from Democracy to Republicanism, and to give some of the reasons, and you have proceeded this far in your answer. Are there any other reasons, and I particularly invite your attention to the campaign of 1904?

Mr. McCONNELL. I think there were other reasons. Senator Dubois was in the campaign as a Republican. He adduced very good reasons why the people should vote the Republican ticket. I did my best in that direction, and so did many other speakers.

Mr. VAN COTT. You do not mean that Senator Dubois was in the Republican campaign in 1904?

Mr. McCONNELL. It was in 1894. He was on the canvass. He assisted in the election.

Mr. VAN COTT. In 1904?

Mr. McCONNELL. I thought you said 1894.

Mr. TAYLER. I thought the answer was responsive to the question. I thought you were pursuing the line, Mr. Van Cott, as to how the State became Republican.

Mr. VAN COTT. Yes.

Mr. WORTHINGTON. But in 1894.

Mr. McCONNELL. I thought you referred to 1894.

Mr. VAN COTT. Will you proceed with 1894, then, Mr. McConnell?

Mr. McCONNELL. I have stated that Mr. Dubois was on the campaign and adduced very good reasons why the people of Idaho should vote the Republican ticket. We succeeded in carrying the State, at any rate.

Mr. VAN COTT. Will you mention the year when the State went Democratic on the silver question?

Mr. McCONNELL. 1896.

Mr. VAN COTT. Since that time Idaho has gone Republican?

Mr. McCONNELL. Idaho went Republican two years ago. It was Democratic—I do not know what you call it—

Senator DUBOIS. Governor, I think you are giving me too much credit.

Mr. McCONNELL. Oh, no.

Senator DUBOIS. How did Idaho vote in 1892, immediately after the Republicans had given us statehood?

Mr. McCONNELL. Republican.

Senator DUBOIS. I beg your pardon.

Mr. McCONNELL. In 1892?

Senator DUBOIS. Refresh your memory. In 1892.

Mr. McCONNELL. It went Republican on the State offices.

Senator DUBOIS. On the Presidential election?

Mr. McCONNELL. It did not go Republican then, because there was fusion with the Populists.

Senator DUBOIS. It voted for Weaver?

Mr. McCONNELL. Yes.

Senator DUBOIS. And the Republican was a plurality party in 1892?

Mr. McCONNELL. Yes; that is right.

Senator DUBOIS. And also in 1894?

Mr. McCONNELL. Yes, sir; and the Democrats were a minority party and the Populists a minority party; the Republican a plurality party.

Senator DUBOIS. That is right.

Mr. McCONNELL. They elected their State officers.

Senator DUBOIS. But on the Presidential election it went for General Weaver?

Mr. McCONNELL. Yes, sir.

Mr. VAN COTT. Commencing with 1896, when the State went Democratic, will you give the reasons of the conversion to Republicanism, bearing particularly in mind, as you proceed, and state whether or not the Mormon Church had anything to do with it.

Mr. McCONNELL. Whether the Mormon Church had anything to do with turning the vote to the Republican party?

Mr. VAN COTT. Yes, between 1896 and 1902.

Mr. McCONNELL. I do not think as a church they did. I think as individuals they did.

Mr. VAN COTT. Proceed to give us a little of the detail of it.

Mr. McCONNELL. Our State was prosperous in 1892, and when we elected a Democratic President the Republicans received an object lesson. People who had lived on the Pacific coast from childhood to manhood and womanhood had never known hard times such as followed the election of Mr. Cleveland, and many people who had been Democrats were looking about for some cause. Even Republicans were wondering what the cause could be.

It was finally determined that the demonetization of silver brought about those hard times. It was suggested and a great many people believed it; for a time I thought perhaps it was so myself. I had heard it urged on the Senate floor in this building that silver was clandestinely demonetized; that the demonetization of the metal had cut the money of final redemption in two and increased the purchasing power of gold. It was a reasonable argument to me.

Senator McCOMAS. Could we not have the silver question omitted and could you not answer the question more directly, the purpose of which is to show whether or not the Mormon Church or the Mormon people materially influenced the election.

Mr. McCONNELL. I do not think they did more than other people.

Mr. VAN COTT. Did the people in Idaho who went with the Democratic party on the silver question gradually come back to the Republican party?

Mr. McCONNELL. They did, many of them.

Mr. VAN COTT. How general was that by 1902, in your opinion?

Mr. McCONNELL. It was sufficiently general so that we elected a Republican governor and Republican State officers.

Mr. VAN COTT. And, in your opinion, had more come back in this last campaign of 1904?

Mr. McCONNELL. Yes, sir; very many more.

Mr. VAN COTT. Now, take the southeast counties of Idaho, which have been called the Mormon counties. In your opinion did all the Democrats there vote for the Democratic candidate for governor?

Mr. McCONNELL. Did all the Democrats vote for the Democratic candidate for governor?

Mr. VAN COTT. Yes.

Mr. McCONNELL. No, sir; I do not think they did.

Mr. VAN COTT. Would that make Mr. Gooding's plurality still larger?

Mr. McCONNELL. It would.

Mr. VAN COTT. Were there reasons why Democrats in the southeastern part of Idaho did not vote for the Democratic candidate for governor?

Mr. McCONNELL. The reason why many Mormons who were Democrats did not vote for the Democratic candidate for governor was that Mr. Dubois styled them criminals.

Mr. VAN COTT. Were there any other reasons in the way the campaign was conducted that would naturally keep Mormon Democrats from voting?

Mr. McCONNELL. I do not know that I understand the question.

Mr. VAN COTT. Read the question.

The reporter read as follows:

"**Mr. VAN COTT.** Were there any other reasons in the way the campaign was conducted that would naturally keep Mormon Democrats from voting?"

Mr. McCONNELL. It was understood that the issue, the paramount issue, of the so-called Democratic party was the Mormon question. The campaign was conducted largely upon that issue, and all kinds of stories were circulated in regard to the Mormons, some of which were true and some of which undoubtedly were not true. The Mormon people were very much offended over this matter, and I presume many of them did not vote on that account.

I have here the seventh biennial report of the secretary of state of the State of Idaho for the fiscal years 1903 and 1904, and it reveals that in Bear Lake County, which is one of the strong Mormon counties, there were 338 who voted for the electors, Republican and Democratic, who did not vote for either candidate for governor.

Mr. VAN COTT. And in your opinion, what does that show?

Mr. McCONNELL. It shows that men would not vote for governor. They refrained from voting. They were Democrats, in my opinion, who would not vote for the Democratic candidate for governor on account of the position he took in the campaign. They were so partisan that they would not vote for the Republican governor, either.

Mr. VAN COTT. You spoke of the paramount issue. Did the Republicans limit their campaign simply to the Mormon question as you have designated it?

Mr. McCONNELL. No, sir.

Mr. VAN COTT. They had other issues?

Mr. McCONNELL. Yes, sir.

Mr. VAN COTT. In a general way, can you state whether the

Republican party has gained more votes in Mormon counties or less than in Gentile counties from the year 1902 to 1904?

Mr. McCONNELL. I have an abstract here which shows the result in the non-Mormon counties and in the Mormon counties for the last two elections.

Between 1900 and 1902 the increase in the Republican vote in the six Mormon counties was 21.2 per cent. During the same time the increase in the anti-Mormon or non-Mormon counties was 20.3 per cent.

Between the years 1902 and 1904 at the election in the southern counties, the increase in the Republican vote in the Mormon counties was 39.8 per cent and in the non-Mormon counties it was 31.8.

Mr. VAN COTT. What officers did you take for the purpose?

Mr. McCONNELL. The governors. The six Mormon counties showed an increase of 39.8 in 1904, and the non-Mormon counties showed an increase of 31.8.

Mr. VAN COTT. Have you analyzed the returns for the purpose of determining whether many people in Idaho voted for the Republican electors who did not vote for the Republican State ticket?

Mr. McCONNELL. Yes; a large number.

Mr. VAN COTT. What is the result of that? I just want to know whether they did or did not.

Mr. McCONNELL. They did not.

Mr. VAN COTT. In your opinion, how do the Mormons compare in number in Gentile counties with the number of Gentiles in Mormon counties?

Mr. McCONNELL. There are more Gentiles in some of the Mormon counties than there are Mormons in any of the Gentile counties.

Mr. VAN COTT. I should like to have the total number, in your opinion.

Mr. McCONNELL. I think there are a great many more Gentiles in the Mormon counties than there are Mormons in the Gentile counties. There can not be any question about that, I guess.

Mr. VAN COTT. There was a resolution adopted by the Idaho legislature to amend the constitution of Idaho, and it has been stated in substance that the Mormon Church or Mormon officials had something to do with it. I wish you would take up that subject and explain the reasons for that resolution and the amendment which had been proposed to the Idaho constitution, and so on; and whether the resolution which passed the Idaho legislature was simply in reference to the Idaho test oath, as it is called, or whether it was in reference to amending the Idaho constitution generally.

Mr. McCONNELL. The resolution did not refer to the test oath. The resolution was simply looking to the calling of a constitutional convention to amend the constitution or adopt a new one. It had no reference whatever in its verbiage to the Mormons.

Mr. WORTHINGTON. Or to polygamy?

Mr. McCONNELL. Or to polygamists.

Mr. VAN COTT. Before that time had there been amendments proposed to the Idaho constitution?

Mr. McCONNELL. Yes, sir.

Mr. VAN COTT. And how often was that, or how general?

Mr. McCONNELL. I think every session of the legislature provided for the submission of some amendment, and perhaps more than one.

When we framed our constitution our population was small and our taxable property was small in the aggregate, and we aimed to frame a constitution which would permit of State government being conducted as cheaply as possible.

For instance, we united the superintendent of schools with the probate judge's office. That did not work satisfactorily. There was an amendment to the constitution which made the offices separate. We did not provide in our constitution for female suffrage. There was an amendment to the constitution providing for female suffrage.

At the last election there was an amendment submitted looking to the extension of the terms of county commissioners to four years instead of two. It was defeated.

The last Democratic platform, I think, promises two amendments. I think so [examining document].

"We favor the submission of a constitutional amendment to the people providing for the separate election, at a time other than a general election, of State and county officers, at which shall be elected the judges of the supreme and district courts and the county and State superintendents of schools."

This was at the last Democratic convention.

There are a number of people who would like the powers of the State land board increased. Our State land board have the control of the money arising from the sale and rental of school lands. Their loans are limited to certain securities—improved farm lands at one-third their appraised value, exclusive of improvements.

Mr. VAN COTT. Was that one reason why they wanted to amend the constitution? That is all I care for. State whether that was a reason for it?

Mr. McCONNELL. Yes, sir.

Mr. VAN COTT. Are the Mormons in the minority in each of the political parties?

Mr. McCONNELL. Yes, sir.

Mr. VAN COTT. And in the legislature of Idaho?

Mr. McCONNELL. Yes, sir.

Mr. VAN COTT. Do the Mormons get everything they want in the political conventions and in the legislature of Idaho?

Mr. McCONNELL. No, sir.

Mr. VAN COTT. The Mormon people being in the minority in Idaho, do the people of Idaho do just as the Mormons desire?

Mr. McCONNELL. I should think not. For instance, the Republicans have never named but one State officer who was a Mormon. That is the recent attorney-general, and he was not renominated.

Mr. VAN COTT. Is that the only instance?

Mr. McCONNELL. That is the only instance I can recall where the Republicans have nominated a Mormon.

Mr. VAN COTT. Considerable attention was given to the sugar-bounty law which was passed by the Idaho legislature, it being said that the Mormons favored and procured its passage. I will ask you what was the general sentiment in Idaho among the people, outside of Mormons, regarding the sugar-bounty law?

Mr. McCONNELL. I only know that as expressed by the vote which passed the law—the bounty act—it was not confined to the Mormons. It was generally voted for.

Mr. VAN COTT. In places where the Mormons did not control?

Mr. McCONNELL. Yes.

Mr. VAN COTT. I wish you would give your opinion as to what extent the Mormon Church has interfered, if at all, in your opinion, in politics, and as to the independence in politics of the Mormon people in voting, and their constancy in adhering to their party lines.

Senator PERTUS. Is that confined to any locality?

Mr. WORTHINGTON. Idaho.

Mr. VAN COTT. Idaho. Mr. McConnell is speaking entirely of Idaho, Senator.

Mr. McCONNELL. I have an opinion which was written by an eminent authority on this subject which I will be willing to give as my opinion also, in regard to that, because I fully concurred at the time with this opinion, and I still do. I think it was expressed very clearly and correctly.

Senator McCOMAS. You have been asked to give your own.

Mr. McCONNELL. I will give this as my own, if it is permissible.

"The change from the old condition of church solidarity was not instantaneous, nor could it be exerted by any other process than that of evolution—slow at times, and at times almost seeming to pause or even to retrograde—but in the lapse of years showing a steady movement toward the end of perfect political liberty for all the men and women who give their allegiance to the church. Looking back over the campaigns of recent years, the mark of individual action is plainly manifested upon every important event in the States where Mormons existed in sufficient numbers to make their political action noticeable. I will not question that strong men in the Mormon Church, of more or less prominence, assert their views in such a way as to make an overshadowing influence upon the minds of some of their followers. In some cases this may even be a matter of preconcertion and calculation among the leading men, and in many other cases it may be but the result of enthusiasm in a political controversy which, as it grows warmer and warmer toward the close, makes greater and greater exertions upon the intense spirits on both sides.

"But, in the main, the leading men of the Mormon Church, so far as my observation goes, have abstained from invoking ecclesiastical authority in the guidance of political events, and have been content to either remain quiescent, or even silent, in politics, or at most to assert themselves merely as individuals. And even in these cases where a charge of church interference would justly lie, if at all, it is a matter of congratulation that the people have expressed their own individual influence in their party councils and at the ballot boxes, and have neither sought nor heeded the attempted control of political matters by ecclesiastical power. My own observation is that minor church officials are more likely to attempt the use of this influence than the presidency of apostles. I call to mind two or three instances where men holding local authority in the church attempted to sway their local elections by invoking the names of the leaders of the church, and when confronted by a demand for positive proof were compelled to acknowledge that they had no such instructions from the church headquarters at Salt Lake.

"In my own fight for reelection to the Senate it was a notorious fact that some local church officials in this State, and even some of the leaders of the church in Salt Lake, desired to defeat me. The remembrance of that desire and the urgent and somewhat extraordinary

action which it permitted, is not so lasting with me as the remembrance of the magnificent way in which the young Mormons in Idaho in many instances rallied to my support and worked boldly and manfully for the vindication of not only the principle which they thought I represented in national affairs, but for the maintenance of political freedom within the Commonwealth.

"My own impression is that the church, having renounced the purpose of dictating to its members in political affairs, does not, as a church, now seek such dictation, and that the fight for church control and the fight against church control, as it was formerly waged, are alike forever ended in Utah and Idaho. A ground for such faith is found in the known wisdom of the Mormon leaders and in the superb individual strength of a majority of its followers.

"Of all the people in the world the Mormons should feel a devoted allegiance to certain political principles now under vital consideration in this country. The enfranchisement of mankind is dependent upon a reversal of that decree which has gone forth in all the lands of civilization in behalf of the gold standard, and in an essential sense the inter-mountain States are particularly dependent for their progress upon the restoration of the unlimited right of silver to free mintage on terms of equality with gold. A community whose entire teachings and experiences have tended to show that general poverty is an unnecessary condition will not now be won away from that political doctrine whose effects when carried into law will be the amelioration of the condition of toil, the giving of work to workers, and the insurance of proper rewards therefor.

"While I was in the East I heard a great deal of talk concerning Utah and the surrounding States, where the Mormon people are particularly strong. There seems to be an impression among some of the gold-standard advocates and some Republican politicians that the leaders of the church will carry Utah and Idaho particularly, and perhaps other States, over into the Republican column either this year or in 1900. I have invariably expressed the belief that the leaders of the Mormon Church will make no such attempt—that they will not seek to coerce their followers, and that the followers will possess and will determinedly exert their individual freedom to carry out their views—and that under these circumstances it is an assured fact that, so far as the Mormon people are concerned, the intermountain States will remain in the ranks of bimetallism. It is important that they should thus remain, because when the faith shall flee from us I doubt if it will find any abiding place in the civilized world. The enemies of mankind, of the American people, will make every possible effort to subjugate some one or more of the intermountain States in the hope to use it as a horrible example for the States of the Middle West and South."

Senator McCOMAS. Is that part of your opinion which you are now giving?

Mr. McCONNELL. No, sir; I am giving this as the opinion of the gentleman; what he said.

Senator McCOMAS. Do you give the part you are now reading as a part of your opinion?

Mr. McCONNELL. No, sir. My opinion is the gentleman was mistaken in this respect.

Senator McCOMAS. You adopted the Mormon part. Are you now adopting the silver part?

Mr. McCONNELL. Not yet.

Mr. VAN COTT. Do not read any part—

Mr. McCONNELL. There are just a few lines more.

Mr. WORTHINGTON. The silver part and the Mormon part are mingled together.

Mr. McCONNELL. There are only a few lines more.

"The Republican politicians are counting upon the destruction of the present silver leaders in Congress, and they will bend every energy to that end. But it is with absolute faith that I look forward to the issue, believing in the will of the men and women of the intermountain region, and knowing that Mormon and Gentile alike will assert their individual choice at the ballot box and will carry their elections for human liberty, both economic and political."

Senator PETTUS. Who wrote that?

Mr. McCONNELL. This is copied from an interview with Senator Dubois published in the Salt Lake Tribune of May 28, 1898.

Mr. VAN COTT. Do you know of Mormon bishops being in both political parties?

Mr. McCONNELL. Yes, sir.

Mr. VAN COTT. What is your opinion about the constancy of the Mormon people in adhering to their party lines?

Mr. McCONNELL. I think they are very constant. The old Mormons whom I found in the southeastern part of Idaho who were Democrats before the test oath became a law are, many of them, very rank Democrats yet, so much so that if the platforms or the candidates do not suit them they will stay away from the polls rather than vote for a Republican.

Mr. VAN COTT. Do you know whether Mr. Budge, the gentleman who testified here, has been beaten in his own county for any political office?

Mr. McCONNELL. It is my understanding that he has been.

Mr. VAN COTT. What is the public sentiment, as you know it, in the Mormon counties, regarding the practice of polygamy?

Mr. McCONNELL. The great bulk of the Mormons in the counties of our State are opposed to the polygamous relation. But a very small proportion of them ever practiced it. A good many of our Mormon people are the sons and daughters of old people who went to Salt Lake City in the early days. They married young, as a rule. They courted their wives the same as other young men do, and the man who loves his wife does not want another wife. That is the doctrine with them. And even among the old Mormons, they are not all polygamists. I remember very distinctly a conversation with ex-Congressman Glenn, the last Democratic Congressman from Idaho, and his lady—his wife.

Mr. VAN COTT. Does that represent public sentiment?

Mr. McCONNELL. It does. Her father and mother were Mormons—Mrs. Glenn's father and mother were Mormons. His name was Jones. And after they had been living several years in Montpelier and had accumulated a little property, Brigham Young came there and visited them and dined with the family. At dinner he said: "Brother Jones, you are now getting well fixed in this world's goods. It is time you had another wife." And Mrs. Jones said: "Brother

Brigham, we came here poor; we worked like slaves to build up our home and accumulate a little property; and if Mr. Jones wants another wife he can take her and go with her. He shall not bring her here."

Mr. VAN COTT. What was ex-Congressman Glenn—a Mormon or a gentile?

Mr. McCONNELL. A gentile. His wife was a Mormon. It was she who told me this.

Mr. VAN COTT. Are you any relation to William E. Borah?

Mr. McCONNELL. I am his father-in-law.

Mr. VAN COTT. Do you know, at the time Senator Heyburn was elected United States Senator, as to the number of votes he received on the last ballot and the number of votes that Mr. Borah received on the last ballot?

Mr. McCONNELL. I do not remember the entire vote.

Mr. VAN COTT. Do you remember the Mormon votes that were received by each?

Mr. McCONNELL. Yes, sir.

Mr. VAN COTT. What were they?

Mr. McCONNELL. Mr. Heyburn, I believe, received four Mormon votes and Mr. Borah seven.

Mr. VAN COTT. Have you any interest in this matter, Mr. McConnell, other than as a citizen of Idaho? I refer to this protest against Mr. Smoot.

Mr. McCONNELL. My entire interest is as a citizen of Idaho. I think the agitation of this question, as it has been presented to the public, has damaged our State both morally and materially, and I am interested that the truth should be brought out. If there are guilty men, let them be punished.

Mr. VAN COTT. What is your opinion as to whether polygamy is increasing or decreasing in the State of Idaho?

Mr. McCONNELL. It is decreasing.

Mr. VAN COTT. What evidence have you of that?

Mr. McCONNELL. As the years go by the old men are dying, and the old ladies, and I do not think there are any new polygamous marriages being contracted. I have very good evidence of that fact, if I would be permitted to use that evidence——

Mr. VAN COTT. Probably not just at present.

Mr. TAYLER. That is all we want—evidence. If you have anything of that sort, give it.

Mr. McCONNELL. I think I have.

Mr. VAN COTT. I do not object, Mr. McConnell, to anything Mr. Tayler may desire.

Mr. TAYLER. This is evidence, I understand. It seems to be of a less high type than what he has given us, according to his own view of it.

Mr. McCONNELL. I hold in my hand the Congressional Record of February 5, 1903. I have the expression of Senators who gave their testimony—not as testimony, but as gentlemen and Senators—in which it was expressed by a prominent authority as follows:

"Various causes operated to cause the Mormons to abandon polygamy. There was a feeling among the younger members of the Mormon Church"—

The CHAIRMAN. Let me ask you, Governor, whose speech are you reading from?

Mr. McCONNELL. That of Senator Dubois.

Senator DUBOIS. What year was it?

Mr. McCONNELL. 1903.

Senator DUBOIS. Before some committee?

Mr. WORTHINGTON. In the Senate.

Senator DUBOIS. Oh, a speech in the Senate.

Mr. McCONNELL. It was in the Senate.

Mr. TAYLER. I do not think we ought to take up time with what is in the Record here.

The CHAIRMAN. That is in the Record?

Mr. WORTHINGTON. We have in the record here what Mr. Jackson and Mr. Balderston and Mr. Cobb came here and told us people out there had told them.

Senator McCOMAS. These are our own records.

Mr. VAN COTT. We did not ask for this. Mr. Tayler did.

Mr. TAYLER. I did not ask for this. I asked for evidence; double leaded, emphasized evidence; that is what I have been waiting for all morning.

Mr. WORTHINGTON. We have had here the opinions, at second or third hand, of a great many people in Idaho.

The CHAIRMAN. Will it not be satisfactory to both sides, if it is material, to refer to the Congressional Record by page?

Senator McCOMAS. Neither side seems to want it. I think it had better go out.

Mr. WORTHINGTON. I think it had better go in. It will be much more convenient for the committee to have it embraced in its own record.

Mr. TAYLER. Let it go in.

Senator DUBOIS. Personally, I should like to have it go in. I am very proud of that speech, and they have garbled it a great deal. I should like to have it go in.

The CHAIRMAN. What is the date of the Record?

Mr. McCONNELL. February 5, 1903.

The CHAIRMAN. What page?

Mr. McCONNELL. 1852.

The CHAIRMAN. The remarks of Senator Dubois in the Senate?

Mr. McCONNELL. In the Fifty-seventh Congress, second session.

There was a running—

The CHAIRMAN. Let that be copied and put into the record.

Mr. WORTHINGTON. May we not have the privilege which was accorded the other side of putting it in the record?

The CHAIRMAN. Very well; let it go in. But do not take the time of the committee to read it.

Mr. McCONNELL. If I may be permitted to say, not as evidence, but merely as a remark, I would like to say that the remarks made by Senator Dubois at that time had a great deal of influence and weight in our recent elections.

The matter referred to is as follows:

[Congressional Record, February 5, 1903, p. 1852, et seq.]

"Mr. DUBOIS. * * * Various causes operated to cause the Mormons to abandon polygamy. There was a feeling among the younger

members of the Mormon Church, and a very strong feeling, that polygamy should be done away with. So here was this pressure within the church against polygamy and the pressure by the Government from outside the church against polygamy. In 1891, I think it was, the president of the Mormon Church issued a manifesto declaring that thereafter there should be no polygamous marriages anywhere in the Mormon Church. The Mormons were then called together in one of their great conferences, where they meet by the thousands. This manifesto was issued to them by the first presidency, which is their authority; was submitted to them, and all the Mormon people ratified and agreed to this manifesto, doing away with polygamy thereafter.

"The Senator from Maine [Mr. Hale] will recall that I came here as a Senator from Idaho shortly after that, and the Senator from Connecticut [Mr. Platt] will recall how bitter and almost intemperate I was in my language before his committee and on the floor of the other House in the denunciation of these practices of the Mormon Church. But after that manifesto was issued, in common with all of the Gentiles of that section who had made this fight, we said: 'They have admitted the right of our contention and say now, like children who have been unruly, we will obey our parents and those who have a right to guide us; we will do those things no more.' Therefore we could not maintain our position and continue punishing them unless it was afterwards demonstrated that they would not comply with their promise.

"After a few years in Idaho, where the fight was the hottest and the thickest, we wiped all of those laws from our statute books which aimed directly at the Mormon people; and to-day the laws on the statute books of Idaho against polygamy and kindred crimes are less stringent than in almost any other State in the Union. I live among those people; and, so far as I know, in Idaho there has not been a polygamous marriage celebrated since that manifesto was issued, and I have yet to find a man in Idaho or anywhere else who will say that a polygamous marriage has been celebrated anywhere since the issuance of that manifesto.

"Mr. HALE. Then, it must follow from that, as the years go by and as the older people disappear, polygamy as a practice will be practically removed.

"Mr. DUBOIS. There is no question about it; and I will say to the Senator, owing to the active part which we took in that fierce contest in Idaho, I with others who had made that fight thought we were justified in making this promise to the Mormon people. We had no authority of law, but we took it upon ourselves to assure them that those older men who were living in the polygamous relation, who had growing families which they had reared and were rearing before the manifesto was issued, and at a time when they thought they had a right under the Constitution to enter into polygamous relation—that those older men and women and their children should not be disturbed; that the polygamous man should be allowed to support his numerous wives and their children. The polygamous relations, of course, should not continue, but we would not compel a man to turn his families adrift. We promised that the older ones, who had contracted those relations before the manifesto was issued, would not be persecuted by the

Gentiles; that time would be given for them to pass away, but that the law would be strenuously enforced against any polygamous marriage which might be contracted in the future."

* * * * *

"Mr. HALE. Does the Senator think—and he has large intelligence about this and near-by States and Territories—that a like condition affecting the church and its sway and its influence and the allegiance to it exists to-day to any extent in New Mexico and Arizona as it does in Idaho—not the practice of polygamy by polygamous marriage in the future, but the deep-seated, overruling law and control of the Mormon Church, which the Senator has so well described in Idaho? Does he think that condition exists to a more or less degree in the two Territories which are the subjects of this discussion?"

"Mr. DUBOIS. It exists in those two Territories in exactly the same degree that it exists in Wyoming, Utah, and Idaho, and every other place where there are Mormon people."

"Mr. BEVERIDGE. May I ask the Senator a question?"

"Mr. DUBOIS. Certainly."

"Mr. BEVERIDGE. Does the Senator know whether or not there is on the statute books of either of these Territories any law in force at present against polygamy?"

"Mr. DUBOIS. I do not know and I do not care."

"Mr. BEVERIDGE. I should be glad to have the information if the Senator has it. I do care."

"Mr. DUBOIS. I have stated as plainly as I can that there is not any polygamy. So what is the use of having a law against something that does not exist?"

"Mr. BEVERIDGE. The question is, then, What is the use of putting in the bill a prohibition against polygamous marriages?"

"Mr. DUBOIS. There is not any particular use. If my statement on that point is not true, of course none of my statements are true. I mean my statement that polygamous marriages are not sanctioned or contracted by the Mormon Church."

"Mr. WARREN. Will the Senator allow me?"

"The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Wyoming?"

"Mr. DUBOIS. Yes."

"Mr. WARREN. I have no desire to correct the Senator in his statements regarding Mormon Church affairs or the Mormon people in Idaho, nor do I desire to define conditions in Arizona or New Mexico; but I wish to say that in my experience of thirty-five years in Wyoming I have known no difference between the Mormon Church and any other church so far as politics have been concerned or the part the Mormon people have taken in political affairs. If at any time there has been a political condition there that has caused those seeking or those enjoying office to show subservience to the Mormon Church or to unduly ask that church's influence, I do not know of it."

"We all know that other churches—the Presbyterian, the Methodist, the Catholic, and all the great denominations—have a certain influence in elections, great or small according as they predominate in different localities; and our experience in Wyoming has been that

the Mormon people stand exactly as the people of other religious faiths in regard to politics and the exercise of their suffrage.

"The Mormons of Wyoming never have been polygamists, have not been an indolent or an immoral people, but on the contrary have been and are industrious, moral, frugal, and thrifty, and are a desirable and good class of citizens. If there are Mormon settlements in New Mexico and Arizona, and if these settlements increase, I am of the opinion that the Mormons there will form the same desirable class of citizens as we find them in Wyoming."

"Mr. RAWLINS. * * * The Mormon Church had maintained the institution and practice of polygamy. In Utah it had held absolute dominion politically in local affairs. Party politics were church and antichurch. But in 1890, for various reasons, the president of the Mormon Church, almost if not quite professing to speak by divine authority, proclaimed to the Mormon people and to the world that there should be a cessation of the practice of polygamy, and that the hand of the church would be taken out of political matters, and that the Mormon people, like other people, would be free to exercise their own preferences in regard to politics and political parties.

"This solemn declaration was affirmed and approved by a Mormon conference, embracing all the organizations of the church. The non-Mormons in Utah accepted that pledge as one made in good faith, and those who had been violently opposed to the Mormon Church and polygamy withdrew opposition to the admission of Utah to the Union as a State.

"So when I presented the bill to the House, Utah, by reason of her population and her wealth being otherwise entitled to admission, Congress enacted the necessary legislation and Utah came into the Union as a State.

"Now, it is true that old polygamous relations have, in a way, been maintained. Perhaps in some few instances, very exceptional and rare, there have been in Utah and elsewhere, by Mormons, polygamous marriages contracted. Perhaps that pledge made by the Mormon Church in regard to polygamy has, as fully as might have been expected in view of all the conditions, been complied with; but men possessed of political power and influence, in spite of any pledge to the contrary, are not likely to surrender that power. It seems not to be human nature. The Mormon leaders during the Territorial days held political power and dominion. While they said to the Mormon people, 'You are free to make your political preference, to vote as you please,' these leaders were subjected to importunities by politicians, or perhaps by parties in some instances, by persons aspiring to political office, to employ that influence in their behalf. That has been our trouble in Utah, and it will continue to be our trouble in Utah."

Mr. VAN COTT. Do you know of any new polygamous marriages in Idaho since the manifesto was issued in 1890?

Mr. McCONNELL. I do not.

Mr. WORTHINGTON. I should like to ask you one question. You are from Latah County, I believe?

Mr. McCONNELL. Yes, sir.

Mr. WORTHINGTON. Mr. Jackson, on pages 213 and 214 of volume 2 of the record, testified in this way:

"I can not tell you what the actual fact is, because I am getting this information from conversations with the Republican leaders who were favorable to Governor Morrison, and they said to me that Latah County had been instructed for Governor Morrison. What the actual fact is—what the resolution of the county convention may have been—I do not know."

Now, can you tell us whether that is a fact? Did Latah instruct for Morrison?

Mr. McCONNELL. I was not present at the convention, but it was my understanding that Latah County was not instructed for Morrison. But Congressman French is here, and he can give you the exact facts.

Mr. WORTHINGTON. You said in general terms that there had been a discussion of a good many constitutional amendments in Idaho, did you not? Did those amendments relate to polygamy or the test oath, or to other matters?

Mr. McCONNELL. To other matters.

Mr. WORTHINGTON. That is all.

The CHAIRMAN. Mr. Tayler, have you any questions to ask?

Mr. TAYLER. Mr. McConnell, you say that no plural marriages have occurred in Idaho—

Mr. McCONNELL. To my knowledge—

Mr. TAYLER. To your knowledge?

Mr. McCONNELL. Yes, sir.

Mr. TAYLER. How far do you live from the region where plural marriages would occur if they did occur?

Mr. McCONNELL. By plural marriages I mean in the Mormon Church. There are occasional plural marriages outside of the Mormon Church.

Mr. TAYLER. You know about those?

Mr. McCONNELL. I know of some of them.

Mr. TAYLER. But you do not know of any inside or outside in the Mormon Church?

Mr. McCONNELL. No, sir.

Mr. TAYLER. So that plural marriage, so far as your knowledge goes, is practiced in Idaho only by gentiles.

Mr. McCONNELL. I do not know that only by hearsay.

Mr. TAYLER. Oh, but you do not know of any plural marriages in the Mormon Church, by hearsay even?

Mr. McCONNELL. Only since this testimony has been brought out here—since I have seen it printed.

The CHAIRMAN. I did not hear your answer to Mr. Tayler's inquiry as to how far you live from the locality.

Mr. TAYLER. I was just going to ask that that question be answered.

Mr. McCONNELL. Really, I could not give you the distance; but it is 250 or 300, maybe 500, miles.

Mr. TAYLER. How long would it take you to get from your town to the heart of the Mormon region of Idaho?

Senator McCOMAS. Bear Lake.

Mr. McCONNELL. It would take twenty-four hours; more than that, perhaps.

Mr. TAYLER. Thirty-six hours?

Mr. McCONNELL. Thirty-six, I think.

Mr. TAYLER. So that practically you are about as far from the Mormon part of Idaho as from here to Omaha?

Mr. McCONNELL. Yes.

Mr. TAYLER. Practically?

Mr. McCONNELL. Yes, so far as time is concerned.

Mr. TAYLER. You think that the Mormon people in Idaho are the best people in it, do you?

Mr. McCONNELL. No, sir.

Mr. TAYLER. When did they cease to be the best people in it? There was a time when they were, you said.

Mr. McCONNELL. Among the best.

Mr. TAYLER. No. I did not understand you to say that. I understood you to say they were the best people there.

Mr. McCONNELL. I should like to have it read by the stenographer, if I said so.

Mr. TAYLER. That the others were a poker-playing people.

Mr. McCONNELL. I said that concerning the legislature, not the people; the members of the legislature.

Mr. TAYLER. Let us say the legislature, then. Your language referred to the legislature?

Mr. McCONNELL. Solely to the people I met in the Idaho legislature in 1882.

Mr. TAYLER. In 1882? At that time the Mormon members were the best members, morally and generally speaking?

Mr. McCONNELL. Taking it as a whole.

Mr. TAYLER. Yes. When did that cease to be true—

Mr. McCONNELL. The Mormon members—

Mr. TAYLER. That the Mormons were the best people in the legislature?

Mr. McCONNELL. There are Mormons in the Idaho legislature to-day—

Mr. TAYLER. Undoubtedly—

Mr. McCONNELL. And observation will reveal to anyone who has the time or the interest to look it up, that they will pay attention to their business more closely and will be farther away from immorality than the entire mass of the gentiles. While the majority of all the members will be good, yet there will be men elected from certain counties who have not that moral restraint thrown around them that we would expect.

Mr. TAYLER. So that even now the average Mormon is a better man and a better legislator than the average gentile in the Idaho legislature?

Mr. McCONNELL. Yes, sir; that is my belief.

Mr. TAYLER. So that, as a matter of government, your view would be served if the Mormons controlled the legislature absolutely?

Mr. McCONNELL. If what?

Mr. TAYLER. I think my question was right clear.

Mr. McCONNELL. It may be to you, but I do not understand it.

Mr. TAYLER. So that, according to your view, the public good would be served if they were all Mormons?

Mr. McCONNELL. So far as morals are concerned, yes; but not so far as the benefit of the State is concerned.

Mr. TAYLER. Why?

Mr. McCONNELL. Because one portion of the State, as I have hitherto informed you, is so remote from the other that our business interests they do not understand.

Mr. TAYLER. So that it is only a mere matter of geography that suggests the impropriety of having all the members of the legislature Mormons?

Mr. McCONNELL. Yes; a general knowledge of business affairs.

Mr. TAYLER. Otherwise it would make for righteousness if the Mormons were in control? [A pause.] It will take you too long to answer that question. You say that you were a kind of honorary member of the legislature in 1882—that is, you had a place at a desk on the floor. Is that right? Was that the time?

Mr. McCONNELL. I was at that time president of the Oregon State senate.

Mr. TAYLER. Oregon State what?

Mr. McCONNELL. Oregon State senate. Oregon had not any lieutenant governor. I was president of the senate, and as such I was honored by being granted the privileges of the floor of the Idaho council.

Mr. TAYLER. At that time a proposition was before the legislature of Idaho making a certain qualification for what—suffrage?

Mr. McCONNELL. Suffrage.

Mr. TAYLER. Or office?

Mr. McCONNELL. Suffrage.

Mr. TAYLER. Intending to disqualify a person who was living in polygamy?

Mr. McCONNELL. Yes.

Mr. TAYLER. And you suggested to a Mormon—was it a Mormon who sat next to you?

Mr. McCONNELL. Yes.

Mr. TAYLER. That that ought to be amended by adding to it any person who was guilty of illicit intercourse. Is that the thought?

Mr. McCONNELL. Yes; I suggested that.

Mr. TAYLER. It was your view that that was the way it ought to be amended?

Mr. McCONNELL. Not my view.

Mr. TAYLER. If enacted at all, it ought to be amended in that way?

Mr. McCONNELL. I suggested this as a test of the good faith of these men, to ascertain whether they were really working in the interest of good morals.

Mr. TAYLER. So that, according to your view, there was no distinction to be made between an ordinary case of unlawful cohabitation, such as might occur in any community, and a case of polygamous cohabitation. You distinguish not at all between those two acts, do you?

Mr. McCONNELL. I do.

Mr. TAYLER. Oh, you do.

Mr. McCONNELL. Yes.

Mr. TAYLER. How could you test the good faith? What is your distinction?

Mr. McCONNELL. My distinction is that a man who takes a girl as a plural wife and provides for her and her children is far more honorable than the man who seduces his neighbor's daughter or wife and then abandons her to the world.

Mr. TAYLER. Then, as a moral act, there is a distinction and a

difference between the two. As a moral act you make a distinction between the two?

Mr. McCONNELL. I do.

Mr. TAYLER. Now, this was intended to deal not with the subject of punishment for an immoral act, but with the subject of the right to vote.

Mr. McCONNELL. It carried punishment.

Mr. TAYLER. Do you mean that there was ever a law in Idaho against unlawful cohabitation?

Mr. McCONNELL. There is a law against bigamy and lewd cohabitation.

Mr. TAYLER. But let us not get away from the point.* This proposed act intended to disfranchise persons who were guilty of polygamous cohabitation. Is that right?

Mr. McCONNELL. Yes, sir.

Mr. TAYLER. I am merely after your point of view on this general subject.

Mr. McCONNELL. Yes.

Mr. TAYLER. Do you distinguish between an act which is merely immoral and criminal and one which is not only immoral and criminal, but is also done because, according to the view of the person who does it, he does it because of an obligation which God has laid upon him and which no law of the land can dissolve or interfere with?

Mr. McCONNELL. I certainly do.

Mr. TAYLER. Would you not discover a very different sense of propriety that would suggest that you should disfranchise a man who puts that kind of an obligation above the law, as compared with an act which is merely immoral, such as occurs in any community?

Mr. McCONNELL. I stated in my testimony that in my conversation with Bishop Robinson I said I was not prepared to say that it would be the proper thing to disfranchise all adulterers; that I was a Gentile, and we believed that polygamy was bigamy or adultery, but I thought it was class legislation.

Mr. TAYLER. You thought it was class legislation?

Mr. McCONNELL. Yes, sir; it occurred to me as such.

Mr. TAYLER. You thought it was class legislation to say that a man who did that act in defiance of law, because he said he was above the law, should be disfranchised. Is that your view?

Mr. McCONNELL. The man who does the other is defying the law.

Mr. TAYLER. Is he?

Mr. McCONNELL. Yes, sir.

Mr. TAYLER. That is to say, he does it because he is above the law and the law does not speak to him?

Mr. McCONNELL. He does it because he does not think he will be caught at it.

Mr. TAYLER. Exactly. Do you understand he does it because God Almighty approves it?

Mr. McCONNELL. No, sir.

Mr. TAYLER. Do you understand that he does it, and does it in spite of the law, because the law has no right to interfere with his freedom, and he protests against it?

Mr. McCONNELL. I think that the man who does something con-

scientiously, believing that it is the law of God, and that he carries into effect what he deems the mandate of Providence, is far more honorable than the man who goes out and betrays a confiding woman and abandons her to the scorn of the world.

Mr. TAYLER. I know; but we are talking now of the matter of suffrage and of government. We are talking of the right to vote—the right to participate in government. Do you think a man who holds himself above the law, who declares that he recognizes and obeys obligations with respect to matters that are above the eyes of all laws, ought to participate in government—make laws?

Mr. McCONNELL. If he persists in violating the law we do not permit him to partake in the government in our State.

Mr. TAYLER. If he persists?

Mr. McCONNELL. No polygamist to-day has the right to vote or hold office in Idaho.

Mr. TAYLER. Does he do it?

Mr. McCONNELL. I think perhaps it may be. I do not know that they vote. I do not know.

Mr. TAYLER. You are a prominent Republican of Idaho. Did you ever hear of William Budge?

Mr. McCONNELL (after a pause). Yes, sir.

Mr. TAYLER. Did you hesitate because you could not bring your memory quickly to bear upon his identity?

Mr. McCONNELL. I hesitated as to voting. I do not know really who registers down there.

Mr. TAYLER. I only asked you if you have ever known of William Budge?

Mr. McCONNELL. I do know Mr. Budge.

Mr. TAYLER. You have known him well for years?

Mr. McCONNELL. Yes, sir.

Mr. TAYLER. He is a very prominent Republican, is he not?

Mr. McCONNELL. Yes, sir; in his county.

Mr. TAYLER. Is he not the leading Republican Mormon of the State?

Mr. McCONNELL. I think he would aspire to that distinction.

Mr. TAYLER. Have you ever heard that he was a polygamist?

Mr. McCONNELL. Yes, sir.

Mr. TAYLER. You said a while ago in your direct examination, "Let a man who violates the law be punished." You never undertook to punish William Budge?

Mr. McCONNELL. I do not live in that county. I live 500 miles away.

Mr. TAYLER. So it is like the tariff question, a local one?

Mr. McCONNELL. If you will permit me, or the committee will, I will refer to the opinion as expressed by gentlemen who are familiar with this subject as to what the conditions were in Idaho when it was admitted as a State, or I will do it in my own language.

The CHAIRMAN. Let me suggest to you that the question was if you knew William Budge?

Mr. McCONNELL. I do.

The CHAIRMAN. Now wait for another question. Is there a further question, Mr. Tayler?

Mr. TAYLER. Did you ever hear of his being a polygamist?

Mr. McCONNELL. Yes, sir.

Mr. TAYLER. Have you known of it for years?

Mr. McCONNELL. Not personally.

Mr. TAYLER. Oh.

Mr. McCONNELL. I have no doubt as to the fact.

Mr. TAYLER. That is what I was getting at. I was not asking for any more intimate knowledge of it than that. You have never heard of anybody denying him the right to vote?

Mr. McCONNELL. I have never heard of the methods employed in those counties.

Mr. TAYLER. Have you ever heard of his being denied the right to vote?

Mr. McCONNELL. I never did.

Mr. TAYLER. Was he in either legislative body when you were governor?

Mr. McCONNELL. I think not.

Mr. TAYLER. He was in the senate later on?

Mr. McCONNELL. I think so.

Mr. TAYLER. No objection was made, as you understand it, to his sitting in the Senate?

Mr. McCONNELL. I think not.

Mr. TAYLER. Although the constitution in specific terms forbids and disqualifies a polygamist from holding office?

Mr. McCONNELL. Yes, sir.

Senator DUBOIS. Did you appoint him a regent of the State University, Governor?

Mr. McCONNELL. Yes, sir.

Mr. TAYLER. That is all.

The CHAIRMAN. When did you appoint him regent of the University?

Mr. McCONNELL. I think perhaps 1895; I am not sure.

The CHAIRMAN. 1895?

Mr. McCONNELL. I think so.

The CHAIRMAN. Was he a polygamist at that time, as you understood?

Mr. McCONNELL. I do not remember whether I understood at that time he was or was not. I never knew who those polygamists were until this recent agitation.

Mr. TAYLER. Then there may be lots more of them of whom you have not heard?

Mr. McCONNELL. Yes, sir.

The CHAIRMAN. I should like to ask you when did you first hear that he was a polygamist?

Mr. McCONNELL. I could not positively state when. I am not sure about that.

The CHAIRMAN. Have you not known that he has been a polygamist, and that it has been generally understood that he was a polygamist, and had been for many years?

Mr. McCONNELL. I do not know that I ever heard it distinctly charged that he was a polygamist until this agitation a year or so ago came up.

The CHAIRMAN. You knew nothing about it before that?

Mr. McCONNELL. I never inquired.

The CHAIRMAN. No; that is not the question.

Mr. McCONNELL. I knew nothing about it.

The CHAIRMAN. You knew nothing about the general speech of the people in regard to that subject?

Mr. McCONNELL. No; I do not know that I ever knew the general expression of the people that he was a Mormon.

The CHAIRMAN. I did not ask you about being a Mormon.

Mr. McCONNELL. Or a polygamist.

The CHAIRMAN. Have you anything further, Mr. Tayler?

Mr. TAYLER. There is nothing further.

Mr. VAN COTT. Was Mr. Budge ever in the State senate of Idaho?

Mr. McCONNELL. I think he was. I think he was elected.

Senator McCOMAS. He so testified.

Mr. McCONNELL. Yes.

Senator DUBOIS. Have you held any public offices besides those you have mentioned?

Mr. McCONNELL. Have I?

Senator DUBOIS. Yes.

Mr. McCONNELL. I do not remember.

Senator DUBOIS. Were you not appointed Indian inspector?

Mr. McCONNELL. Yes; I was appointed Indian inspector.

Senator DUBOIS. When?

Mr. McCONNELL. In 1896, I believe.

Senator DUBOIS. By whom?

Mr. McCONNELL. President McKinley.

Senator DUBOIS. How long did you serve?

Mr. McCONNELL. Four years. I was also president of the Trans-Mississippi Congress two sessions. I forgot to mention that.

Senator DUBOIS. Have you the Democratic platform with you?

Mr. McCONNELL. The one to which I referred. Would you like to take it?

Mr. WORTHINGTON. Is that the one with the antipolygamy resolution in it, or the one without it?

Mr. McCONNELL. It has the antipolygamy plank, but not the sheep plank.

Senator DUBOIS. I wish you would read the antipolygamy plank.

Mr. McCONNELL. Yes, sir; I have read it many times to our people.

Mr. TAYLER. I think it is not the antipolygamy plank that was eliminated, but the sheep plank.

Mr. WORTHINGTON. It was the sheep plank.

Mr. McCONNELL. The sheep plank.

Senator DUBOIS. The antipolygamy plank is short.

Mr. McCONNELL. I will read it:

"We demand the extermination of polygamy and unlawful cohabitation within the State of Idaho, and the complete separation of church and state in political affairs. We pledge the Democratic party to enact such legislation as will effectually suppress such evils."

Senator DUBOIS. It was on account of that plank that the Mormons voted against the Democratic party?

Mr. McCONNELL. It would not be fair to say that. A great many Democrats voted against their party in the last election.

Senator DUBOIS. I mean Mormons?

Mr. McCONNELL. It would not be fair to say that it was only on account of this, because we have very good Democrats in our county

who have always voted the Democratic ticket, and who did not vote this time.

Senator DUBOIS. I mean Mormon Democrats. Is it not a well-recognized fact that Mormon Democrats refused to indorse that plank in the various county conventions?

Mr. McCONNELL. I think they did. That is my information.

Senator DUBOIS. On account of that plank they voted against the Democratic candidate for governor? I mean the Mormons; I am not talking about the gentiles.

Mr. McCONNELL. I do not think so entirely. I think your assertion that they were all criminals had more to do with it than this plank.

Senator DUBOIS. That is personal. I never heard of that before. I did not know you had used that letter. I was not a candidate for office. I was not running for any office.

Mr. McCONNELL. I was aware of that. I was not, either. You told me that.

Senator DUBOIS. So that they could not vote against me.

Mr. WORTHINGTON. They could not do what?

Senator DUBOIS. They could not vote against me. Is it not a well-known fact that the Mormon delegates who comprised the large number of the Democratic convention stated openly that we would lose every Mormon vote if we put that plank in our platform? We had two debates over it.

Mr. McCONNELL. I was not in the Mormon counties at all during the campaign.

Senator DUBOIS. It is a matter of current history that the Mormons voted against the Democratic party, and announced they would, on account of that plank.

Mr. McCONNELL. It is a matter of record that they did not vote against the Democratic party. They kept from voting at all. I have the record here.

Senator DUBOIS. How long is it since you have been in those Mormon counties?

Mr. McCONNELL. Two years, except to go through on the railroad.

Senator DUBOIS. You never did live down there?

Mr. McCONNELL. No, sir.

Senator DUBOIS. You never went through there except on business, political or otherwise?

Mr. McCONNELL. No, sir.

Senator DUBOIS. You never stayed any considerable length of time in any particular locality there?

Mr. McCONNELL. No, sir.

Senator DUBOIS. You went there the same as I go to North Idaho, about?

Mr. McCONNELL. I went there more than you do to northern Idaho, because when I made the tour lecturing through that country it took me quite a considerable length of time—

Senator DUBOIS. That was a good many years ago?

Mr. McCONNELL. Yes; that was in 1894; 1893 and 1894.

Senator DUBOIS. You have not had occasion to go there in the last few years?

Mr. McCONNELL. No, sir.

Senator DUBOIS. That is all.

The CHAIRMAN. The committee will take a recess until 2 o'clock this afternoon.

Thereupon (at 11 o'clock and 55 minutes a. m.) the committee took a recess until 2 o'clock p. m.

AFTER RECESS.

The committee reassembled at the expiration of the recess.

TESTIMONY OF WILLIAM J. McCONNELL—Continued.

WILLIAM J. McCONNELL, having been previously sworn, was examined and testified as follows:

The CHAIRMAN. Have you any further questions to ask this witness?

Mr. VAN COTT. Yes, sir; a few. Mr. McConnell, have you been in a favorable position to have heard if any new polygamous marriages have taken place in Idaho since the manifesto in 1890?

Mr. McCONNELL. I think so.

Mr. VAN COTT. Was there any public sentiment in Idaho in reference to the prosecution of simply unlawful cohabitation?

Mr. McCONNELL. It was understood and agreed when we adopted our State constitution and were admitted to statehood, that these old Mormons who had plural families would be allowed to support their wives and children without molestation. It was agreed by all parties, Democrats and Republicans alike, that they should be allowed to drift along. We could, under the law, have prosecuted these people and perhaps have sent them to jail. We could doubtless have broken up these families, but we felt it better that these men should be allowed to support these old women and these children than to further persecute them.

If the committee will refer to the remarks made by Senator Dubois, which are printed in the Congressional Record on the same day that these other remarks of his were made, you will find that he explains that very clearly. Although there was no law for us to do this, it was tacitly understood by everyone that we would let this go until it would die out.

My reason for thinking I would have known there were plural marriages had they occurred since this time is that there are gentile families all through these counties. There are just as pure, honorable Christian women in those counties as there are in any place in the world; and while a man may not hear everything that happens in a neighbor's family, our wives usually know what is going on in the little villages where we live. All our towns in Idaho outside of two or three are small. In fact, those I refer to are not large; and it would be utterly impossible for any girl to go from one of those towns and contract a plural marriage or any other kind of marriage, and come back and go to keeping house and raising a family without everybody knowing it; and if this thing had been carried out, not only these women I refer to but the ministers of the different denominations who are located there would have known it. It would not have been necessary to bring women from Pennsylvania and Indiana to educate our people as to what is morality. There are plenty of women in Idaho able to get on the stump and willing to get on it and

denounce any immorality of that character. We would not have had to wait until this investigation occurred to find this out.

Mr. VAN COTT. Will you explain why the Gentile Democrats in Latay County did not support their ticket?

Mr. McCONNELL. They did not support the ticket because they thought Mr. Dubois was not a Democrat. The campaign was conducted on what was called a paramount issue. No national politics were referred to. The tariff was not referred to. None of the prominent issues which we took up as Republicans was mentioned in their speeches.

Mr. VAN COTT. Do you know whether that was true in other parts of Idaho?

Mr. McCONNELL. I think it was, sir. I canvassed several counties, and I never heard of politics being injected into Mormon speeches except the Mormon issue.

Mr. VAN COTT. Do the ministers of other churches in Idaho take any part in politics?

Mr. McCONNELL. They do, sir. A minister was the Democratic nominee for Congress, and made a campaign all over the State.

Mr. VAN COTT. Are you personally acquainted with the present governor of Idaho, Frank R. Gooding?

Mr. McCONNELL. I am, sir.

Mr. VAN COTT. Is he a Gentile or a Mormon?

Mr. McCONNELL. He is a Gentile.

Mr. VAN COTT. Has he always been?

Mr. McCONNELL. Yes; he has always been.

Mr. VAN COTT. Are you acquainted with Mr. Turner, who has been called here the "father of the sugar-bounty bill?"

Mr. McCONNELL. I am.

Mr. VAN COTT. Is he a Mormon or a Gentile?

Mr. McCONNELL. He is a Gentile.

Mr. VAN COTT. Has he always been?

Mr. McCONNELL. Yes; he has always been. At least, I have never heard to the contrary.

Mr. WORTHINGTON. Something has been said here about a challenge made during that campaign, Mr. McConnell—a challenge in which Mr. Borah was concerned—that I do not quite understand. Do you know anything about it?

Mr. McCONNELL. Yes, sir.

Mr. WORTHINGTON. What was it?

Mr. McCONNELL. Mr. Borah, in a speech he made at Wallace, Idaho, on October 6 last, made the following remarks. I have them here, as he telegraphed them this morning. I made a request that his remarks be telegraphed for, so that I would get them. I remembered his challenge.

The CHAIRMAN. If you have them, Witness, go on with them.

Mr. McCONNELL. (Reading:)

"I say that if Senator Dubois can find a single man living in polygamy in this State who has contracted a plural marriage since the issue of the manifesto of October 6, 1890, and will file a complaint and furnish the evidence, that I will find the court and the law to punish him; and if he (Dubois) desires, I will volunteer to prosecute the case to conviction."

He says:

"This was from the Wallace speech of October 19, published in

full in the Wallace Press. Dubois has never replied, and I am still waiting to take action whenever he files his complaint. This same challenge was extended to Henry Heitfeld and Clay, candidates for Congress, in my speech at Nez Perces, October 28."

Mr. WORTHINGTON. Heitfeld was the candidate for governor and Clay was the candidate for Congress?

Mr. McCONNELL. Yes.

The CHAIRMAN. I understood you to say, Witness, that when Idaho was admitted it was agreed that those who had formed polygamous relations previous to that time might continue those relations undisturbed?

Mr. McCONNELL. That was the agreement.

The CHAIRMAN. And take care of their wives and children?

Mr. McCONNELL. Yes, sir.

The CHAIRMAN. Was it also agreed, as a part of that understanding, that they might continue to increase their families at liberty?

Mr. McCONNELL. There was no written agreement in any part of this.

The CHAIRMAN. I understand.

Mr. McCONNELL. But it was tacitly understood.

The CHAIRMAN. Tacitly understood also that they might cohabit with these wives and increase their families?

Mr. McCONNELL. It was tacitly understood that they would in some cases.

The CHAIRMAN. That is all.

Mr. TAYLER. Which cases?

Mr. McCONNELL. Those who were young.

Mr. TAYLER. Young?

Mr. McCONNELL. Yes; the younger members.

Mr. TAYLER. You said in your direct examination that it was understood that these old men might care for their old women?

Mr. McCONNELL. Yes.

Mr. TAYLER. That was not quite a frank answer, was it?

Mr. McCONNELL. It was a frank answer.

Mr. TAYLER. Was it the whole truth, or are you correcting your answer to Senator Burrows, that all of these polygamous husbands should go on and live in the relation——

Mr. McCONNELL. I might——

Mr. TAYLER. Wait until I ask the question.

Mr. McCONNELL. Certainly.

Mr. TAYLER. In the relation of husband to their several wives, and rear their families, have new children by their several wives? Was that understood?

Mr. McCONNELL. When it was understood that——

Mr. TAYLER. If you can not answer the question I should like to have you say so.

Mr. McCONNELL. Please allow me to answer in my own way.

Mr. WORTHINGTON. Let the witness answer the question.

Mr. TAYLER. I want him to answer this question. Can you answer that question categorically?

Mr. McCONNELL. What do you mean by categorically?

Mr. TAYLER. Yes or no is supposed to be a categorical answer. Can you answer the last question categorically?

The CHAIRMAN. The reporter will read Mr. Tayler's question.

The reporter read as follows:

"Mr. TAYLER. Was it the whole truth, or are you correcting your answer to Senator Burrows, that all of these polygamous husbands should go on and live in the relation of husband to their several wives, and rear families, have new children by their several wives? Was that understood?"

Mr. McCONNELL. In answer to Senator Burrows I am quoting the language of Mr. Dubois, from the record.

Mr. TAYLER. You are testifying, as I understand, from things that you know, are you?

Mr. McCONNELL. Certainly; I know.

Mr. TAYLER. Certainly you are. Now, you say that was the understanding. Tell us what the whole understanding was. Never mind the categorical answer. What was the whole understanding?

Mr. McCONNELL. The whole understanding was that these families should remain undisturbed.

Mr. TAYLER. Undisturbed?

Mr. McCONNELL. Yes.

Mr. TAYLER. That is to say, that they should go on and live in polygamous cohabitation with all their wives, in all that the sense and expression implied, rearing new families, having new children. Is that right?

Mr. McCONNELL. I have no doubt but what this has occurred.

Mr. TAYLER. Please answer my question. Was that the understanding?

Mr. McCONNELL. That was the way I understood it.

Mr. TAYLER. That is why you are here to-day, is it not?

Mr. McCONNELL. No, sir.

Mr. TAYLER. Is it not true that you are here to-day because you have understood and ever since believed that it was right that every polygamous husband in Idaho should continue to live with his several wives and continue to rear children by them?

Mr. McCONNELL. I am not here for that purpose. I am here to tell the truth, the whole truth as I understand it, and because I am subpoenaed.

Mr. TAYLER. I do not think you have answered the question.

Mr. WORTHINGTON. I submit he has, Mr. Chairman.

Mr. TAYLER. I will continue, then, with another one. Then you understand that it is in accordance with an understanding that these men had, and with propriety, that they should continue to live with their plural wives and have children by them?

Mr. McCONNELL. The question of having children was never discussed.

Mr. TAYLER. Then answer my question "yes" or "no."

Mr. McCONNELL. It was understood that these men should support and care for these families, and every man of us, of the age of Mr. Dubois and myself and upwards, knew that where their relations were as they were continued there was sure to be more or less children among the younger people.

Mr. TAYLER. Precisely. That is to say, there was to be no change in the relations that these husbands sustained to their several wives?

Mr. McCONNELL. There hasn't been, I don't think.

Mr. TAYLER. Ah! I am glad to hear you say so. So that every

polygamist in Idaho, who was a polygamist prior to the time when you say this understanding occurred, has continued to maintain the same relation to his wives?

Mr. McCONNELL. It is supposed that every polygamist in Idaho is supporting his family.

Mr. TAYLER. I am not talking about supporting his family. Do not get this over on a mere proposition of humanity instead of a proposition of law or of morals.

The CHAIRMAN. The reporter will repeat the question.

The reporter read as follows:

"Mr. TAYLER. So that every polygamist in Idaho, who was a polygamist prior to the time when you say this understanding occurred, has continued to maintain the same relation to his wives?"

Mr. TAYLER. That he sustained to them before?

Mr. McCONNELL. I imagine that is the case, except where they have had disagreements among themselves.

Mr. TAYLER. Oh, undoubtedly. So that, deliberately, the understanding was that every violator of the law in this respect should continue with impunity to violate the law?

Mr. McCONNELL. They never have been arrested.

Mr. TAYLER. Will you please read the question again, Mr. Reporter?

Mr. McCONNELL. I live a long distance from there. I never heard of any arrests being made.

Senator OVERMAN. You say that there was an understanding. With whom was the understanding?

Mr. McCONNELL. It was a general understanding. Neither party has caused the arrest of any of these parties.

Mr. TAYLER. What do you mean by neither party?

Mr. McCONNELL. I mean, no political party has caused the arrest of any person that I ever heard of.

The CHAIRMAN. The committee would like some definite information, if you will state the names of individuals constituting the party that made up this agreement.

Mr. McCONNELL. I could not.

The CHAIRMAN. Was the agreement in writing?

Mr. McCONNELL. It was not.

The CHAIRMAN. Will you tell us where and with whom this agreement was made?

Mr. McCONNELL. It was tacitly understood. There was no written agreement nor spoken agreement.

The CHAIRMAN. What do you mean by tacitly understood?

Mr. McCONNELL. I mean, it was understood that none of us should bring proceedings and prosecute these old men any further. There had been many of them under arrest.

The CHAIRMAN. That already appears; but among whom was that understood? Can you name the people? You say you understood it; who else?

Mr. McCONNELL. I understood it. Mr. Dubois understood it. He so asserted in a speech on the 5th day of February, 1903.

The CHAIRMAN. Who else?

Mr. McCONNELL. I think Senator Shoup, and I think all who were connected with the constitutional convention.

The CHAIRMAN. Then it was understood by members of the constitutional convention?

Mr. McCONNELL. And the people generally.

The CHAIRMAN. Can you name any others who were parties to this agreement?

Mr. McCONNELL. I might do anyone else an injustice.

The CHAIRMAN. The question is, can you now name any others except those you have named?

Mr. McCONNELL. No.

Senator OVERMAN. Was it discussed a good deal in the constitutional convention?

Mr. McCONNELL. No, sir; it was discussed that we should put in this law preventing them from voting.

Senator OVERMAN. You mean that just a few of you, Shoup and yourself and Dubois, understood that?

Mr. McCONNELL. I am of the opinion, and the record, I think, will bear that opinion out, that it was understood by every voter in the Mormon counties, because they have been undisturbed all these years by either party.

Senator KNOX. What record would bear that out?

Mr. McCONNELL. The fact that there have been no prosecutions begun.

Senator KNOX. By "record" you do not mean what we understand as a record——

Mr. McCONNELL. I mean the history of that country.

Senator KNOX. No written record?

Mr. McCONNELL. No.

Mr. TAYLER. You were a member of the constitutional convention?

Mr. McCONNELL. Yes, sir.

Mr. TAYLER. Why did you put in your constitution a provision that no man who was living in polygamy should either vote or hold office?

Mr. McCONNELL. So that that would be a punishment on the people and that they should take no part in the management of governmental affairs.

Mr. TAYLER. That is to say, you were not going to prosecute them, but you were going to deprive them of their political privileges?

Mr. McCONNELL. Yes, sir.

Mr. TAYLER. That was definitely understood also, was it?

Mr. McCONNELL. The question that we were not going to prosecute them was never mentioned in the convention.

Mr. TAYLER. I was not talking about prosecuting. Was it definitely understood that they were to be deprived of their political privileges?

Mr. McCONNELL. It was. The constitution expressly provides it.

Mr. TAYLER. But you have argued here, from the fact that there were no prosecutions, that therefore it was intended they should not be prosecuted. As a matter of fact, have they been deprived of their political privileges on account of that provision of the constitution?

Mr. McCONNELL. I do not live in those counties and have never examined the register, and I do not know whether they vote or not.

Mr. TAYLER. I asked you this morning, and I suppose you remember William Budge?

Mr. McCONNELL. William Budge was appointed by myself as

regent of the university. At the time I did not know he was a polygamist.

Mr. TAYLER. You did not?

Mr. McCONNELL. No, sir. I have heard since that he is.

Mr. TAYLER. When did you appoint him?

Mr. McCONNELL. I think in 1895.

Mr. TAYLER. Did you know anything about the practice of polygamy in Idaho prior to 1895?

Mr. McCONNELL. I had heard there were quite a good many polygamists.

Mr. TAYLER. But you had never heard of any particular person who was a polygamist?

Mr. McCONNELL. I do not know that I could name anyone.

Mr. TAYLER. Did you ever hear, until recently, that William Budge was a polygamist?

Mr. McCONNELL. It is only a short time since I heard it.

Mr. TAYLER. Only a short time?

Mr. McCONNELL. Yes; I never stopped at his house.

Mr. TAYLER. Do you, Mr. McConnell, not having heard even that William Budge was a polygamist until recently, assume to know what the conditions as to polygamous living were in southern Idaho during the last ten years and now?

Mr. McCONNELL. I know the people in southern Idaho, ministers and families down there who are gentiles, and they would not have permitted these polygamous marriages to be contracted—

Mr. TAYLER. I am not talking about polygamous marriages. That word has not escaped me, I think, in this examination.

The CHAIRMAN. Repeat the question, Mr. Reporter.

The reporter read as follows:

“Mr. TAYLER. Do you, Mr. McConnell, not having heard even that William Budge was a polygamist until recently, assume to know what the conditions as to polygamous living were in southern Idaho during the last ten years and now?”

Mr. McCONNELL. What do you mean by knowing what polygamous relations were? To what do you refer? The conditions of these old families?

Mr. TAYLER. I mean what my question says. William Budge, you know now—you told us this morning that you had no doubt about it—is living in polygamy?

Mr. McCONNELL. Yes.

Mr. TAYLER. You said he was a very prominent man; he probably was the most prominent Mormon in Idaho?

Mr. McCONNELL. Yes.

Mr. TAYLER. Do you know how long he has lived there?

Mr. McCONNELL. I could not give the number of years.

Mr. TAYLER. He has lived there a great many years, has he not?

Mr. McCONNELL. Yes; a great many years.

Mr. TAYLER. I say, you state it was not until recently that you ever heard that William Budge was a polygamist?

Mr. McCONNELL. Yes.

Mr. TAYLER. That he had plural wives?

Mr. McCONNELL. Yes.

Mr. TAYLER. And I asked you whether you thought that, being ignorant of that which we may assume from his prominence to be the most notorious fact respecting polygamy in all Utah, you never-

theless had large and intelligent information about facts relating to polygamous living of other people in southern Idaho?

Mr. McCONNELL. Yes.

Mr. TAYLER. You still assert that you did have that, do you?

Mr. McCONNELL. I most assuredly did, because during the campaign I made it my business to look thoroughly into this thing.

Mr. TAYLER. Which campaign?

Mr. McCONNELL. The last campaign.

Mr. TAYLER. In what counties did you speak?

Mr. McCONNELL. I spoke in the northern counties of Idaho.

Mr. TAYLER. I suppose it was in the northern counties you would get the most accurate information of polygamous conditions in the southern counties?

Mr. McCONNELL. I got it from correspondence with friends and from talking with other people.

Mr. TAYLER. Oh, yes. Did you see the list of alleged polygamists that was furnished to your son-in-law, Mr. Borah, in answer to his challenge?

Mr. McCONNELL. I did.

Mr. TAYLER. Did you recognize any of them?

Mr. McCONNELL. Some of them.

Mr. TAYLER. You recognized William Budge?

Mr. McCONNELL. I did.

Mr. TAYLER. Did you recognize William C. Parkinson?

Mr. McCONNELL. I did.

Mr. TAYLER. Do you know him?

Mr. McCONNELL. I do.

Mr. TAYLER. How old a man is he?

Mr. McCONNELL. I should judge he is about the age of Senator Smoot. I should think so.

Mr. TAYLER. So that he had reached the advanced age of about 26 when the manifesto was signed?

Mr. McCONNELL. I do not know.

Mr. TAYLER. Or 28, make it, when the manifesto was signed, fourteen years ago?

Mr. McCONNELL. At the time I knew him he was about the age of Senator Smoot, and it has been nine years.

Mr. TAYLER. At least he does not come within your description of an old man in 1890?

Mr. McCONNELL. No.

Mr. TAYLER. Did you learn how many wives he had?

Mr. McCONNELL. I did not. When I met him I did not know he was a polygamist.

Mr. TAYLER. I understand; but you have classified these by age. Do you know J. U. Stucci?

Mr. McCONNELL. I am not sure whether I do or not. I know a man named Stucci in Bear Lake, in Paris.

Mr. TAYLER. That is the man. Do you know about how old a man he is?

Mr. McCONNELL. I would not think he is quite as old as Bishop Hildreth. If he is the one I know I was a guest at his house two or three different times; but he is an old man. His wife is a very old lady—the one who lives with him. If he has more I don't know it.

Mr. TAYLER. Is he the one who is the trustee of the Pocatello Academy?

Mr. McCONNELL. I do not know.

Mr. TAYLER. Do you know Lorenzo Burgoyne, of Montpelier?

Mr. McCONNELL. I do know a Burgoyne in Montpelier, an old man.

Mr. TAYLER. An old man?

Mr. McCONNELL. Yes; but I was under the impression that he was dead before this list was made out.

Mr. TAYLER. This might be his son.

Mr. McCONNELL. It might be; I don't know.

Mr. TAYLER. With an age accordingly?

Senator DUBOIS. His name was Ed Burgoyne, was it not?

Mr. TAYLER. E. Lorenzo Burgoyne.

Mr. McCONNELL. The Burgoyne I knew was a railroad contractor. He lived in Montpelier.

Mr. TAYLER. Do you know Mathias Cowley—Apostle Cowley?

Mr. McCONNELL. I do.

Mr. TAYLER. How old a man is he?

Mr. McCONNELL. I could hardly say; but he is not a very old man.

Mr. TAYLER. So that he had not reached advanced age in 1890?

Mr. McCONNELL. No.

Mr. TAYLER. Do you know Gottfried Eshler, postmaster at Fremont?

Mr. McCONNELL. No.

Mr. TAYLER. You do not know him?

Mr. McCONNELL. No.

Mr. TAYLER. Do you know Samuel Humphreys, of Dingle?

Mr. McCONNELL. No; I don't remember him.

Mr. TAYLER. Or Robert Price, of Paris?

Mr. McCONNELL. I don't remember him.

Mr. TAYLER. Or L. L. Hatch, of Franklin?

Mr. McCONNELL. I do not remember him.

Mr. TAYLER. Or Hiram Ricks, of Rexburg?

Mr. McCONNELL. I knew the old man Ricks, at Rexburg, but whether it is Hiram or not—

Mr. TAYLER. I have no doubt this refers to his son, if that will help you. It is fair to assume that he had a son—several of them.

Mr. McCONNELL. I knew a son, a young man who came back from a mission during the time that I was governor. I was present at a conference they had there, and he made his report. He had been on a mission to the Samoan Islands. I don't know what his given name was, though. That man would not be over 28 years of age at that time, but I don't think he was married at all. He was a young man.

Mr. TAYLER. Was he a cripple—this man you knew?

Mr. McCONNELL. No.

Mr. TAYLER. Either of them?

Mr. McCONNELL. No. The old man was a cripple.

Mr. TAYLER. He was?

Mr. McCONNELL. Yes. There was something the matter with his feet. He walked peculiar.

Mr. TAYLER. Did you ever learn that of this list of twenty furnished to Mr. Borah all but two or three of them had been having children since the manifesto of 1890?

Mr. McCONNELL. No.

Mr. TAYLER. If you had learned that it would not have surprised

you at all, would it? Either that they had them or they had not been prosecuted?

Mr. McCONNELL. It would have surprised me very much, yes; if there had been all but two or three, because the ones I know down there are old.

Mr. TAYLER. Who?

Mr. McCONNELL. Well, Bishop Budge is very old, and Stucci is old.

Mr. TAYLER. Do you not know that Budge has had children since 1890?

Mr. McCONNELL. So I understand. I learned it, but it surprised me.

Mr. TAYLER. It surprised you?

Mr. McCONNELL. Yes.

Mr. TAYLER. Well, having suffered the shock of that surprise, you would not be surprised if all the rest of them had, would you?

Mr. McCONNELL. No; I would not be surprised at anything.

Mr. TAYLER. That is all.

Mr. WORTHINGTON. I want to read you from the testimony of Mr. Critchlow as to this tacit understanding in Utah, and ask you if it substantially expresses what you understood to be the situation in Idaho. Mr. Critchlow is one of the principal witnesses for the protestants, and is the man who drew the protest. I read from page 619 of the record:

"Mr. CRITCHLOW. I think that in all probability, as near as I can get at my state of mind at this time, it was that very shortly after the manifesto, under the conditions that existed and that we thought were going to exist, there was no inclination on the part of the prosecuting officers to push these matters as to present cohabitation—I think that is so—thinking it was a matter that would immediately die out."

Mr. McCONNELL. Yes.

Mr. WORTHINGTON (reading):

"Mr. VAN COTT. John Henry Smith was there?"

"Mr. CRITCHLOW. I think so.

"Mr. VAN COTT. It was well known that he was living in unlawful cohabitation?"

"Mr. CRITCHLOW. That was our understanding of it.

"Mr. VAN COTT. So well known was this, was it not, to non-Mormons there generally that where they knew that a prominent Mormon was living in unlawful cohabitation they made no objection to it in the way of protesting to the officers? Is not that true?"

"Mr. CRITCHLOW. Do you mean the non-Mormons generally?"

"Mr. VAN COTT. I mean the non-Mormons generally.

"Mr. CRITCHLOW. I think that is true.

"Mr. VAN COTT. They were disposed to let things go?"

"Mr. CRITCHLOW. Yes; I think so.

"Mr. VAN COTT. That was the general feeling?"

"Mr. CRITCHLOW. Yes, sir; I think so."

Mr. McCONNELL. That was the general feeling in our State.

Mr. WORTHINGTON. What Mr. Critchlow testifies was the situation in Utah you think was the situation in Idaho?

Mr. McCONNELL. I do.

Mr. WORTHINGTON. I will ask as to another of the witnesses for

the protestants here, Mr. Powers, equally as well informed and as intelligent as Mr. Critchlow, and ask if what he says about the situation in Utah, on pages 884 and 885 of the record, expresses what you understood to be the situation in Idaho. Speaking of this matter of polygamious cohabitation of men who were married before the manifesto, he says:

"We have not known what was best to do. It has been discussed, and the people would say that such and such a man ought to be prosecuted. Then they would consider whether anything would be gained; whether we would not delay instead of hastening the time that we hope to live to see; whether the institution would not flourish by reason of what they would term persecution. And so, notwithstanding a protest has been sent down to you, I will say to you the people have acquiesced in the condition that exists."

Mr. McCONNELL. That is right.

Senator DUBOIS. Governor, were you not aware of the fact that Bishop Budge was arrested and plead guilty in the courts for the crime of unlawful cohabitation, about 1886?

Mr. McCONNELL. I was not.

Senator DUBOIS. He was a very prominent man—the president of a stake—at the time.

Mr. McCONNELL. At that time I had no connection with southern Idaho, political or otherwise. I went to southern Idaho, as I stated in my evidence, in 1882, to look after some legislation, but I did not go down there any more until the time of our constitutional convention.

Senator DUBOIS. Governor, you stated that it was the understanding that polygamious relations should continue among the older Mormons; those who were in the polygamious relation when the manifesto was issued—that that was the understanding among the Gentiles in that country. Is not that your statement?

Mr. McCONNELL. I take it for granted that it was.

Senator DUBOIS. My understanding, very distinctly is that the polygamious relations should cease, and I would like to put in the record a part of my speech, which has never been put in, during the campaign; and my understanding of it, I think, was the understanding of all the Gentiles in Utah and Idaho.

Mr. WORTHINGTON. Can not this be copied into the record the same as the portions we propose to read?

Senator DUBOIS. Very well. I simply stated in this speech, from which they quote, that the polygamious relations should cease. I want that to go in the record.

The CHAIRMAN. Just mark the portions you desire to go in, Senator.

Senator DUBOIS. Yes. I do not care to inflict my speech on the committee, but I want that part to go in.

You said, Mr. McConnell, I believe, that in the county of Latah a good many Democrats did not vote the Democratic ticket because national issues were not discussed, etc., and therefore votes were lost in that county. Was it not common history known throughout Idaho that ex-Senator Fleitfeld, who was the Democratic nominee for governor, announced that unless these antipolygamy resolutions were put into the platform he would not be a candidate?

Mr. McCONNELL. Yes, sir.

Senator DUBOIS. That is common history?

Mr. McCONNELL. Yes, sir.

Senator DUBOIS. And is it not also known that he opened his campaign in the Mormon counties and told the Mormons that if elected he would carry out those provisions?

Mr. McCONNELL. Well, I was not down there, but I think very likely.

Senator DUBOIS. That is the common understanding, is it not, that he did open the campaign that way?

Mr. McCONNELL. Well, we took it for granted that it was. I do not know.

Senator DUBOIS. How did Senator Heitfeld run in Latah County as compared with Mr. Roosevelt?

Mr. McCONNELL. I would have to refer to the figures. I can tell you.

Senator DUBOIS. What was Mr. Roosevelt's majority in Latah County and what was Mr. Gooding's majority in Latah County?

Mr. McCONNELL. Mr. Roosevelt's majority, or plurality—if you will get a pencil I will give you both figures and you can figure it out for yourself.

Senator DUBOIS. Did not Heitfeld run a thousand, about, ahead of his ticket?

Mr. WORTHINGTON. Ahead of the President, you mean?

Senator DUBOIS. Did he not run a thousand behind Roosevelt in that county?

Mr. McCONNELL. Mr. Roosevelt received in that county 3,267 votes and Mr. Gooding received 2,616.

Mr. VAN COTT. Yes; but you say Mr. Gooding. Was not the question as to Mr. Heitfeld? Let us have the question read.

The reporter read the question, as follows:

"Senator DUBOIS. Did he not run a thousand behind Roosevelt in that county?"

Mr. McCONNELL. Was that the way you desired to put the question?

Senator DUBOIS. I wanted to compare the vote of Gooding and Roosevelt in Latah County.

Mr. McCONNELL. Latah County gave Mr. Roosevelt 3,267 votes and gave Mr. Gooding 2,616. This is what is published by the secretary of state as official.

Senator DUBOIS. What was Heitfeld's vote in that county?

Mr. McCONNELL. Heitfeld's vote was approximately a thousand behind Gooding.

Senator DUBOIS. And how many behind Roosevelt; some 1,700 or 1,800, was it not?

Mr. VAN COTT. 1,600.

Mr. McCONNELL. Yes.

Senator DUBOIS. That is a Gentile county, is it not?

Mr. McCONNELL. Yes.

Senator DUBOIS. Will you compare the vote in Bear Lake County? Bear Lake County is a Mormon county, is it not?

Mr. McCONNELL. Yes; I presume so.

Senator DUBOIS. As strong a Mormon county as there is in the State?

Mr. McCONNELL. Yes.

Senator DUBOIS. Compare the two, between Roosevelt and Gooding, in Bear Lake County.

The CHAIRMAN. Just state the vote for each.

Mr. McCONNELL. The vote for Roosevelt was 1,538 in Bear Lake County, and for Frank Gooding it was 1,615.

Senator DUBOIS. Gooding ran ahead of Roosevelt?

Mr. McCONNELL. Yes.

Mr. WORTHINGTON. Governor, have you the tabulated returns for the whole State there?

Senator DUBOIS. It is that county I want.

Mr. WORTHINGTON. I was going to suggest that the whole table be put in. Then we can argue from it.

Senator DUBOIS. Yes; you can put it in and make the comparison.

The CHAIRMAN. If it is material, and if you have the official canvass, let it go in.

Mr. WORTHINGTON. The whole table.

The CHAIRMAN. Yes.

Mr. VAN COTT. We will put in the table for 1902, as well as the table for 1904.

The tables referred to are as follows:

Official vote of the State of Idaho, 1902.

County.	Representative in Congress.				Governor.				
	Joseph Henry Hutchinson, Democrat.	Burton L. French, Republican.	John A. Davis, Socialist.	Herbert A. Lee, Prohibitionist.	Frank W. Hunt, Democrat.	John T. Morrison, Republican.	DeForest H. Andrews, People's Party.	Augustus M. Slatery, Socialist.	Albert E. Gipson, Prohibitionist.
Ada	1,944	3,152	110	114	2,105	3,105	19	54	107
Bannock	1,512	2,010	65	8	1,526	2,041	3	61	7
Bear Lake	1,058	1,205	2	6	1,064	1,199	2	1	6
Bingham	1,498	1,989	114	10	1,494	2,005	13	104	5
Blaine	968	865	44	15	994	894	37	44	11
Boise	763	745	24	21	781	729	16	21	11
Canyon	1,227	1,732	107	135	1,174	1,848	13	94	127
Cassia	536	741	27	3	597	762	1	25	2
Conster	568	401	16	-----	614	401	-----	14	-----
Elmore	517	965	20	5	536	363	1	16	6
Fremont	1,749	2,659	213	11	1,768	2,623	6	225	10
Idaho	1,717	1,735	57	28	1,868	1,668	7	51	23
Kootenai	1,565	1,988	189	43	1,704	1,894	19	166	40
Latah	1,183	2,423	218	59	1,364	2,168	10	217	76
Lemhi	726	705	28	3	785	694	1	17	3
Lincoln	392	446	8	8	331	459	3	6	7
Nez Perce	1,807	2,451	234	115	1,758	2,495	19	220	121
Oneida	1,298	1,846	21	7	1,366	1,856	1	20	7
Owyhee	699	720	20	1	788	589	-----	12	1
Shoshone	2,065	2,813	177	22	2,290	2,702	12	163	19
Washington	1,161	1,869	44	22	1,224	1,346	5	96	18
Total	24,878	32,384	1,738	636	26,021	31,874	188	1,567	607
Pluralities	-----	7,506	-----	-----	-----	5,853	-----	-----	-----

Official vote of the State of Idaho, 1904.

PRESIDENTIAL ELECTORS.

County.	Republican.	Democratic.	Socialist.	Prohibition.	People's.
Ada	4,536	1,466	318	164	41
Bannock	2,826	1,068	227	3	2
Bear Lake	1,538	709	11	8	
Bingham	3,183	890	365	22	13
Blaine	1,225	775	140	11	22
Boise	1,053	639	125	35	18
Canyon	3,172	1,025	316	190	63
Cassia	1,105	346	59	5	9
Custer	496	429	13	6	3
Elmore	593	433	68	17	6
Fremont	3,869	1,278	313	11	12
Idaho	2,731	1,381	304	33	19
Kootenai	4,165	1,178	664	132	27
Latah	3,267	940	283	138	30
Lemhi	786	564	28	6	34
Lincoln	688	262	50	9	
Nez Percos	3,856	1,096	448	160	21
Oneida	2,339	906	75		
Owyhee	663	363	118	9	23
Shoshone	3,065	1,116	748	23	6
Washington	1,894	931	256	36	3
Total	47,783	18,480	4,949	1,018	352
Pluralities	29,303				

REPRESENTATIVES IN CONGRESS.

County.	Burton L. French, Republican.	Benjamin F. Clay, Democrat.	John H. Morrison, Socialist.	Allen K. Wright, Prohibition.	D. J. Badley, People's.
Ada	4,178	1,647	281	183	28
Bannock	2,806	944	225	3	2
Bear Lake	1,622	346	15	5	1
Bingham	3,096	906	351	25	10
Blaine	1,129	869	96	9	4
Boise	965	690	107	39	22
Canyon	2,901	1,200	301	216	33
Cassia	1,099	364	57	9	10
Custer	490	429	30	2	1
Elmore	524	475	62	10	6
Fremont	3,952	1,064	302	3	9
Idaho	2,389	1,000	248	28	17
Kootenai	3,828	1,485	573	119	13
Latah	3,018	1,224	222	127	15
Lemhi	766	600	18	5	13
Lincoln	641	317	34	6	
Nez Percos	3,638	1,958	401	150	13
Oneida	2,282	820	75		
Owyhee	619	425	86	8	13
Shoshone	3,215	1,692	496	22	5
Washington	1,707	1,071	229	39	4
Total	44,813	20,146	4,209	1,008	219
Pluralities	24,667				

GOVERNOR.

County.	Frank R. Gooding, Republican.	Henry Heitfeld, Democrat.	Theodore B. Shaw, Socialist.	Edwin R. Headley, Prohibitionist.	T. W. Bartley, People's.
Ada.....	4,007	1,984	271	157	21
Bannock.....	2,778	1,014	219	2	2
Bear Lake.....	1,615	849	14	3	2
Bingham.....	3,085	1,004	341	25	10
Blaine.....	916	1,154	74	10	2
Boise.....	907	794	102	86	15
Canyon.....	2,671	1,412	302	191	34
Cassia.....	1,032	468	55	4	7
Custer.....	399	575	25	3	1
Elmore.....	452	584	56	10	4
Fremont.....	3,932	1,111	314	8	8
Idaho.....	2,195	1,925	242	27	16
Kootenai.....	3,555	1,776	555	122	12
Latah.....	2,618	1,820	205	162	13
Lemhi.....	690	689	21	5	10
Lincoln.....	644	842	26	2	-----
Nez Perces.....	3,099	2,714	379	155	8
Oneida.....	2,276	830	78	-----	-----
Owyhee.....	596	558	77	6	5
Shoshone.....	2,987	2,048	443	26	4
Washington.....	1,535	1,901	208	36	5
Total.....	41,877	24,192	4,000	990	179
Pluralities.....	17,685	-----	-----	-----	-----

The CHAIRMAN. Do you wish to ask anything further of this witness, gentlemen?

Mr. WORTHINGTON. Nothing.

The CHAIRMAN. Who is your next?

Mr. WORTHINGTON. Mr. French.

TESTIMONY OF BURTON LEE FRENCH.

BURTON LEE FRENCH, being first duly sworn, was examined, and testified as follows:

Mr. WORTHINGTON. What is your full name, Mr. French?

Mr. FRENCH. Burton Lee French.

Mr. WORTHINGTON. And your age?

Mr. FRENCH. Twenty-nine years.

Mr. WORTHINGTON. Where do you live?

Mr. FRENCH. At Moscow, Idaho.

Mr. WORTHINGTON. You are the present Representative in the House of Representatives from Idaho?

Mr. FRENCH. I am.

Mr. WORTHINGTON. How long have you held that position?

Mr. FRENCH. I was elected in the fall of 1902, and this is the close of my first term; that is, it is within about two months of the close.

Mr. WORTHINGTON. Were you reelected?

Mr. FRENCH. Yes, sir.

Mr. WORTHINGTON. I wish you would state where you have lived, and, in a general way, your avocation since you became a man.

Mr. FRENCH. Well, since I became a man I have lived in Latah County, in which Moscow is situated. The last five or six years I have lived most of the time in Moscow, and for several years prior to that time in Moscow as a student, but at all times within the county.

Mr. WORTHINGTON. Allow me to ask you whether you are a Mormon or a non-Mormon?

Mr. FRENCH. I am a non-Mormon.

Mr. WORTHINGTON. Have you ever been a Mormon, or been connected in any way with the church?

Mr. FRENCH. No, sir; I am a member of the Baptist Church.

Mr. WORTHINGTON. Prior to your becoming a candidate for Congress the first time what opportunities, if any, had you to become acquainted with political affairs in your State?

Mr. FRENCH. I was elected a member of the Idaho legislature from Latah County in 1898 and elected a member in 1900.

Mr. WORTHINGTON. Can you say you have been familiar with political affairs in your State from 1898 down?

Mr. FRENCH. Well, yes; very generally. Prior to that time I was—most of the time for several years—a teacher, and while I took no active part in politics, at the same time for several years I had been a very close observer of politics in the State of Idaho.

Mr. WORTHINGTON. Are you a Republican or a Democrat?

Mr. FRENCH. I am a Republican.

Mr. WORTHINGTON. Have you always been?

Mr. FRENCH. I have always taken part in politics as a Republican. The first year of my majority I took no active part in politics.

Mr. WORTHINGTON. What opportunities have you had of acquainting yourself with the situation in the State of Idaho with reference to polygamy and polygamous cohabitation?

Mr. FRENCH. During the two sessions that I was a member of the legislature I was acquainted with quite a number of members of the Mormon Church, and during the campaign of 1902 and the campaign of 1904 I visited the southeastern part of the State, visiting nearly every county of what are denominated the Mormon counties, and in the meantime had attended several State conventions that brought together some members of the Mormon Church, one of these State conventions being held in a county that has been denominated a Mormon county.

Mr. WORTHINGTON. I wish, in order that we may not have any mistake, that you would name the six counties to which you refer as the Mormon Counties, and that have been called Mormon counties here.

Mr. FRENCH. The counties that have been called Mormon counties by witnesses—

Mr. WORTHINGTON. In this case?

Mr. FRENCH. In this case—are Fremont, Bingham, Bannock, Oneida, Bear Lake, and Cassia counties.

Mr. WORTHINGTON. Now, to come down to the particulars. In the first place, it is charged here that Governor Morrison was entitled, by the custom of the State, to a reelection. What do you say about that custom?

Mr. FRENCH. Why, there is no definite, fixed custom in the State. In the first place, we have a constitutional provision to the effect that the term shall be two years, and there is no provision, by law or otherwise, that it shall be more than that. I would say that the first governor of the State did not succeed himself. The second governor of the State did succeed himself after serving one term. The next governor of the State succeeded himself after serving one term. The next governor of the State, Mr. Hunt—I do not think I have omitted

any in the early years of statehood—the governor who was nominated in 1902 by the Democratic party, did not succeed himself; he failed of succeeding in the election. I would say, however, that in the convention at which he was nominated the right to his renomination was contested by a faction of the Democratic party, and in fact he was nominated only by a very narrow majority. And I would say from that that even the faction of the Democratic party that opposed his renomination did not seem to concur in the thought that any man who had been governor once should be renominated. It is also true that Mr. Morrison was nominated and elected in 1902, that he sought the nomination in 1904 but was not nominated.

Mr. WORTHINGTON. It is charged here that he was not nominated in 1904 solely because the Mormon Church interfered and prevented it. Can you give us any information bearing on that subject?

Mr. FRENCH. I would say that that statement is grossly incorrect. There were 285 members of the Republican State convention in 1904. Forty-three of these members were Mormons. Mr. Morrison received 90 votes in that convention. Mr. Gooding, who was nominated, received 195 votes. The number required to nominate was 143. Had Mr. Morrison received all the votes that he did receive and received on top of that all of the votes that the Mormons had in the convention he would have had only 133, or 10 less than enough to nominate him.

Mr. WORTHINGTON. Another thing that is alleged here in that same connection is that your county, Latah County, instructed its delegates to vote in the nominating convention for Mr. Morrison. As I understand, it is charged here that by the mysterious influence of the church in some way they were turned around. You can tell us something about that, I suppose, since that is your county?

Mr. FRENCH. Yes, sir; I find that statement, made by Mr. Jackson, on pages 201 and 202 of the report of the proceedings in this case, and I would say that that statement is an absolute falsehood. I have a copy here of the resolutions that were adopted at that convention, which elected delegates to the State convention.

Mr. WORTHINGTON. Are those the only resolutions that that county convention of yours adopted?

Mr. FRENCH. They adopted general resolutions. I have both copies. They adopted one set of resolutions commending the Republican party, the Administration of Mr. Roosevelt, the work in Congress of Senator Heyburn and myself, indorsing the platform of the Republican party, indorsing the present State administration for its clean and businesslike administration, and indorsing also the careful and economical conduct of the affairs of the county; and another resolution recommending myself for renomination.

Mr. WORTHINGTON. Let us have that resolution, please, so that we may see what they did in the way of instructing.

Mr. FRENCH. Shall I have the clerk read it?

Mr. WORTHINGTON. Just read it yourself, as it is there.

Mr. FRENCH. This appears in a paper published in my home, Moscow. The date of the paper is July 28, 1904. The paper is the Moscow Weekly Mirror, published in Moscow, Latah County, Idaho. The resolution bearing upon my renomination and the nomination of anyone is as follows:

"Whereas two years ago the Republicans of the State convention nominated for Congress the Hon. Burton L. French; and

"Whereas he made the most brilliant campaign ever witnessed in this State, resulting in a complete Republican victory and in his running ahead of all other candidates on the State ticket; and

"Whereas the people of this State have found in him a true and tireless worker in their behalf, always working for the best interests of the State and his constituents; and

"Whereas the Republicans of Latah County, recognizing his ability, experience, and fitness for the position of Congressman from this State, and that his renomination by the Republican State convention will be conducive to the best interests of the Republican party of Idaho; Now, therefore,

"Be it resolved by the Republicans of Latah County, in convention assembled, That the name of the Hon. B. L. French be again presented to the State convention for renomination to Congress; and

"Be it further resolved, That the delegates this day selected to attend the Republican State convention to be held at Moscow, Idaho, on the 10th day of August, 1904, be and are hereby instructed to vote first, last, and all the time for the renomination of Hon. B. L. French and to use all honorable means to secure his nomination."

Mr. WORTHINGTON. I see now why you hesitated to read it. I did not know when I asked you. Do I understand you to say that that was the only thing that was done by that county convention in the way of instructing its delegates how to vote?

Mr. FRENCH. That was the only thing that was done by the county convention.

Mr. WORTHINGTON. Was there an understanding, tacitly or otherwise, that they were to vote for Morrison for renomination?

Mr. FRENCH. No, sir; that is not true. I could go a little further than that and explain why—

Mr. WORTHINGTON. I was going to ask you to explain what was the reason that Mr. Morrison was not renominated, or what the arguments were used against him. Is that what you were going to state?

Mr. FRENCH. That is in line with what I was going to state. By the way, before stating that, I would like to say also that Mr. Morrison himself denies this, and, if I may quote from an interview that appeared in the Lewiston Tribune in its issue of August 10, 1904, I would read from Governor Morrison these words—

The CHAIRMAN. Do you call for that, Mr. Worthington?

Mr. WORTHINGTON. I do.

The CHAIRMAN. For his reasons why Morrison was not renominated?

Mr. TAYLER. I do not care much about a man of straw being erected here and then demolished.

Mr. WORTHINGTON. If I understand that anything was pressed upon this committee by the witnesses brought here from Idaho on behalf of the protestants, it was that the Mormon Church was running politics in Idaho, and the principal specification of that was that the Mormon Church had Governor Morrison turned down for renomination. I do not think that is competent, Mr. Chairman, but if it was, is it not competent to show why he was turned down, and that the Mormon Church had nothing to do with it?

The CHAIRMAN. Is this an interview with Mr. Morrison?

Mr. WORTHINGTON. This is an interview with Mr. Morrison himself, repudiating the idea, as I understand, that the Mormon Church interfered with him.

Mr. FRENCH. This repudiates the statement that Mr. Jackson made in his testimony that I was in any way, directly or indirectly, pledged to support him.

Senator McCOMAS. How is that authenticated?

The CHAIRMAN. It is a mere newspaper clipping?

Mr. FRENCH. It is a mere newspaper clipping; yes, sir.

Mr. WORTHINGTON. This record is full of newspaper clippings, on the ground that that is a part of the history of the State.

Senator McCOMAS. That is not authenticated by anybody.

Mr. FRENCH. I have stated myself that the statement Mr. Jackson makes is an unqualified falsehood. I would make the statement further that Mr. Morrison has denied it to others, and that Charles H. Jackson's statement is an unqualified falsehood.

Mr. WORTHINGTON. Very well; that is enough.

Mr. TAYLER. Epithets enough have been applied to Mr. Jackson's statement to satisfy anybody.

Mr. VAN COTT. None of them, however, are too strong.

Mr. FRENCH. Your question was why he was not nominated?

Mr. WORTHINGTON. Yes; that is the question.

The CHAIRMAN. That is the question.

Mr. WORTHINGTON. Why he was not renominated.

Mr. FRENCH. In all States in which there are live parties it is probable that in each party there are several groups of political workers striving for the control, in a way, of the management of the party. In 1902 Mr. Morrison and I were opposed to each other in a political way. I supported another gentleman for governor. Mr. Morrison worked as hard as he could to accomplish my defeat, and supported another man for Congress. I have mentioned myself in this connection, not that I play any important part in the faction to which I belong, but simply from the fact that my name has been brought into this case.

Mr. WORTHINGTON. Let me read right here, and see if this is what you refer to. Mr. Jackson testified you were opposed to Gooding "until the pressure had been applied to him." Is that what you are referring to?

Mr. FRENCH. That is what I refer to; and I would say that that statement is absolutely false. Mr. Gooding and I supported the same candidate for governor in 1902. We worked together, not only in the support of the same candidate for governor, but in nominating the State officers. As a result of the convention of 1902, I was nominated for Congress, and Mr. Morrison was nominated for governor; but I do not think that either Mr. Gooding or myself found any objection, but on the contrary, approved of every other nomination that was made on the State ticket. Not only that, but we also elected Mr. Gooding to be our State chairman, the member of the State committee from my home county supporting Mr. Gooding for that position after conferring with me and asking me what I thought about it. Since that time I have been on the friendliest relations with Mr. Gooding, and at all times when it seemed possible that he

could be nominated I have so stated to my friends, and there never was a time when I was, indirectly or directly, identified with Morrison's interests or supported his candidacy for renomination.

The convention of 1904 again resulted in what we commonly call a line up, in much the same way; yet at this convention Mr. Morrison failed of nomination. We not only nominated all the State officers, but also nominated our candidate for governor, who is Mr. Gooding.

Now, I would say, in further reply to this, that the statement is made by Mr. Jackson that it was necessary that Latah County's vote be cast for Mr. Gooding. I would say that that is grossly incorrect, for the reason that Mr. Gooding's vote was 195. The number required to nominate was 143. The delegation from Latah County, which is my home county, was composed of 17 members. Seventeen from 195 leaves 178; in other words, more than 40 majority.

Mr. WORTHINGTON. Without Latah County?

Mr. FRENCH. Without Latah County; and in fact you could then subtract the Mormon vote from Mr. Gooding's majority, and still have him practically nominated. Nearly every Mormon vote could have been taken away.

Mr. WORTHINGTON. I think you have not stated what were the specific objections to Mr. Morrison. You state you never supported him.

Mr. FRENCH. The specific objection is that he was not one of the men who were working with us, as we regarded it to the best interests of the party and the State in our party. Mr. Morrison is a good, clean man. Personally, I have only the highest words of praise for him; but it is one of the circumstances that happens in States and in parties. While I think he entertains the same regard for me that I do for him, yet at the same time we have not worked together in politics.

Mr. WORTHINGTON. I will ask you whether at that convention, before it began its work, and while it was at its work, there was anything in the general sentiment or opinion of the legislature or of the community around there—that is, what has been testified to—that the Mormon Church was interfering, or did interfere or affect the result?

Mr. FRENCH. Why, no.

Mr. WORTHINGTON. In the same connection it has been testified to here by Mr. Cobb, another gentleman who was brought down here from Idaho by the protestants, in these words:

"I do not know of any politician to-day"—

In Idaho, he means—

"but who is in favor of granting to the Mormon Church any request that they make."

What do you say about that?

Mr. FRENCH. I do not believe that statement is accurate at all. Of course, I do not know. He says politicians that he knows. I would say that I do not know of any politician in the State that would grant to the Mormon Church any request simply because it was asked by the Mormon Church.

Mr. WORTHINGTON. Mr. Cobb also says the general feeling among both parties is that the church is to be dealt with as a political quantity; that the chairman of each of the political parties will go down

to Salt Lake City, and then each of them will come back and whisper to his adherents "It is all right," meaning "We have got the church with us;" and then after the election one or the other finds out they have been deceived.

Mr. FRENCH. No; I do not think that is correct.

Mr. WORTHINGTON. Mr. Jackson testifies in this way. I will ask you what you have to say about it:

"It is impossible for any man or any party to go against the Mormon Church in Idaho, whether he is a Republican or Democrat. Unless the Mormon Church supports the individual he might as well give up. There is no hope for you."

Mr. FRENCH. Why, no; on the contrary, that question has never been raised in the State since it became a State that I know of, until in the campaign of 1904.

Mr. WORTHINGTON. How was it raised then?

Mr. FRENCH. It was raised as a political question. It was raised by the Democratic party. It was commonly believed by the Republicans of the State, and I think by a great many of the Democrats, that it was raised then because the Democratic party, under its leadership, knew that they could not, or believed that they could not, carry the State if they conducted the campaign upon national issues. The people approved of the Administration of Mr. Roosevelt. They approved of the policy of the Republican party in Congress; and therefore, should the campaign be waged by the Democratic party upon national issues, there would be no possible hope of their carrying the State. It is believed generally by the Republicans of the State, and by a great many of the Democrats, that it was simply in the hope of furthering the personal ambitions of those who are interested in the leadership of the so-called "Democratic party" in Idaho for 1904, that they injected this question into the politics of Idaho. There was nothing prior to that time in the history of the politics of the State since it became a State, to justify that. The increase in the Republican vote or the decrease in the Republican vote in Mormon counties had been about the same as the increase and decrease in the Republican vote in the Gentile counties of the State.

Mr. WORTHINGTON. Have you some figures on that subject, Mr. French, showing the percentages?

Mr. FRENCH. In a general way.

Mr. WORTHINGTON. I wish you would give them to us.

Mr. FRENCH. I would say that from 1892 to 1896—I have thought over the vote on President, and I found that the vote was cast in the Mormon counties for Democratic electors in 1896, and also in the Gentile counties in the same year. I found that in 1900 the vote had increased in the Mormon counties and also in the Gentile counties on the Presidential electors. I found that in 1904 the vote had increased for the Republican party in the Mormon counties and in the Gentile counties, and for those years I have the figures.

In the Mormon counties the increase in the vote on Presidential electors was 66.07 per cent.

Mr. VAN COTT. That is, for the Republicans?

Mr. FRENCH. For the Republicans. In the Gentile counties the increase in 1904 over 1900 is 80 per cent.

Mr. WORTHINGTON. The Republican vote?

Mr. FRENCH. The Republican increase; yes. I simply mention that to show that the increase is much the same in all parts.

I have figures showing the increase in other offices as well. In 1902 I have the vote cast for the candidate for superintendent of public instruction, also the vote cast in 1904, in Mormon counties and in Gentile counties. I find that the candidate for superintendent of public instruction upon the Republican ticket gained in 1904 39.6 per cent over the vote received in 1902; and, by the way, I would mention that the two candidates that were running in 1904 were the same candidates who were running in 1902.

Mr. WORTHINGTON. For that office?

Mr. FRENCH. Yes; for that office.

Mr. WORTHINGTON. They were ladies, I believe?

Mr. FRENCH. Yes, sir; they are ladies.

In the Gentile counties I find that the increase in Republican gain in 1904 over 1902 is 39.08 per cent. In other words, there is not 1 per cent difference, and that difference is slightly in favor of the Mormon counties. I will say that the home of the Republican candidate is in the Mormon counties, and there she ran, in her home county, several hundred votes ahead; but the difference in vote is not 1 per cent. It is only about a half of 1 per cent.

Then I have other figures. I find that comparing the figures of 1898 with 1900 the vote showed the Republican increase for the candidate for Congress in the Mormon counties 111 per cent, with a small fraction over, and in the Gentile counties an increase of 103 per cent—almost the same increase.

I find that in comparing the votes of 1900 and 1902 on the same office the Republicans gained in the Mormon counties 20.3 per cent, and they gained in the Gentile counties 20.17-25 per cent in 1902 over 1900. You will notice at this time the slightly increased gain was made in the Gentile counties rather than in the Mormon counties, although in the period of 1898 to 1900 the slight increase in gain was made in the Mormon instead of the Gentile counties.

I find then, in comparing the figures in 1902 and 1904, that the candidate for Congress gained 42½ per cent in the six Mormon counties—

Mr. WORTHINGTON. The Republican candidate.

Mr. FRENCH. The Republican candidate; and he also gained 41.09 per cent in the Gentile counties. In other words, there is less than 1½ per cent difference in the gain. This time it is in favor of the Mormon counties.

Now, I find that in comparing the vote for governor, in 1904 the Republicans made a gain over 1902 of 39.8 per cent in the Mormon counties. They made a gain in the Gentile counties, on governor, of 27 1-5 per cent. I would say, by the way, that the gain that has been made in that case is the result of local conditions, but that the general gain is comparatively the same in the Mormon and non-Mormon counties, and has been the same up until this campaign, and that it was believed very generally by the Republicans that there was no reason for making any campaign that would bring in religious questions of this character, and that it was made simply for political purposes.

Mr. WORTHINGTON. I will come to that in a moment. Of course, there are Gentiles who reside in Mormon counties, and Mormons re-

side in some of what are called Gentile counties. That is true, is it not?

Mr. FRENCH. Yes; that is true.

Mr. WORTHINGTON. Are there more Mormons in the Gentile counties than Gentiles in the Mormon counties, or vice versa?

Mr. FRENCH. No; there are a great many more Gentiles in the Mormon counties than there are Mormons in the Gentile counties.

Mr. WORTHINGTON. What is about the total vote of the State?

Mr. FRENCH. The total vote of the State is about 70,000. I have not the exact figures.

Mr. WORTHINGTON. And about what do you estimate the Mormon vote to be? Or have you given that matter any consideration?

Mr. FRENCH. I could rather roughly estimate it. I think it would be about 14,000 or 15,000. The Mormon population in the State is estimated by leading Mormon officials to be about 40,000 to 45,000 people, and figuring the same way for their population as I would for the rest of the population of the State, which I think is fair, there would be about, say, 14,000 to 15,000 voters.

Mr. WORTHINGTON. Mr. Jackson estimated the total vote at 60,000 and the Mormon vote at 20,000. You do not agree with him, then?

Mr. FRENCH. No; that is, I think, simply exaggeration.

Mr. WORTHINGTON. Our attention has been directed here to the last election in November, and the point has been made against the church that in that election there was a very large vote in the Mormon counties in favor of the Republican ticket as compared with previous years. Have you any information which will throw any light upon the cause of that, assuming it to be so?

Mr. FRENCH. As I have shown on two offices here, the gain is within one and one-quarter per cent the same in the Gentile counties as it is in the Mormon counties. The gain is within one and one-quarter per cent on the office of Congressman. It is within one per cent on the office of school superintendent, which does not seem to be political.

Mr. WORTHINGTON. I understand that you do not agree with the conclusion?

Mr. FRENCH. No.

Mr. WORTHINGTON. But, assuming that there was something in it, was there anything that took place during that campaign that would tend to throw the Mormon votes away from the Democratic party over into the Republican party over and above what applied elsewhere?

Mr. FRENCH. Yes; there were a great many things.

Mr. WORTHINGTON. Let me ask you this in the first place. It has appeared here that the Democratic State convention in this last year put into its platform a plank which was against polygamy and against church domination.

Mr. FRENCH. Yes, sir.

Mr. WORTHINGTON. We need not repeat it here. How was that plank received and regarded by the Democrats of the State?

Mr. FRENCH. The Democrats of the State, with the exception of these leaders, did not approve of it. In fact I do not know of a prominent Democrat in the State, with the exception of Senator Dubois, Mr. Jackson, Mr. Heitfeld, Mr. Clay, Mr. Payne, Mr. Flenner, and Mr. Donnelly, who supported the Democratic ticket. I

mean those who have been regarded as the State leaders. The most of the Democratic State leaders, for instance, took no part, or little part, in the campaign.

Mr. WORTHINGTON. Why?

Mr. FRENCH. Well, they did not approve of this policy. They claimed that it was uncalled for. They claimed that this was injected into politics simply for the purpose of, if possible, stirring up the voters of the State on this question, and they did not believe in it, because they did not believe that those who injected it were sincere.

Mr. WORTHINGTON. How was it about the Democratic newspapers in the State? What position did they take with reference to this antichurch domination business?

Mr. FRENCH. They almost all declined to support the State Democratic ticket.

Mr. WORTHINGTON. On the ground that that plank was in it?

Mr. FRENCH. Yes; on the ground that that plank was in it. They said it was uncalled for. Many of them supported the national ticket—supported Mr. Parker—but declined to support the State ticket, because they said it was unfair, that it was simply a piece of selfish politics upon the part of those instrumental in having that plank inserted in the Democratic platform.

Mr. WORTHINGTON. Who was your opponent?

Mr. FRENCH. Mr. Benjamin F. Clay.

Mr. WORTHINGTON. I do not like to ask you this question, but I feel obliged to do so. Were there any arguments made by him in reference to the Mormons that would have a tendency to throw the Mormons away from the support of the ticket which he represented or which he was on?

Mr. FRENCH. Yes. In a general way it was understood that he was running upon a ticket that had adopted this plank in its platform as a direct slap at the Mormon Church.

Mr. WORTHINGTON. Did he use any arguments against the Mormons that would be likely to turn them against him and against his ticket?

Mr. FRENCH. I would say that Mr. Clay did. Mr. Clay even exceeded the demands of the platform in his speeches, if his speeches were reported correctly to me, and I campaigned the whole south-eastern part of the State.

Mr. WORTHINGTON. It was generally reported in the Mormon counties that he was making these charges, was it?

Mr. FRENCH. Why, yes.

Mr. WORTHINGTON. That would account for the change in the vote, or might do so. So let us have it.

Mr. FRENCH. I have been told in those counties that Mr. Clay not only charged what was charged in a general way, that the Mormons were still practicing polygamy and all that, but made charges against them reflecting upon their personal conduct—their personal honor. I have been told that he made the statement that the houses of ill-fame in Salt Lake City were filled with Mormon girls. I have been told that he made the statement from the platform that south Idaho is the lambing ground for Utah.

Mr. WORTHINGTON. What does that mean?

Mr. FRENCH. Well, we have in sheep countries places that we

know as the lambing grounds. The lambing grounds are the breeding grounds.

Mr. WORTHINGTON. That is sufficient. Do you remember anything else that he said?

Mr. FRENCH. I have heard that he has said that 75 per cent of the marriages are forced marriages in the Mormon Church.

Now, those statements are not believed in at all by the people generally, yet it was understood down there, and I was told that he made them, and it was believed that he made them for the purpose of throwing the Mormon votes against the Democratic party and into the Republican column, for the purpose of aiding them in the campaign of 1906. It was generally understood that this was simply a preliminary campaign looking to the campaign of 1906, which involves the election of a United States Senator.

Mr. WORTHINGTON. In that connection—though perhaps that answers it—it was brought out in the examination of the previous witness that the remarks which were made by Senator Dubois, and which were quoted here, were made by one who was not a candidate. Was it not understood at this time that this was preliminary to the coming election of a Senator in 1906?

Mr. FRENCH. Yes; the statements that were made by Senator Dubois to which you refer were made by one who is regarded generally as the aspirant for the Senatorial toga in 1906, and these other statements, as I have said, were told to me as having been made by the candidate for Congress upon the same ticket, Mr. Clay.

Senator OVERMAN. What would they have to gain in 1906 by driving all the Mormon Democrats away from the party?

Mr. FRENCH. They would have this to gain or they would hope to gain it. They would want to show that it is true that the Mormons can be wheeled around from one party to the other. If they can make that apparent in the northern counties, the northern counties, in their estimation, would resent it, and would immediately then vote in twice the numbers for the Democratic ticket.

Senator OVERMAN. You think it would have the effect to make the Republicans change to vote for the Democrats. Is that it?

Mr. FRENCH. Yes. In fact, the statements did have some effect. The statements in this campaign had some effect of that character. There were Republicans that did not support our State tickets, but supported the Democrats, because they believed those statements that were made. They actually believed them.

Mr. WORTHINGTON. What can you tell us about this provision or resolution that passed the Idaho legislature early in 1903—in March, 1903, I think—providing for a constitutional convention? It has been stated here that that was the result of a certain visit that John Henry Smith made down there immediately before, and that it was all in the interest of the Mormon Church to do away with provisions against polygamy and the test oath.

Mr. FRENCH. I would say I was not in the legislature at that time.

Mr. WORTHINGTON. But we have heard a lot of testimony here from people who know what the general feeling and understanding is in the community, and I presume you know as much about it as they do.

Mr. FRENCH. I was in the East at that time.

Mr. WORTHINGTON. Mr. Jackson was not in it either.

Mr. FRENCH. Well, I would say this, that I was a member of the legislature—

Senator McCOMAS. You say that you were in the East at that time?

Mr. FRENCH. I was in the East at that time, going home shortly afterwards.

Mr. WORTHINGTON. How soon did you return?

Mr. FRENCH. I think it was in the latter part of June or the first of July.

Mr. WORTHINGTON. The testimony here is that there was nothing about that matter until nearly a year afterwards—

Senator McCOMAS. When did this occur?

Mr. TAYLER. This occurred in February.

Mr. WORTHINGTON. John Henry Smith's visit down there was in February, 1903, and the passage of this resolution was in March.

Senator McCOMAS. And at both these times he was in the East, I understand.

Mr. TAYLER. He got back in June.

Mr. WORTHINGTON. It was stated, Senator McComas, that there had been no call or suggestion of a constitutional amendment or amendments to the constitution, as I understood, and I wanted to prove by this witness that that was not true. You recollect, of course, that the resolution does not refer at all to the matter of polygamy or State interference. It is simply a general call for a constitutional convention, and the argument made here is that that was intended to give the Mormons an opportunity of ruling Idaho, and to have these clauses which were obnoxious to them stricken out. I want to ask this witness, as one familiar with the matters in Idaho, whether there was any talk about constitutional amendments which might have led up to that resolution, aside from the matter of the visit of John Henry Smith.

Senator McCOMAS. I understood your purpose; but I understood his answer to be that during that period he was not there.

Mr. FRENCH. Prior to that time I would say there had been some agitation in the State for a new constitution. I believe that when the legislature of 1899 convened, to which I had been elected for the first time in the preceding election, although we had been a State about nine or ten years, there had been passed already five different constitutional amendments, and there had been about two others that had failed to pass but had been submitted to the people; and I would say that during that legislature and during the succeeding legislature, of which I was a member, there were numerous resolutions introduced calling for various amendments to the constitution, and since that time several other amendments to the constitution have passed.

Mr. WORTHINGTON. Did any of these proposed amendments relate to polygamy or to the test oath?

Mr. FRENCH. Oh, no; but then there was a great deal of talk among those who believed that we ought to have these amendments, that it would be the best way out of it to simply call a new convention, because the State had changed in the ten years so enormously, and adopt a constitution that would meet the requirements of the new state.

Mr. WORTHINGTON. There was general talk then about a constitutional convention before this resolution was passed?

Mr. FRENCH. There was talk of it; yes. Personally I saw no real good ground for it myself, and during those legislatures opposed that idea, because I did not think we needed to.

Mr. WORTHINGTON. As bearing upon the question of Mormons running things in Idaho since the State was admitted to the Union, how many State officials have been Mormons?

Mr. FRENCH. Among the Republicans, to my knowledge, there has only been one. That is the man who has served as attorney-general during the past two years.

Mr. WORTHINGTON. Mr. Bagley?

Mr. FRENCH. Mr. Bagley.

Mr. WORTHINGTON. It appears he was not renominated.

Mr. FRENCH. No; he was not renominated.

Mr. WORTHINGTON. I think there has been some intimation that that was because he rendered an opinion to the effect that this resolution for a constitutional convention could not be carried into effect because of some additional legislation that was needed and that was not enacted. Do you know anything about that, or why he was not renominated?

Mr. FRENCH. I do not think so. There were several candidates for attorney-general—Mr. Guheen, Mr. Johnson, and Mr. Bartlett. That is, it was reported they were candidates, but at the time of nominations there was only one name presented. It seemed that those supporting the various other candidates had withdrawn. I do not know of any particular reason why their names should have been withdrawn. Of course those who were supporting other candidates were advancing reasons, probably, but I do not know of any reason that was responsible.

Mr. WORTHINGTON. Before I leave this line, let me ask what you can tell us from your observation and general information there as to whether the Mormons do vote according to their political convictions or according to the dictates of the church or the presidency.

Mr. FRENCH. Based upon these figures, covering several years, it seems to me the Mormons vote the same as the Gentiles vote. The figures bear me out in that belief. If we have a Republican loss in Gentile counties, we have an approximately similar Republican loss in Mormon counties. If we have a Republican gain in Mormon counties, we have about the same Republican gain in Gentile counties. I have gone back as far as 1898 on the office of Congressman, and I would say that the candidate for Congress always is at the head of the ticket upon the official list when there are no Presidential electors, and, using that office, there has not been 10 per cent difference in any of the elections since 1898, and in two of those campaigns there has not been 1½ per cent difference in the gain in Mormon counties over Gentile counties, and one of those differences was in favor of the Gentile counties instead of the Mormon counties. So I say I do not believe there is any good reason to come to the conclusion that they vote as a unit at the dictation of their church leaders.

Mr. WORTHINGTON. Aside from that argument, or evidence, what do you say as to its being the general understanding or impression among the people of your State that the Mormons do vote as the church directs, and that the people of your State are led by the nose

by their political leaders to do whatever the Mormon Church wants to have done?

Mr. FRENCH. I do not think that is correct at all. I noticed in the legislature that the Mormons were divided upon questions just the same as the other members. I do not believe that is correct.

Mr. WORTHINGTON. So far as your knowledge or information goes, is there any foundation for that statement which Mr. Jackson made here, which I have just repeated?

Mr. FRENCH. Not that I know of. I do not believe there is.

Mr. WORTHINGTON. Now, on the matter of polygamy, Mr. French. You were present, I believe, when Governor McConnell gave his testimony?

Mr. FRENCH. Yes, sir.

Mr. WORTHINGTON. In which he made some reference to a tacit understanding, or rather acquiescence, on the part of the people there. What do you say about that, as to what is the feeling of the people of your State, Republicans and Democrats, Mormons and non-Mormons, as to how you should treat the situation which you had out there when the State was admitted, of a number of Mormons who had taken plural wives before the manifesto of the church forbidding it?

Mr. FRENCH. I would say that I was a boy at the time the State was admitted. I was about 15 years of age, and so at that time did not follow very closely the political conditions; but since that time it has been my understanding that the question of extermination of polygamy was to apply to new polygamy, and that the cases of polygamy prior to that time were to remain unmolested, and that the belief was generally entertained that that would be the quickest way to get rid of the question.

Mr. WORTHINGTON. That if there were no new cases the matter would die out of itself?

Mr. FRENCH. Yes; I think that was the general understanding.

Senator McCOMAS. How many Mormons are there in Latah County?

Mr. FRENCH. In Latah County there are very few Mormons. I know of one Mormon family there and I have known of several others.

Senator McCOMAS. You are about 24 hours off from Bear Lake County?

Mr. FRENCH. Probably a little farther than that.

Senator McCOMAS. And the adjacent five other Mormon counties?

Mr. FRENCH. Yes.

Mr. WORTHINGTON. How far is Mr. Jackson from these Mormon counties?

Mr. FRENCH. Mr. Jackson lives at Boise. That would be several hundred miles away.

Mr. WORTHINGTON. And Mr. Balderston?

Mr. FRENCH. He lives several hundred miles away. That is, I would think it would be several hundred miles.

Mr. WORTHINGTON. And Mr. Cobb?

Mr. FRENCH. I would think the same in regard to him.

Mr. WORTHINGTON. What is your observation and knowledge as to the extent to which polygamy exists—I mean polygamous cohabitation—in your State now as compared to what it was when you became a man and observed these things, or came to know them, say, ten years ago?

Mr. FRENCH. Well, I have inquired very carefully, because I have wanted to be right upon this question, in the trips that I have made through those counties, and I have been told everywhere that the polygamous relations, or the cases of living in polygamy, are rapidly on the decrease. I have been told by Mormons that there are only about half as many now who have plural wives as lived in the State in 1890.

Mr. WORTHINGTON. What do you hear as to the common understanding there as to whether there are any new polygamous marriages in the State?

Mr. FRENCH. I have failed to find any. I have inquired, I presume, in every county, and probably many times, whether or not there are such cases, and I have failed to find anyone who could point out a single case. I would say that I remember a talk I had with Doctor Hoover, a Gentile living in Montpelier. I drove from Paris to Montpelier to speak at night. I had spoken at Paris in the daytime during this last campaign. I asked him about this and he said to me: "I am a doctor and practice my profession throughout this county. I am satisfied I would know of any polygamous marriages if they exist, and I do not know of a single instance of polygamous marriage since the manifesto." I have asked others and have obtained similar answers.

Mr. WORTHINGTON. It was testified by Mr. Jackson that he was in doubt whether Governor Gooding is a Mormon, because as many people say he is a Mormon as say that he is not. What do you know about that?

Mr. FRENCH. No; Governor Gooding is a Gentile.

Mr. WORTHINGTON. Is there any doubt about it in the State?

Mr. FRENCH. I never heard any serious doubt raised. I remember that during the campaign it seemed that in Nampa somebody started the question, and we joked him some about it, but nobody took it seriously, and I never heard the question mentioned seriously in the campaign. No; I never heard of such a thing seriously.

Mr. WORTHINGTON. You were not here when Mr. Jackson told us seriously about it?

Mr. FRENCH. I heard the statement.

Mr. WORTHINGTON. In your travels in the Mormon counties and in your talks with the Mormons, have you got any impression or knowledge as to what the feeling of the younger Mormon people is—the Mormons themselves, the younger element—about this matter of polygamy?

Mr. FRENCH. There is no question about their feeling. It is very pronounced against it. I have among my friends a great many of the younger Mormons. I have asked them frankly that question, and talked with them about it, and they feel just the same as other people do in regard to it, so far as I have been able to learn. They respect their parents, those of them that have polygamous parents in it. They respect the older members of the church who have lived in polygamy, but, so far as continuing it for a custom or doctrine or belief, they do not approve of it at all.

Mr. WORTHINGTON. What is your impression as to what would be the result if the manifesto had not been issued or if the law was not against it, as to what would be the result of polygamy in Idaho?

Mr. FRENCH. If the manifesto had not been issued and if no laws had been made against it, of course I do not know. It might be that as long as it was a question of religion they might approve of it, but I think that without any further legislation polygamy would end just as soon as it will under any other way.

Mr. WORTHINGTON. That is all, Mr. Tayler.

Mr. FRENCH. I wanted to finish a statement relative to the vote on the governor.

Mr. WORTHINGTON. I would like you to add whatever you wish to say on that subject, Mr. French.

Mr. FRENCH. You asked me in regard to the vote on various candidates in the Mormon and Gentile counties, and I showed that on the vote for governor there had been a considerable increase in 1904 over 1902.

Mr. WORTHINGTON. Yes.

Mr. FRENCH. I simply wanted to add a word in explanation of why that increase in vote should be. The first reason I brought out when I spoke of the very virulent charges that were made upon the rostrum by those who were the campaign speakers of the so-called "Democratic" party in Idaho in 1904. The other reasons are these: In the first place, Mr. Gooding lives in Lincoln County, which is in the southern part of the State, and which touches two, I think, of these counties that are called Mormon counties. Mr. Gooding is a business man. He has large interests throughout the southern part of the State. He has many friends there, and from personal reasons, I have no doubt, he would receive a very large vote from the members of the Democratic party. On the other hand, Mr. Heitfeld lives in Nez Perces County, in the northern part of the State, and formerly lived in Latah County, to which Senator Dubois called attention in referring to his majority, and I think that in large part the vote that was given to Senator Heitfeld, as candidate for governor, was a personal compliment to him by his friends in those two counties.

Now, there is another reason that I believe also augmented the vote of Mr. Heitfeld in the north and diminished the vote of Mr. Gooding. That is the sheep and cattle question. The sheep industry is more or less general throughout the State, but is an industry that rather belongs to the southern portion of the State. The cattle industry belongs to all parts of the State, but rather belongs to the center and north, and many of the people in the counties where I campaigned, who were good Republicans, told me that they knew of friends who could not support Mr. Gooding because of his being a sheep owner. They believed that he would be in sympathy with the sheep industries of the State. Mr. Heitfeld, on the other hand, made the campaign there with special appeal to the stockmen of the State, and, as has already been stated, there was a plank in the platform of the Democratic party pronouncing their opinion upon that question, which was circulated in those counties.

Mr. WORTHINGTON. What was the difference between the cattlemen and the sheep men?

Mr. FRENCH. The cattle men rather prefer, or do prefer, the 2-mile limit law, and they were afraid that Mr. Gooding would be in sympathy with the sheep men and would probably sign a bill providing for its repeal, or something similar, which would militate against the cattle industry and favor the sheep industry.

Mr. WORTHINGTON. That operated in favor of the Republican candidate in the southern part of the State?

Mr. FRENCH. It operated in favor of the Republican candidate in the southern part of the State and in favor of the Democratic candidate in the northern part of the State.

Mr. WORTHINGTON. That is all, Mr. Tayler.

Mr. TAYLER. Mr. French, you know Mr. Cobb, do you?

Mr. FRENCH. Yes; I know Mr. Cobb well.

Mr. TAYLER. What is his business?

Mr. FRENCH. He is the owner of or interested in the Idaho Daily Statesman.

Mr. TAYLER. That is the chief paper in your State, is it?

Mr. FRENCH. I believe that it is regarded generally as the leading paper in the State—that it has the largest circulation, and so forth.

Mr. TAYLER. He is a Republican?

Mr. FRENCH. How is that?

Mr. TAYLER. He is a Republican?

Mr. FRENCH. Mr. Cobb?

Mr. TAYLER. Yes.

Mr. FRENCH. I understand that he is; yes.

Mr. TAYLER. You have a doubt about it, have you?

Mr. FRENCH. His paper, I think, has consistently supported the Republican party on national politics as long as we have been a State. It has supported very generally the candidates for State office. It has not always supported the Republican candidates for mayor in the city of Boise, and on local matters and State matters seems to be independent. I think Mr. Cobb would want me to make that statement for him. That is my opinion of his paper.

Mr. TAYLER. Then you would not call him a representative of the Republicans of Idaho, would you?

Mr. FRENCH. He is one of the representative Republicans of Idaho, yes.

Mr. TAYLER. And a representative citizen?

Mr. FRENCH. Why, yes.

Mr. TAYLER. Conservative?

Mr. FRENCH. A very fine man—yes, a very fine man.

Mr. TAYLER. And deeply interested in Idaho, is he not?

Mr. FRENCH. I think he is; yes.

Mr. TAYLER. Mr. Balderston has for many years been the editor of that paper?

Mr. FRENCH. Yes, sir.

Mr. TAYLER. You said, in answer to a question by Mr. Worthington, who had quoted to you a remark of Mr. Cobb, made in evidence here last spring, that you never heard of such a claim being made, or of its being referred to particularly until the campaign of 1904. Did you not make such a statement as that in connection with his question?

Mr. FRENCH. What claim?

Mr. TAYLER. Well, that the Mormon Church was active in politics in Idaho.

Mr. FRENCH. Why, that statement has probably been made many times, but it was never seriously discussed until the Democratic party raised the question in 1904, since we have been a State.

Mr. TAYLER. Do you imagine the Democratic party raised that dis-

cussion because Mr. Cobb had just made it down here? He was here before the Democratic campaign.

Mr. FRENCH. Yes; but there were preliminaries looking to that campaign, and which led up to it, going on in the State.

Mr. TAYLER. At any rate, so far as you recognized, within the last year this serious discussion of Mormon entrance into Idaho politics first appeared. Is that right? Is that the first?

Mr. FRENCH. I wish you would repeat that. I want to be accurate.

Mr. TAYLER. In the last year, for the first time, has appeared the claim that the Mormon Church was entering Idaho politics.

Mr. FRENCH. Why, very generally; yes; and it was discussed, as I said, prior to that time somewhat. It is true that the bishops, and probably presidents of stakes, belonged to both political parties.

Mr. TAYLER. Yes, undoubtedly.

Mr. FRENCH. And I think I can remember of Republican bishops being in the legislature at the time I was there. Also of Democratic bishops being there at that time; and I have heard it said—

Mr. TAYLER. I am not referring to individual exhibitions of party preference by men, whether Mormons or Gentiles, but what I said—the claim of entrance by the church, in the sense of officials of the church undertaking to express what the desire of leaders of the church was, into the politics of Idaho. That is only about a year old, as I understand you.

Mr. FRENCH. I think so; yes. That would be my judgment.

Mr. TAYLER. You heard, I suppose, John Henry Smith testify here two weeks ago, did you not?

Mr. FRENCH. No; I did not hear him.

Mr. TAYLER. Have you read his testimony?

Mr. FRENCH. I believe I read it in part; yes.

Mr. TAYLER. Do you recall his statement that of all the men with whom we talked at Boise in the winter of 1903 in reference to the calling of the constitutional convention for the purpose of adopting—whether other things or not were to go with it is unimportant—an amendment to the constitution that would remove disabilities from Mormons, Governor Morrison was the only man who discouraged him or who expressed a dissent to the movement?

Mr. FRENCH. I do not remember of having seen that statement. If you say that he stated that, I will accept it.

Mr. TAYLER. I understood you to say, Mr. French, that the people of Idaho generally, the Gentiles of Idaho generally, the law-abiding and church-going people of that State, are content that the polygamists now living in Idaho should continue not only to support the wives whom they took prior to the manifesto, but that they should continue to cohabit with them and have children by them.

Mr. FRENCH. No; I did not make the statement. I do not believe that they are content. I think there is a feeling generally throughout the entire Gentile population to this effect: They would be glad if the question had never been raised. They could wish that there were no polygamists in the State. They will be glad when the question has entirely passed away; but I think, on the other hand, they feel that it would not be right to punish these men and women, who engaged in the polygamous relations prior to the admission of the State—about that time and the time of the manifesto.

Mr. TAYLER. No matter what their conduct in that relation has been since then, that they ought not to be punished. Is that right?

Mr. FRENCH. I would think that expresses about the feeling. I would not say that is uniform. Probably it is not. The only thing is this: If it is not that, I have asked myself, why do not these thousands of good men and good women, who are not members of the Mormon Church but live in Mormon counties, institute proceedings against the polygamists who continue their polygamous relations?

Mr. TAYLER. And have you been unable to answer that question to your satisfaction?

Mr. FRENCH. My answer is, that I have felt that they have said, "This is the best thing we can do in the premises. It is the only thing we can do."

Mr. TAYLER. Suppose William Budge was prosecuted, what would happen? His son is the judge and another son is the district attorney; and would not the man who prosecuted him be ostracized? Do you not think that is a more reasonable answer to the inquiry that you put to yourself than the other that has suggested itself?

Mr. FRENCH. Why, no; I don't think so.

Mr. TAYLER. You do not think that anybody living among the polygamous Mormons is at all deterred from filing an information and undertaking to prosecute either by the physical difficulties of getting prosecutors and judges and juries to convict, or by the ostracism that would result from his undertaking that prosecution? You think these are not cogent influences upon anybody?

Mr. FRENCH. I think they do enter in somewhat; yes.

Mr. TAYLER. They just slightly enter in, but that is not the chief reason, is it?

Mr. FRENCH. No; I think the chief reason, as I said before, is that the thing has been done, and we do not feel like bringing it up now and punishing those men. They do not believe it would do any good for the future. I believe they generally feel that polygamy is not continuing—that is, that new polygamous cases are not being entered into, and, in fact, that many of these who were living in polygamy, have ceased living in polygamy, and continue to support their wives.

Mr. TAYLER. You are not misunderstanding me, Mr. French, because I do not want you to be misquoted in your answer. I am referring to the men who are to-day living with polygamous wives and rearing children as the fruit of those polygamous marriages now.

Mr. FRENCH. Yes.

Mr. TAYLER. Children born to-day, to-morrow, next year—that they look with sufficient complacency on that not to care particularly whether they are prosecuted. Is that right—that they ought not to be disturbed? That is your language, I believe.

Mr. FRENCH. I think the people of those counties feel that way.

Mr. TAYLER. Do the people of the State generally feel that way?

Mr. FRENCH. I do not believe the people of the State or those counties know that such a condition as that exists. I do not believe it does exist.

Mr. TAYLER. They do not? Do they read? The people of your State can read, can they not?

Mr. FRENCH. Yes; I am very glad to say the people of the State of Idaho are very enlightened people.

Mr. TAYLER. And I suppose the percentage of illiteracy is as little there as anywhere?

Mr. FRENCH. It stands as one of the States having the smallest percentages of illiteracy.

Mr. TAYLER. They read the newspapers and know what is going on?

Mr. FRENCH. Yes; they do.

Mr. TAYLER. Do you suppose they read the challenge to Mr. Borah, in which twenty names were given of people and their wives in the last campaign?

Mr. FRENCH. They read the answer that Mr. Borah gave, too.

Mr. TAYLER. Exactly.

Mr. FRENCH. That if new cases of polygamy would be certified up to him——

Mr. TAYLER. I do not want to interrupt you, but do not let us get away from the point. I have not touched the cases of new polygamy. I have not referred to them by the faintest suggestion. I am talking about men who have had wives all along, who took them prior to 1890. Let us assume that.

Mr. FRENCH. Yes.

Mr. TAYLER. And who are to-day having children by their wives, That is the thing I am talking about. Is it that that the people of Idaho do not know about, or something else that they are ignorant about? Which is it? Are the people of Idaho ignorant of the fact that there are a great many polygamists in Idaho to-day with plural wives?

Mr. FRENCH. I think they know that.

Mr. TAYLER. Rearing children by them?

Mr. FRENCH. I think they know that, too.

Mr. TAYLER. You think they know that?

Mr. FRENCH. Yes, sir.

Mr. TAYLER. Do you understand, Mr. French, that it has always been against the law to take a plural wife?

Mr. FRENCH. Why, yes.

Mr. TAYLER. That no plural wife whom any man has to-day was taken except in violation of law? You know that, do you not?

Mr. FRENCH. Why, yes; that is true.

Mr. TAYLER. But that the higher law only supervened to deny the right to take additional wives in 1890? That is right?

Mr. FRENCH. Well, they had not felt that the other law was correct. They had not felt that the Government would support that, but when the Government did, in a decision that, I believe, was handed down in 1890, then they were willing to accept it.

Mr. TAYLER. In 1890?

Mr. FRENCH. I think that was about the time of the decision.

Mr. TAYLER. Do you not know it was handed down in 1878?

Mr. FRENCH. Oh, yes; I know there was one, but they did not——

Mr. TAYLER. Was not that the time when the Supreme Court said that no man can take two wives and not violate the law of the land? Was not that the decision that settled for all time, in the mind of any

honest man who wanted to know, the question whether the law against taking more wives than one was constitutional?

Mr. FRENCH. Well, I say I personally accept that. I am not offering this as a defense or explanation.

Mr. TAYLER. I understand.

Mr. FRENCH. I simply make the statement that I believe represents the thought of the Mormon people at that time. That is all.

Mr. TAYLER. They did not, then, accept the decision of the Supreme Court upon that subject, did they?

Mr. FRENCH. I believe they feel that they were not properly represented before the court at that time.

Mr. TAYLER. Did you ever read the opinion of Chief Justice Waite in that case?

Mr. FRENCH. I would say I have not made a close study of that case; no.

Mr. TAYLER. I think if you would read it you might say that there was no doubt about what the Supreme Court said was the law of our civilization and the law of the land.

Mr. WORTHINGTON. The witness did not intimate any doubt on that subject, Mr. Tayler. He said the Mormons understood they were not properly represented in the presentation of that case to the court.

Mr. TAYLER. I understand.

Mr. FRENCH. And you understand my statement is to the effect that I did not say I did not accept that as good law. I said there was that feeling among the Mormon people.

Mr. TAYLER. Where did you get information of that feeling that you have just now described? Where did you get information that the feeling existed in the Mormon mind that they were not properly represented in the case of *Reynolds v. Utah*?

Mr. WORTHINGTON. *Reynolds v. United States*.

Mr. TAYLER. Yes; *Reynolds v. United States*.

Mr. FRENCH. You say, where did I get it?

Mr. TAYLER. Yes; from whom? It is interesting to me, for I never heard that any such doubt existed.

Mr. FRENCH. I do not remember just who first made that statement, but I remember that several of us who were here were talking the question over why they did not accept it prior to that time, and the statement was made. I simply offer it as a suggestion that that was the reason.

Mr. TAYLER. That is to say, the thing that was in the Mormon mind was that although the Chief Justice of the Supreme Court of the United States, all of the members of the Supreme Court concurring, declared that no religious belief would justify the practice of taking more wives than one, the members of the church did not accept that as declaring the law because they had not been properly represented in that case before the Supreme Court. Is that correct?

Mr. FRENCH. That is my opinion, that there is a feeling very general among the Mormons; yes.

The CHAIRMAN. I want to ask one or two questions, Mr. French. You are a Member of Congress from Idaho?

Mr. FRENCH. Yes, sir.

The CHAIRMAN. You have just been reelected?

Mr. FRENCH. Yes, sir.

The CHAIRMAN. So you have made a canvass of the State twice?

Mr. FRENCH. Yes, sir.

The CHAIRMAN. In that canvass you took no thought of the support of the Mormon Church one way or the other?

Mr. FRENCH. I never did. I never in any campaign or any convention took any thought of the Mormon Church as a church. There are people who belong to churches. There are Methodists who belong to the Methodist Church, and so on.

The CHAIRMAN. I understand.

Mr. FRENCH. We think of them as individuals. I have.

The CHAIRMAN. Your answer is that you take no thought of the organization.

Mr. FRENCH. No, sir; I have not, nor have I conferred with any leader of the organization relative to politics.

The CHAIRMAN. Very well. You have conferred with none of the leaders?

Mr. FRENCH. No, sir.

The CHAIRMAN. No bishop?

Mr. FRENCH. No; not relative to church support. Of course I know them as individuals, and talk politics to them as I talk politics to other individuals, but never what the church could do——

The CHAIRMAN. But not with the thought that they could have any influence any more than anybody else?

Mr. FRENCH. Only as an individual.

The CHAIRMAN. That is all?

Mr. FRENCH. That is all; yes, sir.

The CHAIRMAN. You never visited, I suppose, in either of these campaigns, Salt Lake City?

Mr. FRENCH. I never did.

The CHAIRMAN. I wanted simply to find out the fact about it.

Mr. FRENCH. I passed through Salt Lake once as a very small boy, and I passed through a year or so ago during a trip West from the East—not during a campaign.

The CHAIRMAN. I do not care anything about that. The other question was answered fairly and squarely, and I have not the slightest interest in whether you did go there years ago as a boy.

Mr. FRENCH. I say when I did pass through a year or so ago I did not see any Mormons that I knew to talk to.

The CHAIRMAN. The Mormons, you say, divide politically?

Mr. FRENCH. That has been my observation.

The CHAIRMAN. Speaking about some convention where there were—some 46 Mormons, did you say?

Mr. FRENCH. I believe I said 43.

The CHAIRMAN. Did they vote as a body one way or the other?

Mr. FRENCH. I do not think they voted as a body because they were Mormons.

The CHAIRMAN. That is not my question. I asked you if they voted as a body?

Mr. FRENCH. They all voted for Mr. Gooding; yes.

The CHAIRMAN. That is what I wanted to get at.

Mr. FRENCH. They came, however, from the counties surrounding Mr. Gooding's county.

The CHAIRMAN. That I did not ask you. I simply wanted to know how they voted.

Mr. FRENCH. That is true; they voted for Mr. Gooding. Let me answer that a little further.

The CHAIRMAN. Certainly.

Mr. FRENCH. To say they voted as a body might imply that they cast their vote as a body of 48 members.

The CHAIRMAN. I did not mean that.

Mr. FRENCH. There were a few in one county, a few in another county, a few in another county, and whole counties voted that way.

The CHAIRMAN. That might throw additional light on it, perhaps, but the delegates to the convention voted for the same man?

Mr. FRENCH. Oh, yes; that is true. All of the delegates from all those counties voted for the same man, whether they were Gentiles or Mormons.

The CHAIRMAN. I understand you to say that you apprehend there are persons living in polygamy in Idaho in violation of the law to-day?

Mr. FRENCH. I did not quite catch the question.

The CHAIRMAN. Did I understand you to say there are persons living in polygamous cohabitation in Idaho to-day?

Mr. FRENCH. I do not know of that. I have heard that statement made; yes.

The CHAIRMAN. You have heard that?

Mr. FRENCH. Yes; I have heard it brought out here and I have read it in the papers.

The CHAIRMAN. You never heard it out there?

Mr. FRENCH. Yes; I have seen that statement made in the papers and I have heard it said.

The CHAIRMAN. Do you not, of your own knowledge, know of persons living in polygamous cohabitation in Idaho?

Mr. FRENCH. Why, no; I do not. I would say that to the best of my information I have never been in a polygamous home. I know, probably, some of these men. I think I could recognize some of the names that were mentioned there. One of those gentlemen, I believe, runs a hotel, and it is possible I stopped at that hotel. Other than that I do not know of any case where I ever stopped at a home where a man lived who is said to be a polygamist or who is a polygamist.

The CHAIRMAN. When was the State admitted?

Mr. FRENCH. I think it was in 1890, about July 3, if I remember rightly.

The CHAIRMAN. You mentioned some reason why prosecutions are not conducted for the violation of law?

Mr. FRENCH. Yes.

The CHAIRMAN. Prohibiting polygamy. That it was generally thought best to let it alone?

Mr. FRENCH. Yes; I think there are only about——

The CHAIRMAN. Yes, I understand; and it will cease when the present polygamists die?

Mr. FRENCH. I think that is the general feeling; yes.

The CHAIRMAN. And it will be continued until they do die?

Mr. FRENCH. That would no doubt be the opposite inference, yes;

and I believe that most polygamists would live in that state until their death.

The CHAIRMAN. Do you know of any prosecutions?

Mr. FRENCH. Why, no; not since then. In fact, as was said here, I have talked with or read the statements of those who were interested in politics at that time, and they seemed to be of the opinion that it was generally understood that the—

The CHAIRMAN. That I did not ask you anything about, Mr. French. You answered the question. I want to know, because you seem to be familiar with the politics of that State, what would be the effect upon your political fortunes if it came within your knowledge that a member of that church was living in polygamy in your own town and you should make complaint against him and have him arrested?

Mr. FRENCH. You say what would be the effect?

The CHAIRMAN. How would it affect you, or would it affect you at all?

Mr. FRENCH. If it were an old case—that is, I don't mean by that an old person; I mean if it were an old case, a case prior to 1890—I believe that the Mormons of the State and a great many other people would resent any such thing as that. If it were a new case, I believe the Mormons of the State would very generally support me in it; but, on the other hand, there would be some of them who would still feel that I was not doing right.

The CHAIRMAN. They would turn against you, then?

Mr. FRENCH. Some would; but I believe that the Mormons of the State do not approve of new polygamous marriages and relations.

The CHAIRMAN. Suppose you should complain of a person married, previous to the admission of the State, to a plurality of wives, who was continuing to live with these wives and raising families by all of them. If you should complain of such a case as that, how would it affect you?

Mr. FRENCH. I think it would be resented by the members very generally of the Mormon Church. I think so.

The CHAIRMAN. So it is quite necessary, in politics, not to offend that church by such a step as that?

Mr. FRENCH. Well, I think they would regard it as rather a breach of faith.

The CHAIRMAN. Yes.

Mr. FRENCH. I think they would.

The CHAIRMAN. Naturally.

Mr. FRENCH. I do not mean upon my part, but a breach of faith entered into with the leaders of political parties.

The CHAIRMAN. If you should make an attempt to punish, or be an instrument in securing the punishment of men who are living in violation of the law to-day—I do not care when the marriage was contracted—you think the Mormon Church and a great many other people of the State would resent it?

Mr. WORTHINGTON. He did not say the Mormon Church, Mr. Chairman. He said the Mormons.

The CHAIRMAN. The Mormons, then. I will leave out the word "Church." They would resent it?

Mr. FRENCH. I did not quite catch the force of that one clause you used. Did you say "Without having any regard to when the marriage occurred?"

The CHAIRMAN. No; but if they are continuing, I say. I will assume, in other words, that the marriage occurred previous to the admission of the State, or to what is called the manifesto.

Mr. FRENCH. Yes.

The CHAIRMAN. And the parties are living together, with a multiplicity of wives, and having children by all the wives. You say if you should attempt to prosecute such people for the violation of the law it would be resented?

Mr. FRENCH. My judgment is that it would. My judgment is that even the younger members of the church would resent that in this way. They would feel that we were rather violating the good faith of 1890.

The CHAIRMAN. That might jeopardize, then, your political fortunes before the people, if you should do that?

Mr. FRENCH. Oh, well, that might be a deduction, too; yes.

The CHAIRMAN. That is all.

Mr. TAYLER. Speaking about this understanding, Mr. French, are you sufficiently familiar with the history of this controversy to know what the written understanding was about it?

Mr. FRENCH. No; I am not.

Mr. TAYLER. Do you not know there was a written understanding with the President of the United States?

Mr. FRENCH. No; I am not familiar with that.

Mr. TAYLER. Did you ever hear of the petition for amnesty signed by the apostles and the presidency, or all who were in this country? There may have been one or two absentees. Did you ever hear of that?

Mr. FRENCH. I understand, in a general way, that there was something of that kind. I never read it.

Mr. TAYLER. You have spoken about an understanding.

Mr. FRENCH. Yes.

Mr. TAYLER. You recall that petition signed, as I say, by these apostles, in which they pray for amnesty for those who had been prosecuted, and you know the prosecutions were almost all for polygamous cohabitation, were they not?

Mr. FRENCH. Yes.

Mr. TAYLER. There was rarely a prosecution for polygamy on account of the difficulty of proving the polygamous marriage, and they sought to have the ban of these prosecutions lifted, and concluded the prayer for amnesty by this:

"As shepherds of a patient and suffering people we ask amnesty for them and pledge our faith and honor for their future."

Did you understand that to mean their faith and honor that they would abstain from polygamous cohabitation as well as from making plural marriages?

Mr. WORTHINGTON. He said he was not familiar with it.

Mr. TAYLER. Oh, Mr. Worthington, do not interfere with your witness.

Mr. FRENCH. I have never read that.

Mr. TAYLER. You never read that, Mr. French?

Mr. FRENCH. No; not that statement you are reading.

Mr. TAYLER. You never read this plea for amnesty? It is the heart of the whole Mormon question. Do you not know that?

Mr. WORTHINGTON. I object to Mr. Tayler making his argument in the examination of this witness.

Mr. TAYLER. Let me ask you this: Did you ever read President Harrison's amnesty proclamation, issued in January, 1903?

Mr. FRENCH. If I read it, I am not familiar with it.

Mr. TAYLER. And will not this refresh your recollection, that in that proclamation it was said:

"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"—

That is the petition to which I have just referred—

"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, which request a very large number of influential non-Mormons residing in the Territories have also strongly urged; and

"Whereas the Utah Commission, in their report bearing date September 15, 1892, recommend that said petition be granted, and said amnesty proclaimed under proper conditions as to the future observance of the law, with a view to the encouragement of those now disposed to become law-abiding citizens; and

"Whereas during the past two years such amnesty has been granted individual applicants in a very large number of cases, conditioned upon the faithful observance of the laws of the United States against unlawful cohabitation, and there are now pending many more such applications:

"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."

You never heard of that?

Mr. FRENCH. As I said, I am not familiar with that; no.

Mr. TAYLER. But notwithstanding that proclamation and that statement, you say there was an unwritten understanding that they should not be disturbed?

Mr. FRENCH. As I understand it, that is the statement that Senator Dubois makes in the United States Senate.

Senator DUBOIS. Mr. French, that story was all right for a campaign, but here is what Senator Dubois said in that very speech:

"The polygamous relations, of course, should not continue, but we would not compel a man to turn his families adrift."

That is the speech.

Mr. FRENCH. Yes; there is more than that, if I could have opportunity to find it.

Senator DUBOIS. Here it is:

"We had no authority of law, but we took it upon ourselves to assure them that those older men who were living in the polygamous relation who had growing families which they had reared and were rearing before the manifesto was issued, and at a time when they thought they had a right under the Constitution to enter the polygamous relation—that those older men and women and their children should not be disturbed; that the polygamous man should be allowed to support his numerous wives and their children. The polygamous relations, of course, should not continue, but we would not compel a man to turn his families adrift."

Mr. FRENCH. Yes; that is the statement.

Mr. TAYLER. You understand that I have never referred to a case of new polygamy or of caring for the unfortunate companion of a man who had taken plural wives?

Mr. FRENCH. Yes.

Mr. TAYLER. You understand all your questions have relation to this thing of having their wives bear new children? You have understood, have you not, that all my inquiries to you have touched only that phase of polygamous cohabitation since 1890?

Mr. FRENCH. I understand that what you are speaking of now applies in the way that you outline; yes.

Mr. TAYLER. I do not understand you now. Do you not understand that in every question I have asked you with respect to what is the attitude of the people of Idaho and what your attitude is, and with respect to any possible prosecution that may occur, I have been asking you—and have been particularly guarded in my language so as to exclude anything else—solely about those cases of men who are having children by their plural wives now and since 1890? You understand that is the only thing I have asked you about in reference to this subject of polygamous cohabitation?

Mr. FRENCH. I understand generally that that is the trend of your questions; yes—whether there would be any—

Mr. TAYLER. Please understand, then, that that is the specific trend of it, and if you have any remark to make after that suggestion—I mean in justice to yourself and to me—I want you to make it, because I do not want you to confuse in my questions anything in respect to that humane duty that a man owes to a woman to whom he was married, or to children whom that woman has borne him, but only to answer in reference to the relations that he continues as a husband, in the fullest sense of the term, with that woman. You understand that is all I have asked you about?

Mr. FRENCH. Well, I understand that that is the general trend of your questions.

Mr. TAYLER. Did you ever meet M. F. Cowley?

Mr. FRENCH. No; I never met him that I know of.

Mr. TAYLER. That is all.

The CHAIRMAN. You say the younger element of the Mormons are opposed to the taking of new wives?

Mr. FRENCH. I have talked with younger members——

The CHAIRMAN. Are they opposed to it?

Mr. FRENCH. That would be my judgment. I believe they are; yes.

The CHAIRMAN. What would be your judgment about a constitutional amendment prohibiting polygamy in all the States and all the Territories?

Mr. FRENCH. I believe they would support it. I think there was a strong movement even in Utah, so the papers reported a year or so ago, for the legislature to call upon Congress to pass such an amendment, or make provision for such an amendment.

The CHAIRMAN. Such an amendment as that would be hailed with acclaim generally by the Mormons and all the people?

Mr. FRENCH. I think they would approve of it. I think so.

The CHAIRMAN. Have you any doubt about it?

Mr. FRENCH. Why, I do not doubt but what they would, because I have talked with them. I do not know that that question was ever raised. I believe I can remember one gentleman with whom I discussed the question and he was of that opinion, that they would approve of it.

The CHAIRMAN. Knowing the situation as you do in Idaho, what would be your judgment as to that being the most effective way of reaching it—a constitutional amendment prohibiting polygamy in the States?

Mr. FRENCH. In the State of Idaho?

The CHAIRMAN. In the States everywhere.

Mr. FRENCH. Why, yes; that would be all right.

The CHAIRMAN. That would be your judgment, that it would be an effective way of reaching it?

Mr. FRENCH. That would be an effective way; yes.

The CHAIRMAN. And would meet with your approval, of course?

Mr. FRENCH. I can not see any reason why it should not; no. It would meet with my approval.

The CHAIRMAN. I understood that if you prosecuted a person who was living in violation of the laws of the land, the Mormons and others, Gentiles——

Mr. WORTHINGTON. If married before the manifesto, he said.

The CHAIRMAN. Yes; would resent it.

Mr. FRENCH. I said that I felt that, generally speaking, they would. I believe that, generally speaking, they do not understand this question as Mr. Tayler has suggested it. I think they would resent it.

The CHAIRMAN. You think they would resent it?

Mr. FRENCH. I rather think they would.

The CHAIRMAN. And if you were running for your present position in Congress, for instance, and you should make complaint against any person of the Mormon faith for living in polygamous cohabitation, you think they would resent it?

Mr. FRENCH. I think they would; yes.

The CHAIRMAN. How would they manifest that resentment?

Mr. FRENCH. They would manifest it by simply supporting somebody else, I suppose.

The CHAIRMAN. Instead of you?

Mr. FRENCH. I suppose they would.

The CHAIRMAN. That is all.

Mr. WORTHINGTON. You say you think the Mormons generally would resent it. I understood you to say a while ago you thought a good many of the non-Mormons in the State would resent it too?

Mr. FRENCH. Yes; I think so.

Mr. WORTHINGTON. Is it not a fact that a great many of the Democratic non-Mormon newspapers and people did resent the insertion of that in the Democratic platform last summer?

Mr. FRENCH. Yes; that is true.

I would like permission here to make one or two more statements in this connection. I have heard that in Bear Lake County there have been two births in polygamous families since 1890, and I feel that the people in that county—

Mr. TAYLER. Do you mean that there have been only two, or that you have heard of two?

Mr. FRENCH. The gentleman who told me, told me that he thought he would know of all such cases if they occurred, and that in his judgment there were only two.

Mr. WORTHINGTON. He is a physician, did you say?

Mr. FRENCH. Yes; this is Doctor Hoover. He told me there had been only two; and I would say that if in the period of some fourteen years there were only these two cases—that may be wrong; I am simply stating that—I believe it is a very rare thing.

Mr. WORTHINGTON. Mr. French, in reference to the matters as to which Mr. Tayler has examined you, and especially the petition and proclamation of amnesty which followed it by President Harrison, I will ask you whether or not your judgment that this tacit understanding existed in Utah and in Idaho would be at all supported by the fact after that petition and after that amnesty proclamation Congress admitted the State of Utah into the Union and required only in this connection that the State should prohibit polygamous or plural marriages afterwards and said nothing about polygamous cohabitation, and the further fact that Idaho was admitted after that without any provision at all on the subject? Would not that tend to support your idea?

Mr. FRENCH. I rather think it would.

Mr. WORTHINGTON. That former marriages were not to be interfered with, and that the United States was a party to the agreement.

Mr. FRENCH. That, I think, is the feeling of those people. As I said, I was a boy then. I had no part in the understanding, and am simply interpreting what I think is the feeling of the people of the State and the Mormons upon that question.

The CHAIRMAN. Have you anything further?

Mr. WORTHINGTON. I think that is all.

DURATION OF SESSIONS.

The CHAIRMAN. Who is your next witness?

Mr. WORTHINGTON. Can we not stop now, Mr. Chairman?

The CHAIRMAN. I would like to go on until 5 o'clock, unless there is some special reason for not doing so. We could get started on another witness.

Mr. WORTHINGTON. We had not expected to go on further to-day.

The CHAIRMAN. Have you not some witness you can start with?

Mr. WORTHINGTON. We could, but it would be with very little satisfaction to ourselves. I was going to say that if the committee desire that the sessions shall extend until 5 o'clock, we will try to arrange our affairs to conform to it. The committee has very seldom heretofore sat after 4 o'clock.

The CHAIRMAN. I said to the members of the committee that we would remain in session until 5 o'clock each day, but if counsel are taken by surprise about it we will not go on longer to-day. You have no witness ready?

Mr. WORTHINGTON. We have witnesses, but we are not in a position to go on with satisfaction to ourselves, and, I think, to the committee.

The CHAIRMAN. I did not know but that you might start with a witness and proceed with a few of the preliminaries.

Mr. WORTHINGTON. We would very much prefer to adjourn now for the day, and we will arrange to go on hereafter until 5 o'clock.

The CHAIRMAN. How about the recess being from 12 until half past 1, instead of until 2 o'clock?

Mr. WORTHINGTON. That will be satisfactory to us.

The CHAIRMAN. That can be determined later. The committee will stand adjourned now until to-morrow morning at 10 o'clock.

The committee (at 4 o'clock and 25 minutes p. m.) adjourned until to-morrow, Thursday, January 12, 1905, at 10 o'clock a. m.

WASHINGTON, D. C., *January 12, 1905.*

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

Present: Senators Burrows (chairman), Foraker, Knox, and DuBois; also Senator Smoot; also Robert W. Tayler, counsel for the protestants, and A. S. Worthington and Waldemar Van Cott, counsel for the respondent.

The CHAIRMAN. Mr. Worthington, call the next witness.

TESTIMONY OF F. H. HOLZHEIMER.

F. H. HOLZHEIMER, being duly sworn, was examined, and testified as follows:

Mr. VAN COTT. What is your age?

Mr. HOLZHEIMER. Thirty-seven.

Mr. VAN COTT. Where were you born?

Mr. HOLZHEIMER. Lewiston, New York State.

Mr. VAN COTT. Where did you live in your early years?

Mr. HOLZHEIMER. In the State of Michigan.

Mr. VAN COTT. For how many years?

Mr. HOLZHEIMER. Our family moved to Utah about twenty years ago.

Mr. VAN COTT. Did you live in Michigan until that time?

Mr. HOLZHEIMER. I did.

Mr. VAN COTT. How many years would that be?

Mr. HOLZHEIMER. Seventeen; about sixteen years it was, really.

Mr. VAN COTT. How long did you live in Utah?

Mr. HOLZHEIMER. About twenty years.

Mr. VAN COTT. Did you have occasion to travel in different parts of the State?

Mr. HOLZHEIMER. Yes, sir.

Mr. VAN COTT. How generally?

Mr. HOLZHEIMER. Between the years 1889 and 1894 I was constantly traveling throughout the State of Utah in the interest of the Rio Grande Railroad Company.

Mr. VAN COTT. Did that end in the latter year?

Mr. HOLZHEIMER. No. At that time I left and was gone for two years studying law at Ann Arbor, Mich.

Mr. VAN COTT. You graduated in law at Ann Arbor?

Mr. HOLZHEIMER. In 1896.

Mr. VAN COTT. You then went back to Utah?

Mr. HOLZHEIMER. I did.

Mr. VAN COTT. How long were you there?

Mr. HOLZHEIMER. I was in Utah constantly from that time until two years ago last November.

Mr. VAN COTT. Where did you then go?

Mr. HOLZHEIMER. Pocatello, Idaho.

Mr. VAN COTT. In what part of Idaho is Pocatello?

Mr. HOLZHEIMER. In the southern part, in the county of Bannock.

Mr. VAN COTT. Is that what is called one of the Mormon counties?

Mr. HOLZHEIMER. It is.

Mr. VAN COTT. Have you been practicing your profession there?

Mr. HOLZHEIMER. Yes, sir.

Mr. VAN COTT. How generally have you become acquainted in the State of Idaho since you went there?

Mr. HOLZHEIMER. My brother and I are in partnership, and the business of the firm had been started several years prior to my going to Idaho. So when I went there two years and more ago we had an established practice, and it has been an extensive practice since that time.

Mr. VAN COTT. Have you traveled in different parts of Idaho?

Mr. HOLZHEIMER. I have.

Mr. VAN COTT. Do you belong to the Mormon Church?

Mr. HOLZHEIMER. I do not.

Mr. VAN COTT. Have you ever belonged to it?

Mr. HOLZHEIMER. Never.

Mr. VAN COTT. Do you belong to any church?

Mr. HOLZHEIMER. To the Episcopal Church.

Mr. VAN COTT. In politics what are you?

Mr. HOLZHEIMER. A Democrat.

Mr. VAN COTT. Have you always been?

Mr. HOLZHEIMER. Always been a Democrat, except in the early days of Utah I belonged to what was known then as the Liberal Party.

Mr. VAN COTT. That took in all Gentiles, irrespective of their politics?

Mr. HOLZHEIMER. Irrespective of politics.

Mr. VAN COTT. Have you taken any interest in politics since you have been in Idaho?

Mr. HOLZHEIMER. Yes, sir.

Mr. VAN COTT. Now, calling your attention to the campaign of 1904, did you attend any convention?

Mr. HOLZHEIMER. I attended the convention that met at Lewiston, which started on the 15th of August, 1904, as a delegate from Bannock County.

Mr. VAN COTT. Was that a Democratic convention?

Mr. HOLZHEIMER. It was.

Mr. VAN COTT. What was the purpose of it?

Mr. HOLZHEIMER. The purpose of that convention was to adopt a platform for the campaign of 1904.

Mr. VAN COTT. The State campaign?

Mr. HOLZHEIMER. State and national.

The CHAIRMAN. May I interrupt you for just a moment?

Mr. VAN COTT. Yes, sir.

The CHAIRMAN. I wish to inquire whether the two witnesses who testified yesterday will be wanted by either of the parties?

Mr. VAN COTT. We shall probably want to recall them. Anyway we should like to have them remain here until we are through with the Idaho matter.

The CHAIRMAN. Very well.

Mr. VAN COTT. Mr. Holzheimer, were you present during the time the convention sat?

Mr. HOLZHEIMER. I was, all the time.

Mr. VAN COTT. I wish you would give us a general idea, and go into detail if you think it necessary, as to the discussion that took place there regarding the resolution that contained and the resolution that did not contain the word "adultery," following them along through the convention, and particularly bear in mind the connection of what is called the Mormon people therewith.

Mr. HOLZHEIMER. To do that, Mr. Van Cott, I would necessarily have to explain something that took place prior to the meeting of that convention.

Mr. VAN COTT. Do it in your own way, so as to make it clear and intelligible.

Mr. HOLZHEIMER. During the summer particularly of 1904, the Mormon question was agitated in southern Idaho particularly, I guess, and it was intimated and said on divers occasions and at what was known as the Weiser convention, held prior to the Lewiston convention, at which convention delegates were named for the national convention of the Democratic party—it was reported and currently taken up on the streets in Pocatello that an attack was to be made upon the Mormon people themselves, and they were classed as criminals and lawbreakers, and that it was the intention of the Lewiston convention to pass some sort of a resolution condemning them generally.

This talk created quite a sentiment, quite a feeling among the Mormon people in that end of the country, and when they went to Lewiston and attended the convention, there was quite a feeling among them that they had been villified and insulted, and that some injury was to be done them.

When the convention met I was appointed one of the committee upon platform and resolutions, which consisted of one member from each county. That committee met in session and appointed a sub-

committee of five, whose business it was to draft a platform for that campaign.

We met in the subcommittee and drafted a platform in which was contained a plank, known as the Mormon plank, very much similar to the one afterwards passed by the convention.

There was a minority report made to this plank, asking that it be stricken out of the platform. The fight was made in the convention upon that proposition, and the convention voted, I believe, by a vote of 153 to 131 to strike out this plank from the platform.

The final vote was taken a little after midnight, I believe, and the convention then adjourned. During the night Mr. Heitfeld——

Senator DUBOIS. Would it interrupt you at all——

Mr. HOLZHEIMER. No, sir; not at all.

Senator DUBOIS. If I were to ask you to state there who voted to strike out the plank and who voted to keep it in? I do not want to disturb you.

Mr. HOLZHEIMER. It is no interruption.

The CHAIRMAN. Do you mean the names?

Senator DUBOIS. Oh, no; I mean the factions.

Mr. TAYLER. This was the first convention?

Mr. HOLZHEIMER. By factions or by counties?

Senator DUBOIS. Generally speaking, did the Mormons and their adherents vote to strike out the plank?

Mr. HOLZHEIMER. They did, certainly.

Senator DUBOIS. And those who desired anti-Mormon legislation voted to keep the plank in?

Mr. HOLZHEIMER. I can go further and say this. I learned from conversations I had with delegates from the north that they voted to sustain that Mormon plank because it was told them that it was necessary for the good of the State. They had no opinion one way or the other.

Senator DUBOIS. You can state that afterwards. I want the facts of the vote in the convention, and that is all.

Mr. HOLZHEIMER. As it was voted upon in the convention, I think all of the southern counties, not only the Mormon counties, but others besides the Mormon counties, voted solidly to have that plank stricken out of the platform.

The CHAIRMAN. At what date was this convention held?

Mr. HOLZHEIMER. August 15, 1904.

The CHAIRMAN. It is the August convention you are now speaking of?

Mr. HOLZHEIMER. Yes, sir.

The CHAIRMAN. Have you a copy of that plank?

Mr. HOLZHEIMER. Not the one that was stricken out.

The CHAIRMAN. Can you——

Mr. HOLZHEIMER. It was in substance almost what was afterwards passed by the convention.

Senator DUBOIS. I would state that it was the same, except that the word "adultery" was in the first plank and not in the second.

Mr. HOLZHEIMER. I beg the Senator's pardon. There was a third resolution offered as a compromise measure, containing the word "adultery," to which I will come in just a moment.

Mr. TAYLER. This was the last convention?

Mr. HOLZHEIMER. This was the last convention.

The CHAIRMAN. Held August 15?

Mr. HOLZHEIMER. August 15, 1904.

The CHAIRMAN. Have you that plank?

Mr. HOLZHEIMER. It has been read here; the one that passed. I have not the words of the original plank.

Senator DUBOIS. You were not a delegate to Weiser?

Mr. HOLZHEIMER. I was not.

Senator DUBOIS. Will you be kind enough to insert the Weiser plank? Have you the Weiser plank which was adopted by the Democratic party?

Mr. HOLZHEIMER. I have not.

Senator DUBOIS. Will you be kind enough to get the Weiser plank? You referred to it. You were not there. Will you be kind enough to get it and insert it in the record?

Mr. HOLZHEIMER. I do not know where I could get it. I did not know what I was to bring, or what the line of testimony would be. I brought nothing of the kind, except a few newspapers.

Senator DUBOIS. It is no trouble to get it. But inasmuch as the witness is going into this, I think we ought to have the historical facts.

Mr. VAN COTT. I believe Mr. Brady will be able to furnish that to us.

Senator DUBOIS. Mr. Brady will be here?

Mr. VAN COTT. Yes.

Senator DUBOIS. Mr. Brady ought to be able to produce it.

Mr. VAN COTT. Now take up the thread of your narrative; and I would suggest that you give us the substance of the first resolution; the substance of the second, when you reach it, and the substance of the third, when you reach that, so as to make the narrative connected.

Mr. HOLZHEIMER. The substance of the first resolution was practically that polygamy—let me see if I can get the words; I can not give the words, but in substance and effect it was like the one that was passed and which has been read here into the evidence. The words I can not remember, but the substance and effect was the same.

The CHAIRMAN. What was the substance, if you can state?

Mr. HOLZHEIMER. "We demand the extermination of polygamy and unlawful cohabitation in the State of Idaho, and the complete separation of church and state," or words to that effect.

Mr. VAN COTT. Now proceed.

The CHAIRMAN. Was that the resolution which was voted down?

Mr. HOLZHEIMER. That was the resolution which was voted down.

The feeling, as I have stated, was very bitter at this time, because of the denunciations that had been made against the Mormon people. They saw in this, particularly in the part of the resolution which had reference to the separation of church and state, as they took it, an attempt to again disfranchise them as a people. They had been disfranchised, and they looked upon it with great fear. And things were said in Lewiston upon the streets and in the convention that led them to believe the attack was made upon them purely from a personal motive and not for the morals of the State of Idaho, as had been said. I, as a Gentile, of that committee—they were all Gentiles practically upon the subcommittee; in fact, every one of the subcommittee was a Gentile—we opposed it because there was no occasion for anything of that kind in the State of Idaho.

There was no polygamy, as we understood it, in Idaho, and the

Mormon Church did not dominate in our political affairs. I have found among the Mormon people—I have been with them upon the stump in different campaigns, not alone in Idaho, but in Utah—I have found them ardent partisans, particularly as the campaign goes on; they have their politics, and they fight it out on that line.

Another reason why we opposed it was this, that that resolution, coming as it did, emanating from the source it did, had a tendency to drag religious matters into our State politics and array one end of the State against the other. It had a tendency to hold all the Mormon people guilty for either the supposed or actual wrongs committed by a few of the Mormon people. The purpose of it tended, as it was stated in open convention—they were all called lawbreakers, and it held them up to ridicule and scorn.

Those are some of the reasons why I, as one, opposed the injection of the so-called Mormon plank into the platform, and fought it out on that line.

The next day Mr. Redwine, from Salmon City, in the central portion of the State, practically, seeing the great strife that was on, offered what was known as a compromise resolution or plank, and the only difference from the one finally passed, practically, was that it contained the word "adultery." He argued to the convention, and particularly to those in the north, that if they desired to protect the morals of the State of Idaho, this was not a direct slap as against the Mormon people; and if they were sincere in their motives, he offered to them his resolution, which contained the word "adultery" as well as the crimes of polygamy and unlawful cohabitation. That was voted down, mostly by the northern counties; voted down by Ada County, of which Mr. Jackson was a member, and voted down by Custer County, of which Senator Dubois was a member.

Then the resolution was offered which finally passed, submitted by Senator Dubois. I believe it is in the record here. The exact words I can not recall just now. That passed the convention.

But that only passed because of the reason that during the night which intervened between the defeat of the first plank and the carrying of the third influences were brought to bear which changed the vote of Idaho County and Shoshone County particularly. Many of the counties had adopted what was known as the unit rule in their voting. Particularly among those counties was Ada County, in which is the city of Boise, and the largest county in the State. Idaho County had done the same, and also Shoshone County. So that by changing a few votes in each of those counties they were able to vote the entire delegation one way or the other.

The rumbr was, at any rate, that enough votes were changed to change the complexion of the entire vote the next day.

Senator DUBOIS. What was that vote, if you recollect?

Mr. HOLZHEIMER. How?

Senator DUBOIS. By what vote was the resolution passed?

Mr. HOLZHEIMER. The third one.

Senator DUBOIS. The second one, I think.

Mr. HOLZHEIMER. One hundred and seventy-seven and eight-fifteenths to one hundred and seven and seven-fifteenths.

Mr. TAYLER. That was the one that was finally incorporated in the platform?

Mr. HOLZHEIMER. Finally passed.

Mr. VAN COTT. Did you draft a minority report?

Mr. HOLZHEIMER. I did.

Mr. VAN COTT. Do you know whether in the operation of the unit rule men were voted in favor of the third resolution who were in sentiment opposed to it?

Mr. HOLZHEIMER. Absolutely. There were at least eight of them in Ada County that I personally knew—seven or eight; about six in Idaho County that I personally knew.

Mr. VAN COTT. In the discussion in the convention or in the committee was there anything said in opposing the resolution that would in effect be an indorsement of polygamy or the domination of the church in politics?

Mr. HOLZHEIMER. Never at any time.

Mr. VAN COTT. Have you finished your answer to that question?

Mr. HOLZHEIMER. Except to state that Senator Heitfeld himself in the northern part of the State was a very popular man, and it was rumored and talked of considerably upon the streets that night and in the early morning that he had stated to the delegations that had been instructed for him, and I think particularly the Idaho delegation, that they must, for his sake, change their votes, because he was under pledge of some kind with the national committeeman, having obtained some sort of a resolution in the national platform of like character, to see that the Idaho convention did the same thing, telling them if he could not get such a plank in the platform he would not run; that it would place him in a false light.

Mr. VAN COTT. After the convention adjourned when did the campaign begin?

Mr. HOLZHEIMER. The campaign began immediately, because during the time the convention was adopting this plank and during the rest of the convention remarks were made that I might say started the campaign at once, and the Democrats—that is, I say, 98 per cent of the Democrats, the leading Democrats of the State—refused from that time on and continued to refuse to participate in the Democratic politics of the State of Idaho, they—

Mr. VAN COTT. Do you mean—excuse me.

Mr. HOLZHEIMER. They claiming that it was uncalled for; that the necessity did not exist; that our politics were not dominated by church influence, and that the crime of polygamy—and by that I mean new polygamy—did not exist in the State of Idaho. We believed, in the words of Senator Dubois at that time, that the conditions which existed when he made this speech in the Senate in 1903 were the conditions then, and exist now, and did exist at the time of the convention.

Mr. TAYLER. Is that the best way you can give your testimony—by quoting from Senator Dubois's speech?

Mr. VAN COTT. I object to the question.

Mr. WORTHINGTON. I object to Mr. Tayler's interruption.

Mr. VAN COTT. Mr. Holzheimer has a right to answer in his own way.

Mr. WORTHINGTON. We were told when the case of the protestants was presented that the remarks of leading politicians in Idaho formed a part of the history of the times, and they were admitted as such. Now we will have a few on the other side.

Mr. TAYLER. I merely want to throw in that suggestion.

Mr. VAN COTT. Proceed, Mr. Holzheimer.

Mr. HOLZHEIMER. The language used at the time was as follows:

"I live among those people, and, so far as I know, in Idaho there has not been a polygamous marriage celebrated since that manifesto was issued, and I have yet to find a man in Idaho or anywhere else who will say that a polygamous marriage has been celebrated anywhere since the issuance of that manifesto."

That was the opinion which the Gentiles, including myself, in southern Idaho had at that time, at the time of the convention, and still have.

Mr. VAN COTT. At that convention were you nominated for any office?

Mr. HOLZHEIMER. I was nominated for Congress at the hands of that convention.

Mr. VAN COTT. Did you stand for that position during that campaign?

Mr. HOLZHEIMER. At the time the nominations were made—I had not known that I was to be nominated until a short time prior to the nomination. I was informed then by a great many people in the north, in fact mostly, because the southern people rather opposed my taking a position upon the ticket, that it would be for the good of the party, and that the difficulty and trouble that had been caused and would be caused by the injection of this plank into the platform could be remedied.

It seemed that during the arguments made prior to the adoption of this plank it was stated that through that means the Democratic party would purify the homes of Idaho, and that they intended to conduct the campaign upon a high moral plane. To both of those statements I took exception and objection, and there stated that I would not run upon any such platform. They told me that the next day the committee would outline the campaign and that I could make an honorable fight along lines that would be acceptable to me. With that understanding I accepted the nomination.

The next day I met in committee, at which Mr. Jackson was present. Senator Dubois was present. It was stated to me there that they had intended to conduct the campaign on a high moral plane; that they intended by this means to purify the homes of Idaho.

I immediately left and prepared a letter of resignation and tendered it to the committee, declining to run upon those grounds; that I was not in sympathy or in accord with that proposition, and could not conscientiously make the run upon a platform of that kind.

Mr. VAN COTT. Now, do you mean the platform which was adopted by the convention or do you mean—

Mr. HOLZHEIMER. I mean more the words that were used in connection with that platform.

Mr. VAN COTT. I see.

Mr. HOLZHEIMER. I had the language of Mr. Jackson, quoted in the newspaper, which he gave to the Lewiston Tribune, stating they intended to purify the homes of Idaho and conduct the campaign on a high moral plane.

Mr. VAN COTT. What is your opinion, whether if, in the first instance, a resolution had been presented to the convention such as you have mentioned, but including the word "adultery," the Mormon delegates would have supported it?

Mr. HOLZHEIMER. I am of opinion they would, prior to the time they had been angered and insulted by reference to them as a people. Had it come in as a matter of course, and had the word "adultery" been included, they would not have taken it as a direct slap to them, as they understood it. They were very touchy about it. They would have supported it without any question, in my mind.

Mr. VAN COTT. Commencing after the convention, will you follow along and show the development of the campaign and the way it was carried on, paying special attention to the attacks that were made on the Mormon people, and give us a general idea of what was said until after the election; and also bear in mind the general sentiment of the entire body of Democrats in the State regarding the platform and the manner of conducting the campaign on the Democratic side.

Mr. HOLZHEIMER. Immediately after the convention closed I heard expressions from the most, with the exception of two or three, of the leading Democrats in that convention, which were in opposition to the action of the State convention, they claiming, as I did at that time, that there was no occasion for anything of the kind to be injected into the State politics of Idaho. The opinion was very general that it was simply placed there to subserve personal purposes—personal ends of others.

That was the opinion then, and it was followed out by the actions and opinions of almost every prominent Democrat in the State of Idaho, and it was the sentiment and expression of every leading Democratic paper in the State of Idaho.

Mr. VAN COTT. Gentile?

Mr. HOLZHEIMER. Gentile. Every one of them was a Gentile paper and a Democratic paper. I can quote from those papers, if it is desired.

The Lewiston* Tribune, published in the north, took a decided stand against this platform, declaring that it was uncalled for and unjustifiable and had a tendency to do that which I have just narrated. The Boise Capital News, published in Boise City, and I believe those two papers are the two leading Democratic papers in the State. Coupled with them would be the Palmer Herald, the Pocatello Advance; in fact, all the prominent papers in the State and some smaller ones. I believe there were but one or two papers in the State of Idaho that supported the Democratic platform.

The Democrats in the State at once dropped political affairs; refused to go out upon the stump, except one or two; said if they did go out they would argue national politics, and they were informed that national politics was not what was wanted in this campaign.

In our county particularly the committee is composed mostly of Gentiles—the county committee, both the past chairman and the present chairman are Gentiles—and they emphatically refused to have anything to do with the State committee or its programme in the conducting of that campaign.

After the expression of the sentiment and opinion had become general in the State of Idaho, those who were conducting the campaign for the Democratic party began to change their tactics. The prevailing sentiment and opinion among the people was that it was supposed that the putting of this Mormon plank into the Democratic platform would lead them on the road to political victory; that immediately that that was incorporated in the platform both Repub-

licans and Democrats and independents would flock unto the standard of Democracy and they would control the State. The contrary was true, however. It was universally condemned in the State of Idaho, and the campaign met with no success whatever, as the vote finally showed, because they were beaten by over twice as many as they ever had been beaten in the history of the State.

A system of campaigning was then made out by those in control which had as its tendency, or was intended at least, to drive all the Mormon people into the Republican party. The remarks made by Congressman French here I have heard myself repeatedly made—that is, quoted as being made by the speakers—to the effect that they were all criminals and immoral.

The night before the election in the city of Pocatello—I think it was the night before the election—it was stated there at one of the largest meetings held in Pocatello by Senator Dubois that he advised the Mormon people to vote the Republican ticket for their own good. And when the votes were counted finally the only surprise I have to-day is that any Democratic Mormon voted the Democratic ticket.

Mr. VAN COTT. Give somewhat in detail the facts on the subject to which Mr. Jackson referred, namely, that Democratic county committees in the southern part of Idaho refused to meet with the State committee, and also keep in mind whether they were presided over by Gentile chairmen and made up of a majority of Gentile committeemen, and also whether the same thing held true in Gentile counties in Idaho.

Mr. HOLZHEIMER. With reference to our own county particularly I would state that he did meet with the committee, and I met at the same time, during which time the committee tried to urge upon Mr. Jackson the necessity of conducting a clean campaign and not making it a campaign of personal insults. He informed the committee that he was going to conduct the campaign as he pleased; that he was the chairman of the State committee and he was informed then that he would have no assistance at the hands of the precinct committee. And from hearing others, that same treatment was accorded him in some of the other counties. In fact, he had considerable correspondence with the county chairmen of Fremont and Elmore counties, in which they advised Mr. Jackson to keep the Democratic speakers out of their counties if they were to talk along the lines that had been suggested heretofore.

I would say this, in passing, that none of the old campaigners or speakers in the party participated or spoke during the campaign. The most of them refused to do so, and those who were willing to do so their style of campaigning did not suit the State committee.

Mr. VAN COTT. Now, why did the recognized leaders of the Democracy in Idaho refuse to go upon the stump?

Mr. HOLZHEIMER. Because they were told that they would of necessity have to make the Mormon plank the paramount issue, and they would have to wage the campaign on a high moral ground or plane, and they, to a man, stated that there was no occasion for it; that so far as they knew—and I stated so myself—the Mormon people were at least moral.

Mr. VAN COTT. What is your opinion as to the public sentiment in Idaho regarding the increase or decrease of polygamy?

Mr. HOLZHEIMER. Do you mean the contracting of new polygamous marriages?

Mr. VAN COTT. Yes, sir; since what has been called the "manifesto of 1890."

Mr. HOLZHEIMER. There is only one sentiment—that there are no new polygamous marriages.

Mr. VAN COTT. What is the sentiment of the younger generation of Mormons?

Mr. HOLZHEIMER. Absolutely against the practice of polygamy. I know that from personal contact with them for a number of years.

Mr. VAN COTT. When you say "young Mormons" do you mean young men and young women?

Mr. HOLZHEIMER. Both.

Mr. VAN COTT. In your opinion, how does the number of Mormons in Gentile counties compare with the number of Gentiles in Mormon counties in Idaho?

Mr. HOLZHEIMER. I believe I figured somewhat on that yesterday, and I am of the opinion from the figures I made that the Gentiles in Mormon counties outnumber the Mormons in Gentile counties at least 10 to 1.

Mr. VAN COTT. What would you say was the number of Mormons, outside of the Mormon counties, in the State of Idaho?

Mr. HOLZHEIMER. I do not believe it will exceed 650.

Mr. VAN COTT. Does that mean Mormon voters or Mormon people?

Mr. HOLZHEIMER. Mormon voters.

Mr. VAN COTT. Has there been any sentiment in Idaho regarding old cases of polygamy that were contracted before the manifesto, in regard to their prosecution?

Mr. HOLZHEIMER. There has been, but I will state that my main knowledge comes from conditions as they existed in Utah prior to my moving into Idaho, and I found the conditions were practically the same in Idaho and the sentiment there the same as it had been in Utah.

Mr. VAN COTT. What was it?

Mr. HOLZHEIMER. At the time the manifesto was issued and up to that time the question of polygamy had caused considerable agitation. It brought about a very peculiar state of affairs, because the rank and file of the Mormon people had been taught that polygamy was right, and many of them believed it was right; and it left a condition of affairs after the issuance of the manifesto—family affairs—that was an anomaly, to say the least, and the question of how to handle and take care of the problem was one which confronted the people of that State, and I do not believe they ever did really solve the problem. It was a very difficult one, as to what should be done for the best interests of all concerned.

The consensus of opinion at that time was that those who had contracted marriages prior to the manifesto should be left alone. It was not, however, believed that they should openly violate the law and unlawfully cohabit with their numerous wives. I will say this, that where that has occurred it has been mostly in isolated cases. There have been a number of cases where children have been born, but in no case that I know of has it been done openly. It is true it is against the law, but it has not been done in such an open, lewd manner as has been intimated, nor has it been general. And because of the peculiar state of affairs it was the opinion that the whole thing

would die out; that it was only a matter of a short time when the question would be entirely settled, because there would be no new marriages. I do not know; possibly there are some. I do not know how many cases there are in Idaho—possibly twenty or thirty; maybe more.

Mr. VAN COTT. How many Mormon voters are there in Idaho?

Mr. HOLZHEIMER. As near as I have been able to figure it, there are less than 15,000.

Mr. VAN COTT. What was the total vote of Idaho in the last election?

Mr. HOLZHEIMER. About 72,000.

Mr. VAN COTT. Do you know R. G. Redwine?

Mr. HOLZHEIMER. I do.

Mr. VAN COTT. Where does he live?

Mr. HOLZHEIMER. He lives in Salmon City, Lemhi County.

Mr. VAN COTT. Is that the Redwine to whom you have referred?

Mr. HOLZHEIMER. Yes, sir.

Mr. VAN COTT. Do any Mormons live in that county?

Mr. HOLZHEIMER. Very few. I do not think there are 25, if that many.

Mr. VAN COTT. Did you observe anything in Bannock County, or any of the other so-called Mormon counties, during the last campaign to lead you either to apprehend or to believe that there was any danger of violence being offered to any speakers who spoke in those counties?

Mr. HOLZHEIMER. Absolutely none. I attended a number of their meetings.

Mr. VAN COTT. Will you give us a general idea, briefly, of the way the Republican increase in votes has gone in the Mormon counties in Idaho, as compared with the same increase in the Gentile counties?

Mr. HOLZHEIMER. I would follow pretty closely the statement made here yesterday that the comparative increase in the northern Gentile counties—Republican—had kept pace with the Republican increase in the Mormon southern counties. In other words, when there has been a change of political sentiment it has not been confined to the Mormon people, but has been general throughout the State—more so because of the greater number of Gentiles in the State. The sentiment seems to have prevailed among all the people, not in particular factions or religious sects. This last year, 1904, it was in favor of the Mormon counties, and I attribute that to a great extent to the manner in which the campaign was waged by the Democratic party. It was a campaign of abuse and vilification, classing them as men and women who were lawbreakers, even advising them, for their own good, to vote the Republican ticket. As I say, the wonder is the majority was not greater.

Mr. VAN COTT. What is your opinion as to the constancy of Mormon voters in adhering to their parties?

Mr. HOLZHEIMER. Speaking from personal observation and experience—and I have been on the stump with Mormon young men, been in their communities, and attended their meetings—I find them just as ardent partisans as the Gentile element.

Mr. VAN COTT. In Bannock County, for instance, have you noticed in the elections anything that would illustrate that?

Mr. HOLZHEIMER. True. We had one particular instance. We were never beaten so bad by the Republican party as we were this last year by the Republican party, and we elected a lady, a Gentile, superintendent of schools as against a Mormon lady, in the same county, by considerably over a thousand majority for her as a Democrat, but the county ticket generally went a thousand the other way.

Mr. VAN COTT. Has the governor of Idaho the power, under the statutes, to call a Gentile judge into a Mormon county if he so desires?

Mr. HOLZHEIMER. He has.

Mr. VAN COTT. Do you know whether Apostle Cowley or Apostle John Henry Smith has ever spoken on politics in Idaho?

Mr. HOLZHEIMER. I have never heard them myself, but know of their speaking there.

Mr. VAN COTT. Have you ever followed the vote of the precincts where they spoke for the purpose of determining the effect?

Mr. HOLZHEIMER. Yes; for it was a matter of amusement to those who were interested in it, because where those gentlemen spoke we won victories.

Mr. VAN COTT. That is, you mean the Democrats?

Mr. HOLZHEIMER. The Democrats.

Mr. VAN COTT. What were the politics of those gentlemen?

Mr. HOLZHEIMER. Republican.

Mr. VAN COTT. Did they speak in Gentile counties or Mormon counties?

Mr. HOLZHEIMER. Mormon precincts entirely.

Mr. VAN COTT. Is Mr. Gooding a Mormon or a Gentile?

Mr. HOLZHEIMER. I never heard him classed as a Mormon. I have always heard him spoken of as a Gentile, without any question.

Mr. VAN COTT. Have you ever seen any evidence of interference on the part of the Mormon Church in politics in Idaho. If so, what?

Mr. HOLZHEIMER. I have not.

Mr. VAN COTT. Has the Mormon Church ever demanded anything in conventions or from the legislature in Idaho, so far as you know?

Mr. HOLZHEIMER. They have not. The only State office that the Mormon people in the State of Idaho have ever held in the fourteen years of statehood has been one, and that is the present incumbent of the attorney-general's office, who was not renominated. The Democratic party have never elected a Mormon a State official, and the Republicans only the one I have referred to.

Mr. VAN COTT. When these apostles spoke in Idaho, do you understand that they spoke as representing the church or simply as men expressing their own views?

Mr. HOLZHEIMER. I take it that must have been the case, because that is the way everybody understood it, and Democrats would come in there, prominent Mormon Democrats, in the same way and talk for the Democratic party.

Mr. VAN COTT. Do you know whether the Democrats have brought prominent officials of the church from Utah into Idaho to advocate their side?

Mr. HOLZHEIMER. They have.

Mr. VAN COTT. Do you know whether Mormons, lower in the

church, have followed Apostle Cowley in different parts, in an endeavor to counteract what he has said?

Mr. HOLZHEIMER. That was particularly the case with David L. Evans—I think that is his name—who was a Mormon and was elected to the State senate on the Democratic ticket. Mr. Cowley and another, I think, were endeavoring to defeat him, and they followed and won a complete victory. Mr. Evans was elected as a Democrat.

Mr. VAN COTT. While you were in the committee on resolutions at Lewiston did any Mormon say there: "It has not yet been settled whether one wife or six are Christianity?"

Mr. HOLZHEIMER. Absolutely not; and I was in the committee at all times.

Mr. VAN COTT. Can the Mormon Church, or does it, get anything it wants from the legislature or the people of Idaho?

Mr. HOLZHEIMER. Can the Mormon Church procure anything it desires from the legislature?

Mr. VAN COTT. Or the people of Idaho?

Mr. HOLZHEIMER. I should say, decidedly not. They have never had anything that I know anything about. They are not in the majority in either house or in voting numbers.

Mr. VAN COTT. Mr. Holzheimer, are you certain and clear in your memory that in the Lewiston convention there were the three resolutions you have mentioned?

Mr. HOLZHEIMER. Yes, sir.

Mr. VAN COTT. Take the witness.

Senator DUBOIS. Mr. Tayler, would you object to my going on right here?

Mr. TAYLER. Not at all.

Senator DUBOIS. I should like to have this settled. I have here the report of the Lewiston convention, signed by the secretary. Mr. Holzheimer was there, and I will ask him if this was not the first plank. I will not read all the planks, but just the one in reference to this matter:

"We are unalterably opposed to polygamy, adultery, and unlawful cohabitation. We pledge the Democratic party to enact such legislation as will efficiently suppress such evils."

"W. H. Casady, of Idaho County, moves that the report be adopted as read. F. H. Holzheimer, of Bannock County, submits the following minority report of the committee on platform and resolutions:

"We, a minority of your committee on resolutions and platform, beg leave to submit the following minority report:

"We deprecate and oppose the plank in our proposed Democratic State platform which has reference to the Mormon Church and its people as an effort to kindle anew a sectional and factional fight between the people of one part of the State and those of another part, and to humiliate, punish, and annoy innocent persons because of the wrongs, either actual or supposed, of others, who alone should be accounted guilty.

"And we therefore recommend, for the good of the people of the State of Idaho, and for the benefit of the Democratic ticket to be nominated at this convention, that the plank as proposed in said platform with reference to the question of polygamy and church

interference in politics be absolutely eliminated and rejected, and that in lieu thereof we, in convention assembled, reaffirm the Democratic national platform as adopted at St. Louis in every particular.

"Bannock County:	F. H. HOLZHEIMER,
"Fremont County:	J. D. MILLSAPS,
"Oneida County:	D. L. EVANS,
"Bear Lake County:	J. C. RICH,
"Blaine County:	W. A. FINNEY,
"Shoshone County:	H. E. KNIGHT,
"Elmore County:	J. A. PURTILL,
	"Committee."

Is that correct up to date?

Mr. HOLZHEIMER. Absolutely. I know particularly as to the minority report. The words of the other, I suppose, are right—at least in substance.

Senator DUBOIS. I will proceed:

"Lafe Pence, of Ada County, moves to amend the motion of Casady, of Idaho County, to adopt the majority report, except the plank referring to polygamy. After discussion by C. H. Jackson, of Ada; McBee, of Kootenai; Flenner and Parker, of Ada; Finney and Balantine, of Blaine; Sovereign, of Shoshone; Evans, of Oneida, and Vineyard and Casady, of Idaho, this motion is withdrawn.

"D. L. Evans, of Oneida County, moves to amend the motion of Casady, of Idaho County, by striking out the plank relating to polygamy, etc. Discussion of this amendment is participated in by D. L. Evans, of Oneida; Mimms, of Kootenai; Jackson, Paine, and Parker, of Ada; Rich, of Bear Lake; Holzheimer and Neilson, of Bannock; Millsaps, of Fremont; Hart, of Oneida; Parker, of Idaho, and Lafe Pence, of Ada.

"The question being shall the amendment pass.

"The amendment passed by the following vote:

"Yea—Bannock, 17; Bear Lake, 12; Bingham, 6½; Blaine, 12; Boise, 1; Elmore, 4½; Fremont, 18; Idaho, 20; Latah, 6; Lemhi, 9; Oneida, 15; Shoshone, 20; Washington, 12—153½.

"Nay—Ada, 22; Bingham, 10½; Boise, 9; Canyon, 14; Custer, 8; Elmore, 2½; Kootenai, 18; Latah, 9; Lincoln, 5; Nez Perces, 20; Owyhee, 9; Shoshone, 3; Washington, 2—131½.

Is that correct up to date?

Mr. HOLZHEIMER. That is correct, I believe.

Senator DUBOIS. That was on the 15th day of August.

"LEWISTON, IDAHO, August 16, 1904.

"Convention called to order by the chairman at 10 o'clock a. m., pursuant to adjournment of yesterday.

"Prayer by Rev. Father Post, of the Catholic Church of Lewiston.

"Jackson, of Ada, moves to amend the motion of Casady, of Idaho, by adding to the majority report of the committee on platform and resolutions the following:

"We demand the extermination of polygamy and unlawful cohabitation within the State of Idaho, and the complete separation of church and state in political affairs.

"We pledge the Democratic party to enact such legislation as will effectually suppress such evils."

"This motion is seconded by Vineyard, of Idaho.

"Redwine, of Lemhi County, moves to amend the amendment of Jackson by substituting therefor the following:

"We favor the enactment of such State legislation as is necessary to carry into effect the letter and spirit of each and every principle of the St. Louis platform, and pledge our party, if successful, to pass such legislation.

"This amendment is seconded and discussion is participated in by Hon. Fred T. Dubois; Redwine, of Lemhi; Flenner, of Ada; Cassidy, of Idaho; Williams, of Oneida; Sovereign, of Shoshone, and Morgan, of Latah.

"Jackson, of Ada, moves the previous question, which is carried.

"The question being 'Shall the amendment offered by Redwine, of Lemhi, prevail?' The amendment is lost by the following vote:

"Yea—Bannock, 17; Bear Lake, 12; Bingham, 6½; Blaine, 8; Elmore, 4½; Fremont, 18; Latah, 6; Lemhi, 9; Oneida, 15; Owyhee, 3; Shoshone, 12; Washington, 5½. Total, 116½.

"Nay—Ada, 22; Bingham, 10½; Blaine, 4; Boise, 10; Canyon, 14; Custer, 8; Elmore, 2½; Idaho, 20; Kootenai, 18; Latah, 9; Lincoln, 5; Nez Perces, 20; Owyhee, 6; Shoshone, 11; Washington, 8½. Total, 168½."

Mr. HOLZHEIMER. My understanding was that that substitute of Mr. Redwine's contained the word "adultery."

Senator DUBOIS. Not in the official report. It was in the first one, that the Mormons voted down.

Mr. HOLZHEIMER. I do not understand it so.

Senator DUBOIS. Here is the record. I offer this record.

Mr. HOLZHEIMER. It may be that my understanding is wrong.

Senator DUBOIS. Here is the official record of the convention.

Senator KNOX. Mr. Tayler, before you proceed, I should like to ask a question of counsel for Senator Smoot. You asked the witness if, under the law of Idaho, the governor did not have the power to send a Gentile judge into a Mormon county. Do you wish us to understand that there is a law conferring such power in terms, or do you mean that there is a general statute permitting the governor to send a judge into any county? I ask the counsel.

Mr. VAN COTT. We will ask the witness to answer the question. He is a lawyer in Idaho.

Mr. HOLZHEIMER. It is a general statute.

Senator KNOX. Then you do not want us to understand that there is a statute that the governor may send a Gentile judge into a Mormon county?

Mr. HOLZHEIMER. No; I do not mean that.

Senator KNOX. That is the way the question was asked you.

Mr. HOLZHEIMER. Another judge could be sent there if for any reason it was desired.

Senator KNOX. Without any reference to his social or religious character?

Mr. HOLZHEIMER. Yes.

Mr. WORTHINGTON. Senator Dubois, may I look at the report of the convention?

Senator DUBOIS. Certainly.

Mr. TAYLER. Mr. Holzheimer, what is the population of Idaho?

Mr. HOLZHEIMER. The population of Idaho is possibly 250,000.

Mr. TAYLER. Is that just a guess?

Mr. HOLZHEIMER. That is a guess.

Mr. TAYLER. Have you ever known what its population was by the census?

Mr. HOLZHEIMER. The last census was a hundred and sixty or a hundred and seventy thousand.

Mr. TAYLER. It is now, you think, 250,000?

Mr. HOLZHEIMER. That is my opinion; yes, sir.

Mr. TAYLER. How many votes did you poll?

Mr. HOLZHEIMER. Seventy-two thousand.

Mr. TAYLER. Do the women vote?

Mr. HOLZHEIMER. Yes, sir.

Mr. TAYLER. Was there a pretty full vote out?

Mr. HOLZHEIMER. I believe so.

Mr. TAYLER. How many Mormons are there in the State?

Mr. HOLZHEIMER. I believe there are in the neighborhood of 40,000 Mormons in the State.

Mr. TAYLER. How many polygamists are there in the State?

Mr. HOLZHEIMER. I do not know. I have heard it estimated anywhere from 20 to 40.

Mr. WORTHINGTON. Do you mean men who have polygamous wives?

Mr. TAYLER. I mean people living in polygamy.

Mr. WORTHINGTON. That might include wives.

Mr. HOLZHEIMER. I have known only a very few cases of persons living in polygamy, and I only know that because of the birth of children.

Mr. TAYLER. I am not asking you for any more accurate knowledge than you have with respect to the population of the State.

Mr. HOLZHEIMER. I am giving you the same.

Mr. TAYLER. I do not ask you if you have counted them. But by the same method of obtaining information by which you have found that the population of Idaho has increased 100,000 since 1900, I ask you what do you think as to the number of families living in polygamy?

Mr. HOLZHEIMER. I do not know.

Mr. TAYLER. Have you not heard it stated as high as 150?

Mr. HOLZHEIMER. I have not.

Mr. TAYLER. What is the name of your county?

Mr. HOLZHEIMER. Bannock County.

Mr. TAYLER. Is that a Mormon county?

Mr. HOLZHEIMER. It is designated as one of the six Mormon counties, but I believe the percentage is a trifle in favor of the Gentile element; possibly at the rate of 45 to 55 in favor of Gentiles; possibly more.

Mr. TAYLER. I understood you to say in your direct examination, in speaking of this convention, that you felt absolutely certain that if the proposition presented to the convention on this subject had originally included "adultery" it would have been adopted?

Mr. HOLZHEIMER. With this proviso, however; before the discussion had taken place and before the personal abuse had been indulged in.

Mr. TAYLER. Was not the resolution which Senator Dubois read,

and which contained the inhibition of or the attack upon adultery the first that was presented to the convention?

Mr. HOLZHEIMER. It was not. The first that was presented was presented to the convention in committee the day before.

Mr. TAYLER. Presented in committee?

Mr. HOLZHEIMER. To the committee on platform and resolutions, which was the day before the resolution of Senator Dubois.

Mr. TAYLER. Then I misunderstood the report of the proceedings, and I merely want the fact. The resolution that Senator Dubois read containing the word "adultery" was the second resolution presented to the convention, or was it the first?

Mr. HOLZHEIMER. There were only two resolutions, and there was a substitute resolution.

Mr. TAYLER. This is a simple, plain, parliamentary fact. Did the first resolution presented to the convention contain the word "adultery?"

Mr. HOLZHEIMER. It did not, if that is what you mean.

Mr. TAYLER. That is what I want to know. All I want is the fact. Were you a member of the committee that presented the first resolution?

Mr. HOLZHEIMER. Yes, sir.

Mr. TAYLER. Did you file two minority reports?

Mr. HOLZHEIMER. No, sir.

Mr. TAYLER. Then you did not file a minority report to the resolution which did not contain the word "adultery." Is that right?

Mr. HOLZHEIMER. I did; yes, sir. I understood so. The minority report which I drafted in committee was as against the resolution which passed in committee, and I do not believe contained the word "adultery."

Mr. TAYLER. Hand me the report.

Mr. WORTHINGTON. There [indicating] is the minority report. The report to which the minority report refers does not contain the word "adultery."

Mr. TAYLER. Let me ask you if this is correct. It is important, I think, and I want to know. I find here in this, which purports to be a report of the proceedings of that convention, the following:

"On motion the convention takes a recess until 7.30 p. m. of this day.

"After recess. On motion the convention takes a recess until 10 o'clock p. m. of this day.

"After recess. Convention called to order by chairman.

"W. H. Casady, of Idaho County, chairman of the committee on platform and resolutions, submits the following majority report."

Was that the first report of the committee on platform?

Mr. HOLZHEIMER. It was.

Mr. TAYLER. That report contains these words:

"We are unalterably opposed to polygamy, adultery, and unlawful cohabitation. We pledge the Democratic party to enact such legislation as will efficiently suppress such evils."

Then follows a minority report, the first signer to which is F. H. Holzheimer.

Mr. HOLZHEIMER. That is correct.

Mr. TAYLER. Is that correct?

Mr. HOLZHEIMER. It is.

Mr. TAYLER. Was there any platform presented prior to this time?

Mr. HOLZHEIMER. No, sir.

Mr. TAYLER. Was there any debate in the convention prior to this time?

Mr. HOLZHEIMER. In the committee?

Mr. TAYLER. In the convention?

Mr. HOLZHEIMER. There was not.

Mr. TAYLER. So that the very first plank that was submitted to the convention on this subject did contain the word "adultery;" and the convention did what to it?

Mr. HOLZHEIMER. The very first plank that was presented to the convention did not contain the word "adultery."

Mr. TAYLER. Did not?

Mr. HOLZHEIMER. Did not.

Mr. TAYLER. I have great difficulty in understanding you. I have just asked you if the platform from which I have quoted, presented by Mr. Casady, was the first platform presented to the convention?

Mr. HOLZHEIMER. It was; but that does not contain the word "adultery." I do not understand so.

Mr. TAYLER. I will read it again:

We are unalterably opposed to polygamy, adultery—

A-d-u-l-t-e-r-y—

and unlawful cohabitation.

Mr. HOLZHEIMER. I did not understand it so. I beg your pardon. I did not hear that word.

Mr. TAYLER. Is this a correct report, or is it not?

Mr. HOLZHEIMER. I judge it must be; I do not know. It claims to be a report of the proceedings, but that is not my recollection.

Mr. TAYLER. It is only significant in connection with your assertion made with such positiveness as to attract my attention, that if this kind of a platform had been first presented to the convention it would have been adopted.

Mr. HOLZHEIMER. Mr. Tayler, will you allow me a moment?

Prior to the time any discussion had been had—that is, on the streets, and at the Weiser convention, before this matter became one of personal abuse, and before the Mormon people began to believe they were being persecuted by certain persons—

Mr. TAYLER. I understand what your explanation is.

Mr. WORTHINGTON. The witness has a right to finish his explanation.

Mr. TAYLER. I have no objection. I want him to go on. If there is not anything of more consequence than that, however, we do not want him to take the time.

Mr. WORTHINGTON. We do not take your view of the consequence of what is presented here.

Mr. TAYLER. Do not take up the time. [To the witness.] Go on with your explanation.

Mr. HOLZHEIMER. As I said in the first place, from early summer certain remarks had been made as to the Mormon people and what it was the intention of the Democratic convention or the Democratic party to do if it had an opportunity. These remarks were along the lines that they were all criminals; that they were all lawbreakers; that men, women, and children were all an immoral people, and it

was to such an extent that when the party, in convention assembled in Lewiston, endeavored to incorporate in their platform what was known as the "anti-Mormon plank," it was taken as a direct insult to them—not to them, I do not believe—and I know I did not so regard it, because I am as much opposed as anyone to polygamy and unlawful cohabitation, and so are the Gentiles in our State, but because of the manner of the fight, the belief of those people that it was directed personally at them, because of the personal motives of some one else to further advance the personal interests of others. It was not considered to be sincere. For that reason the Mormon people were so worked up that they opposed anything that emanated from that convention. Prior to that time I do not believe there would have been any question as to a platform of that kind.

Mr. TAYLER. That is just the result of a general view of politics running over several months?

Mr. HOLZHEIMER. That is not general. That comes directly home, because I am personally familiar with it.

Mr. TAYLER. I know; but it did not grow out of a controversy that occurred at that convention, which resulted in men's minds being heated right then on the subject.

Mr. HOLZHEIMER. That took place there as well, but prior to that was the main reason.

Mr. TAYLER. Did you say that in your direct examination?

Mr. HOLZHEIMER. I do not remember.

Mr. TAYLER. You do not think you did?

Mr. HOLZHEIMER. I do not remember.

Mr. TAYLER. Is it not a fact, Mr. Holzheimer, that the challenge was made right there by you and other supporters of the Mormon end, politically I mean, not otherwise, in the convention, to add the word "adultery" there and show that you were willing to be consistent in respect of this matter of the purity of the home, that then it would be passed?

Mr. HOLZHEIMER. I do not know that it was said it would be passed. It was advocated.

Mr. TAYLER. You advocated it?

Mr. HOLZHEIMER. Yes.

Mr. TAYLER. What?

Mr. HOLZHEIMER. That the word "adultery" be included.

Mr. TAYLER. When?

Mr. HOLZHEIMER. During the convention.

Mr. TAYLER. Then why did you put in a minority report against it when it came?

Mr. HOLZHEIMER. Because I was opposed to the report as it came from the committee; opposed to any action of the convention that—

Mr. TAYLER. How did the word "adultery" get into the plank?

Mr. HOLZHEIMER. I am trying to tell you. When the word "adultery" was put in there it was too late to do anything of the kind. It was the intention to wipe it all off, because there was no occasion for any of it.

Mr. TAYLER. How did it get in there? You were in committee.

Mr. HOLZHEIMER. It was incorporated by the minority portion of the committee.

Mr. TAYLER. You incorporated it?

Mr. HOLZHEIMER. By the majority.

Mr. TAYLER. I thought you said by the minority?

Mr. HOLZHEIMER. I meant by the majority.

Mr. WORTHINGTON. He meant the majority.

Mr. VAN COTT. He said the minority.

Mr. TAYLER. Then the feeling was most intense, was it not?

Mr. HOLZHEIMER. It was.

Mr. TAYLER. Bitter?

Mr. HOLZHEIMER. Very bitter, and it became more so as the campaign progressed. It was said that a vote for that ticket——

Mr. TAYLER. Stop where you are, right at the convention. We will cross the campaign bridge when we come to it. It was bitter then?

Mr. HOLZHEIMER. Yes, sir.

Mr. TAYLER. So bitter that the proffer of the insertion of the word "adultery" did not satisfy those who claimed it was a mere personal fight, and that all Mormons were charged with being lawbreakers?

Mr. HOLZHEIMER. I do not think it went that far at that time.

Mr. TAYLER. When was it that this charge was made that was so offensive to the Mormons—that they were all immoral and lawbreakers?

Mr. HOLZHEIMER. The first time that I know anything about——

Mr. TAYLER. Yes.

Mr. HOLZHEIMER. Was a month or two before that at the time of the Weiser convention.

Mr. TAYLER. Before this convention?

Mr. HOLZHEIMER. Yes, sir.

Mr. TAYLER. So that the feeling at this Lewiston convention was extremely bitter?

Mr. HOLZHEIMER. It was quite bitter. I will not say "extremely." They tried to fix things.

Mr. TAYLER. So bitter that it prevented the adoption of this plank, which you say would have been acceptable at an earlier time. Is that right?

Mr. HOLZHEIMER. It is right; and more Gentiles voted that way than Mormons, by three to one.

Mr. TAYLER. Was there anything else discussed at the Lewiston convention but this plank?

Mr. HOLZHEIMER. I hardly know what you have reference to.

Mr. TAYLER. Was there any discussion upon any other subject in the Lewiston convention?

Mr. HOLZHEIMER. On different planks in the platform?

Mr. TAYLER. Yes.

Mr. HOLZHEIMER. If there was it did not amount to much.

Mr. TAYLER. The whole atmosphere was surcharged with this plank, was it not?

Mr. HOLZHEIMER. It was.

Mr. TAYLER. And the alignments were all along on that subject?

Mr. HOLZHEIMER. Yes, sir; practically so.

Mr. TAYLER. When were you nominated for Congress?

Mr. HOLZHEIMER. On the evening of the 16th.

Mr. TAYLER. After this platform had been adopted?

Mr. HOLZHEIMER. Yes, sir.

Mr. TAYLER. When did you accept it?

Mr. HOLZHEIMER. That same evening.

Mr. TAYLER. That same evening?

Mr. HOLZHEIMER. Yes, sir.

Mr. TAYLER. Did you have any idea that anything would change the supremacy of the issue that was made by that platform?

Mr. HOLZHEIMER. I did absolutely, and was so promised.

Mr. TAYLER. You did?

Mr. HOLZHEIMER. Yes, sir.

Mr. TAYLER. You thought that you and a few other feeble men—I do not mean “feeble” except that you were men only—were going to change the issue of that campaign as made by the Democrats after the feeling that was engendered in that convention?

Mr. HOLZHEIMER. We were foolish enough to think so.

Mr. TAYLER. When did you decline the nomination?

Mr. HOLZHEIMER. I wrote the letter at Lagrande, Oreg., August 19, before I arrived home at Pocatello.

Mr. TAYLER. Before when?

Mr. HOLZHEIMER. Before I arrived home at Pocatello, Idaho. On the 19th of August I wrote the letter.

Mr. TAYLER. This platform was adopted on the 16th?

The CHAIRMAN. Of August?

Mr. HOLZHEIMER. I believe it was the 16th. It was the next day. Yes; it was the 16th.

Mr. TAYLER. And on the 19th you declined the nomination?

Mr. HOLZHEIMER. Yes, sir; I did.

Mr. TAYLER. Do you know whether there was any question up at that time as to your being taken off the ticket for other reasons?

Mr. HOLZHEIMER. I never heard of such a thing until you intimated it; no, sir.

Mr. TAYLER. You went off the ticket because the paramount issue in the campaign was to be this plank in the platform?

Mr. HOLZHEIMER. That was my reason, and what was said in connection with it and the manner of proceeding, which I do not believe any man who understands the state of affairs could conscientiously do. It was the sentiment of the people of Idaho and 99 per cent of the Democrats of the State.

Mr. TAYLER. So that 99 per cent of the Democrats of Idaho were opposed to this plank?

Mr. HOLZHEIMER. I think so.

Mr. TAYLER. And 1 per cent in favor of it?

Mr. HOLZHEIMER. I think that would be a good big margin.

Mr. TAYLER. How did the convention come to adopt the plank if 1 per cent only favored it? Was it a representative convention?

Mr. HOLZHEIMER. Supposed to be; yes, sir. It adopted that plank, Mr. Tayler, because of the influences that were brought to bear upon men who did not know the exact condition of affairs. Those influences did not work with the people like myself, living in the Mormon communities or where there were Mormons. It was the people of the northern part of the State, who knew nothing about the condition of affairs.

Mr. TAYLER. So that you people who lived in the Mormon communities shed the light of truth among the uninformed Gentiles in the rest of the State?

Mr. HOLZHEIMER. We were not the only ones. There were a great many, some in Ada County. The present mayor of Boise, who is not in a Mormon county, had the same feeling as I did in reference to it, but was bound by the unit rule.

Mr. TAYLER. You said that your understanding of this conduct of the Mormons after the manifesto was that the old polygamists were not to be disturbed; but I gather that you do not claim that the understanding was that these old polygamists—that is to say, not old in the sense of years, but those who had taken polygamous wives prior to 1890—were to continue to live with their several wives and families. Is that right?

Mr. HOLZHEIMER. I do not know as I would care to go upon the record to say that it is so wide as that. I believe it was supposed by many that these men might live with their plural wives.

Mr. TAYLER. How long did you live in Utah?

Mr. HOLZHEIMER. About nineteen years.

Mr. TAYLER. Headquarters at Salt Lake?

Mr. HOLZHEIMER. Part of the time.

Mr. TAYLER. Now, in order that I may properly interpret your understanding of what was expected and what might happen, let me ask you this question: George Q. Cannon, Joseph F. Smith, Lorenzo Snow, Moses Thatcher, F. M. Lyman, Heber J. Grant, John Henry Smith, J. W. Taylor, M. W. Merrill, Abraham H. Cannon, George Teasdale, and Brigham Young, jr., all since 1890, have been apostles or presidents of the church, have they not?

Mr. HOLZHEIMER. I should judge so. I am not intimate with the—

Mr. TAYLER. You recall the names, which are familiar to you as those of men holding those positions?

Mr. HOLZHEIMER. Yes, sir; generally.

Mr. TAYLER. If it were a fact that all those apostles of the church had had children born to their plural wives since the manifesto of 1890, would that fact have accorded with your view of what it was understood they would do?

Mr. HOLZHEIMER. No; I do not believe it would have gone as far as that. At that time—

Mr. TAYLER. But you have some hesitation even in admitting that?

Mr. HOLZHEIMER. I have.

Mr. TAYLER. That is to say, you are not sure but that it was understood that these men were to continue to have children right along?

Mr. HOLZHEIMER. I did not understand it that way.

Mr. TAYLER. No? You were brought here to testify. You were asked to testify about that as a matter of public history.

Mr. HOLZHEIMER. I am doing my best to answer it in that manner.

Mr. TAYLER. I know you are doing your best, but you have not undertaken to qualify the accuracy of your information on that subject. You do not know whether or not this sort of conduct by these eminent—preeminent—members of the Mormon hierarchy was such as was not contained within the understanding at that time?

Mr. HOLZHEIMER. Not fully. I believe I have answered it as fully as I can—as fully as I know anything about it.

Senator DUBOIS. You say you knew of some Gentiles in Ada County and, I think, in Idaho County, who were not in sympathy

with this plank, but who were bound under the unit rule, and, therefore, the delegation voted solidly?

Mr. HOLZHEIMER. Yes, sir.

Senator DUBOIS. And that they did not know the conditions so well as you gentlemen who live among the Mormons?

Mr. HOLZHEIMER. I do not say those who were opposed to it—

Senator DUBOIS. But those men from Ada County and Idaho County and northern counties, as I understand you, did not know the conditions as well as you gentlemen who live among them?

Mr. HOLZHEIMER. I do not believe so, because they told me they did not.

Senator DUBOIS. Was Bannock under the unit rule?

Mr. HOLZHEIMER. Yes, sir.

Senator DUBOIS. Were there any Gentiles besides yourself in the Bannock delegation?

Mr. HOLZHEIMER. Yes; quite a number.

Senator DUBOIS. Were they in accord with you?

Mr. HOLZHEIMER. All but one.

Senator DUBOIS. Is it not a matter of record that three Gentiles, at least, made speeches on the floor condemning your course?

Mr. HOLZHEIMER. In our county?

Senator DUBOIS. Mr. Lane, Mr. Glassford, and—I have forgotten the other man's name.

Mr. HOLZHEIMER. The only man who made a speech at all in our county, except myself and Mr. Neilson, was Mr. Lane, and he got up and was mad because he was bound by the unit rule.

Senator DUBOIS. He voted on that proposition?

Mr. HOLZHEIMER. Yes, sir.

Senator DUBOIS. Do you think Jack Burns was in accord with you? He was a delegate from your county.

Mr. HOLZHEIMER. He was in accord with me to a great extent.

Senator DUBOIS. And Glassford was in accord with you?

Mr. HOLZHEIMER. Not absolutely. We differed on a number of things.

Senator DUBOIS. Were those three Gentiles—Jack Burns, Tom Glassford, and Bill Lane—in accord with you at any time? Are they in accord with your position now? They were all delegates.

Mr. HOLZHEIMER. I do not know anything about that. They were not in full accord with me at that time.

Senator DUBOIS. Did they not protest that they represented properly the Gentile sentiment of that community?

Mr. HOLZHEIMER. The only man who protested was Mr. Lane, because the convention held in Bannock County had instructed them what to do.

Senator DUBOIS. Certainly.

Mr. HOLZHEIMER. And they went there with that understanding.

Senator DUBOIS. They carried it out—voted that way?

Mr. HOLZHEIMER. Certainly.

Senator DUBOIS. Did you carry your precinct when you were a candidate for delegate to the convention?

Mr. HOLZHEIMER. Did I carry my precinct?

Senator DUBOIS. Yes. Was not your precinct represented in the county convention by those who favored this radical legislation?

Mr. HOLZHEIMER. It was not. Tom Glassford, the only one from my precinct, was an alternate. They seated him by courtesy.

Senator DUBOIS. Were the delegates elected by the entire county convention?

Mr. HOLZHEIMER. Yes, sir.

Senator DUBOIS. Was there not considerable sentiment among the Gentiles in your town of Pocatello in favor of this legislation?

Mr. HOLZHEIMER. Not considerable; no, sir.

Senator DUBOIS. You have spoken in regard to Senator Heitfeld, and you gave what you thought were his reasons for wanting this plank put in. Is it not a fact that is known throughout the State that Senator Heitfeld, in interviews, before the Lewiston convention, had publicly announced the position which he desired to take and intended to take on the Mormon question?

Mr. HOLZHEIMER. I believe he did.

Senator DUBOIS. It was thoroughly understood, was it not?

Mr. HOLZHEIMER. I do not know how thoroughly, but I heard it.

Senator DUBOIS. It was generally understood in the State? And did not Senator Heitfeld say in Lewiston—was it not understood that he said—that he would not be a candidate unless there was a plank of this nature in the platform, to restrain Mormons?

Mr. HOLZHEIMER. The first I knew he said that was after the convention had voted to strike it out of the platform. That night he said he would not be a candidate unless they reversed themselves.

Senator DUBOIS. I believe you said that 99 per cent of the Democrats of Idaho are against this, and 1 per cent in favor of it, and that the recognized leaders of the Democratic party refused to make speeches during the campaign. Whom do you mean by the recognized leaders of the Democratic party?

Mr. HOLZHEIMER. Well, I would state for one Mayor Hawley, of Boise; Frank Martin, of Boise; Mr. Fogg, of Lewiston. I do not know that Mr. Fogg refused, or whether he was asked. It is only a vague reference, but Mr. Hawley and Mr. Martin I know.

Senator DUBOIS. What other recognized leaders of the Democracy?

Mr. HOLZHEIMER. Mr. Perky did speak, and spoke on national issues, and because he refused to talk about the Mormon plank he was called in, and never went out again.

Senator DUBOIS. He spoke, then? He is not, then, one of the recognized leaders who refused to speak?

Mr. HOLZHEIMER. I consider that in the same sense.

Senator DUBOIS. What other recognized leaders refused to speak?

Mr. HOLZHEIMER. I can not name any other names. I know none of them went out.

Senator DUBOIS. Do you not know that Mr. Fogg was a candidate for the legislature and made the campaign entirely on the Mormon question; that he made speeches everywhere and printed articles in the newspapers over his signature?

Mr. HOLZHEIMER. He might have. He is in the northern part of the State.

Senator DUBOIS. Still he is one whom you named.

Mr. HOLZHEIMER. I do not know.

Senator DUBOIS. Can you name any other recognized leaders of the Democracy who refused? If 99 per cent of the Democrats refused,

and only 1 per cent supported this contention, you ought to be able to name some of them.

Mr. HOLZHEIMER. As to who refused I can not give any more names than I have given.

The CHAIRMAN (to Mr. Dubois). That is all you can do.

Senator DUBOIS. Did Mr. Martin, whom you mentioned, go out in the campaign two years before that?

Mr. HOLZHEIMER. I do not know, I am sure. I think he did two years before that.

Senator DUBOIS. Mr. Martin is here. He will answer that.

Mr. HOLZHEIMER. He can answer. I do not know.

Mr. WORTHINGTON. He will be the next witness, and we will find out.

Senator DUBOIS. Did Mr. Martin engage in the campaign two years before that?

Mr. HOLZHEIMER. I have only been in the State a couple of years.

Senator DUBOIS. Then you name Mr. Hawley?

Mr. HOLZHEIMER. I do.

Senator DUBOIS. And you name him as one of the recognized leaders of the Democratic party?

Mr. HOLZHEIMER. I say they are two of the recognized leaders.

Senator DUBOIS. Will you name the Democratic newspapers that were against this contention?

Mr. HOLZHEIMER. They were not leaders during the last campaign, but they are recognized as Democratic leaders.

Senator DUBOIS. I will give you a little time to put this in. I should like for you to refresh your memory and name the Democratic newspapers which refused to support the party in this contention, and also, if you can, to name the Democratic newspapers that did.

I do not ask you to do it offhand, but you can prepare it and submit the list.

The CHAIRMAN. Yes; prepare it and submit it.

Mr. HOLZHEIMER. I can give it now as far as I can, without making further inquiry. It would be good testimony; that, I know.

Senator DUBOIS. Very well.

Mr. HOLZHEIMER. The Lewiston Tribune, which in its editorials was opposed to the position taken.

Senator DUBOIS. You followed the Tribune all during the campaign?

Mr. HOLZHEIMER. I do not know that I did all the time. I read quite a number of issues.

Senator DUBOIS. You testify that the Tribune refused to support the party on account of this platform?

Mr. HOLZHEIMER. I say the Tribune was opposed to the policy, and I can quote from it and read it here. I did not read every issue.

The CHAIRMAN. What other paper?

Mr. HOLZHEIMER. The Boise Capital News.

The CHAIRMAN. What other?

Mr. HOLZHEIMER. The Pocatello Advance.

The CHAIRMAN. What other?

Mr. HOLZHEIMER. The Palmer Herald.

The CHAIRMAN. Any other?

Mr. HOLZHEIMER. A paper published at Nampa. I do not know the name of it.

Senator DUBOIS. The Leader?

Mr. HOLZHEIMER. It is a paper published in Nampa.

The CHAIRMAN. Any other that you can now recall?

Mr. HOLZHEIMER. I can not recall any.

The CHAIRMAN. Those are all Democratic papers?

Mr. HOLZHEIMER. Yes; all Democratic papers.

Senator DUBOIS. You can not, of course, supply the names of the papers which did?

Mr. HOLZHEIMER. The only one I think of was published up in Grangeville, or up north there somewhere. I have forgotten the name of it. There may have been others.

Senator DUBOIS. You were not present at Weiser? Do you recollect the plank which was adopted at Weiser in regard to this subject?

Mr. HOLZHEIMER. Sir?

Senator DUBOIS. You have spoken about the Weiser convention as being one of the causes for this feeling. I will try to refresh your recollection a little. Did not the Weiser convention declare that the laws against polygamy and unlawful cohabitation were inadequate, and did they not ask the Lewiston convention—this was on June 6, and which met on August 15—to take this into consideration, and did they not call upon the Democrats all over the State to bear this in mind in selecting their delegates to the Lewiston convention?

Mr. HOLZHEIMER. There possibly was something of that kind; there was considerable talk, but what the effect of it was I do not remember. I was not there.

Senator DUBOIS. That is the fact.

Mr. HOLZHEIMER. I know it started there. There was considerable discussion with reference to it.

Senator DUBOIS. So that the Democrats of the State had full and ample warning at the Weiser convention and their attention was directed especially to this subject?

Mr. HOLZHEIMER. They knew it was coming up, certainly.

Senator DUBOIS. Do you know Apostle John Henry Smith?

Mr. HOLZHEIMER. Only by sight. I have seen him, but I do not know him.

Senator DUBOIS. Do you think he would have any means of knowing what the Mormon population of Idaho is?

Mr. HOLZHEIMER. I do not know. He might have.

Senator DUBOIS. He is pretty active in politics, is he not?

Mr. HOLZHEIMER. He was quite active when I was in Utah. He is not active in Idaho politics.

Senator DUBOIS. He campaigned there two years ago, did he not?

Mr. HOLZHEIMER. Yes, sir.

Senator DUBOIS. He comes up there quite often?

Mr. HOLZHEIMER. That is the only time I know of in my residence in the State.

Senator DUBOIS. Does he not go to the legislature nearly every session?

Mr. HOLZHEIMER. That I do not know.

Senator DUBOIS. If he should testify that one-third of the people of Idaho were Mormons, would you feel like controverting that statement?

Mr. HOLZHEIMER. One-third? Yes; absolutely, I would controvert it.

Senator DUBOIS. All right. That is all.

Mr. VAN COTT. Is John C. Rice, of Caldwell, Idaho, a recognized leader of the Democratic party?

Mr. HOLZHEIMER. I think he is.

Mr. VAN COTT. Is Mr. Pence?

Mr. HOLZHEIMER. He is.

Mr. VAN COTT. Is ex-Governor Steunenberg?

Mr. HOLZHEIMER. He is.

Mr. VAN COTT. Did any of those gentlemen go on the stump for the Democratic ticket?

Mr. HOLZHEIMER. Not that I ever heard of.

Senator DUBOIS. Whom did you name?

Mr. HOLZHEIMER. Ex-Governor Steunenberg, Pence, and John C. Rice, of Caldwell.

Senator DUBOIS. Mr. Holzheimer, did you ever know of John C. Rice being on the stump in behalf of the Democratic ticket at any time in his life?

Mr. HOLZHEIMER. I do not know that I did.

Senator DUBOIS. Did you ever know of ex-Governor Steunenberg campaigning for the ticket? Did he do it two years ago?

Mr. HOLZHEIMER. I do not think he did. He told me in Pocatello he would not do it this time.

Senator DUBOIS. This fight was not up two years ago. It was not up four years ago. Did he go on the stump four years ago or two years ago?

Mr. HOLZHEIMER. That I do not know. I was not there four years ago, and as to two years ago, I have no recollection.

Mr. WORTHINGTON. In reference to the proportion of the Mormon vote in Idaho to the whole vote, you have been asked whether John Henry Smith was a good authority. Do you think Senator Dubois would be a very good authority on that subject?

Mr. HOLZHEIMER. I think the Senator would be much closer than John Henry Smith. He gave it more attention.

Mr. WORTHINGTON. Suppose Senator Dubois said in a speech in Boise, Idaho, on the 15th of last September, in speaking of what he had said to the people of Salt Lake the night before:

"I said to them last night, also, that in Idaho we were more fortunately situated; that here we had four Gentile votes to one Mormon vote, and what a shame it would be to us if with that power we turned this State over to the Mormon hierarchy."

Would you think that was pretty good evidence that the proportion of Mormons to the whole number of voters is one to five and not one-third?

Mr. HOLZHEIMER. That is nearer to it than one-third. I do not think it is one-fourth quite.

Mr. TAYLER. You do not think what?

Mr. HOLZHEIMER. It is one-fourth quite. I think it is nearer one-fifth, in my honest opinion.

Mr. TAYLER. Those would be Senator Dubois's figures. You agree, then, with the Senator?

Mr. WORTHINGTON. He does not agree with Mr. Jackson. In reference to what you have said about there being occasion for a constitutional convention in Idaho, without reference to any amendment of that portion of the constitution which refers to polygamy and church

interference, I will ask you whether these two planks in the Democratic platform adopted last summer in your view sustain your contention about that? The first one of the planks is as follows:

"We favor submitting to the people of the State of Idaho a constitutional amendment, enlarging the powers of the State board of land commissioners, by providing additional opportunities for the investment of the State funds."

And again:

"We favor the submission of a constitutional amendment to the people providing for the separate election, at a time other than a general election of State and county officers, at which shall be elected the judges of the supreme and district courts and the county and State superintendents of schools."

I will ask you whether those clauses in the Democratic platform of Idaho of last summer, in your mind, tend to support what you have already testified to, that there was talk about a constitutional convention and the need of one entirely aside from the matter of polygamy and the test oath?

Mr. HOLZHEIMER. I do not remember testifying as to the need of a constitutional convention.

Mr. WORTHINGTON. My impression was you had testified on that subject.

Mr. HOLZHEIMER. No.

Mr. WORTHINGTON. Have you any information you can give us on that subject?

Mr. HOLZHEIMER. All I know is that these changes were needed and advocated to be submitted to the people to change the constitution.

Mr. WORTHINGTON. You have said on Mr. Tayler's examination of you about your declining to run as a candidate for Congress, that you thought the antipolygamy plank in the Democratic platform was not to be pressed, or something to that effect, and that you were so promised?

Mr. HOLZHEIMER. That is true.

Mr. WORTHINGTON. Who gave you that promise?

Mr. HOLZHEIMER. It was in these words, that the matter could be fixed up in committee, and they would make it so that I could make the campaign honorably; and that came through Mr. Casady, of Idaho County, and a gentleman from Latah County. I can not remember his name at the present time.

Mr. WORTHINGTON. Very well, if you can not remember it.

Mr. HOLZHEIMER. I can not remember the name; there were several there—men in northern counties whom I had never seen before. It was my first trip up north, and they flocked around when I was about to decline the nomination and urged me to stay upon the ticket and take the nomination and so unite the north and the south and bring harmony.

Mr. WORTHINGTON. I understand you wrote a letter declining the nomination and giving your reasons for so doing.

Mr. HOLZHEIMER. Yes, sir.

Mr. WORTHINGTON. Was that letter published?

Mr. HOLZHEIMER. Yes, sir.

Mr. WORTHINGTON. Before the campaign?

Mr. HOLZHEIMER. Before the campaign.

Mr. WORTHINGTON. Have you it?

Mr. HOLZHEIMER. Yes, sir.

Mr. WORTHINGTON. Let me see it, please. I will ask that it be put in without reading, unless counsel care to have it read.

The CHAIRMAN. Is there objection?

Mr. TAYLER. No.

The letter referred to is as follows:

"LA GRANDE, OREG., August 19.

"Hon. C. H. JACKSON,

"Chairman Democratic State Committee, Boise, Idaho.

"MY DEAR SIR: When I accepted the Congressional nomination at the hands of the Democratic party of the State of Idaho in convention assembled I fully believed that even though the resolution on the Mormon question had been incorporated in our State platform the matter could be settled and handled in a manner which would be satisfactory and honorable to all concerned. Now, however, conditions have arisen since my nomination, and which conditions have arisen because of the fact that at the meeting of the Democratic State committee held in Lewiston after the convention adjourned the campaign to be waged in our State was outlined, and it appears that the campaign, as it is said, is to be waged on a moral plane as against the Mormon people and the said resolution is to be made the paramount issue.

"This being true, and as I am not in sympathy or in full accord with the same, I can not, in honor to myself, after the position I took in the Democratic convention, both in committee and upon the floor of the convention, remain upon the ticket and make the necessary campaign outlined by our State committee, and therefore must at this time, and do now, tender to the State committee, through you as chairman, my resignation as the Congressional nominee of the State of Idaho upon the Democratic ticket. Having a deep sense of gratitude for the high honor conferred upon me, I arrived at this conclusion only after careful deliberation. The confidence shown me by my party is one for which any man may be justly proud, but the only way I can ever hope to retain that confidence in the future is by taking this step, which I believe to be the only honorable one that I can pursue.

"This action of mine is purely personal and will affect me only, but will make it possible for the State committee to place upon our State ticket some one who can consistently make the campaign as outlined and be in full accord with the State committee. I believe in our grand old Democratic party, and the principles for which it stands, and will do all in my power for its success in the State of Idaho, knowing that right will prevail, and believing as I do that only through that party the greatest good will come to the people of this country. With nothing but good wishes for Democratic success, I have the honor to remain,

"Yours, sincerely,

F. H. HOLZHEIMER."

Mr. HOLZHEIMER. I desire to say now that the course I took was commended by the papers of the State and most of the politicians of the Democratic party.

Mr. WORTHINGTON. Was it commended by the papers of one party or both parties?

Mr. HOLZHEIMER. By both parties; the Boise Statesman, a Republican paper; the Boise Capital News, a Democratic paper.

Mr. WORTHINGTON. That is all.

Mr. TAYLER. Then you understood that this platform respecting polygamy was a thing to get in on but not to stand on?

Mr. HOLZHEIMER. Then I understood that? I understood that no conscientious man who lived in Idaho could stand upon a platform of that kind.

Mr. TAYLER. But you got in on it, all right.

Mr. HOLZHEIMER. No, sir.

Mr. TAYLER. You were nominated on that platform

Mr. HOLZHEIMER. No, sir; because I opposed it.

Mr. TAYLER. Were you not nominated on it?

Mr. HOLZHEIMER. Yes, sir.

Mr. TAYLER. And you accepted the nomination after the platform was adopted?

Mr. HOLZHEIMER. Yes, sir.

Mr. TAYLER. But, after having got in on it, you could not stand on it?

Mr. HOLZHEIMER. Not as it was given to me.

Mr. VAN COTT. And you got out from under the platform, too, did you not?

Mr. HOLZHEIMER. As quick as I could.

Mr. WORTHINGTON. That is all.

The CHAIRMAN. Was that platform opposed by the Mormon people generally?

Mr. HOLZHEIMER. Was it opposed generally by the Mormon people?

The CHAIRMAN. Yes.

Mr. HOLZHEIMER. They did not like it.

The CHAIRMAN. And you could not advocate it for conscientious reasons?

Mr. HOLZHEIMER. I could not advocate it because I believed it was not true, and was uncalled for, and that the moral condition of the State of Idaho was not such as would call forth the waging of a campaign upon a high moral plane.

The CHAIRMAN. Do you think polygamy exists in Idaho to any extent?

Mr. HOLZHEIMER. I do not.

The CHAIRMAN. You do not think polygamy exists in the State?

Mr. HOLZHEIMER. You asked me the question whether I thought polygamous conditions existed to a great extent in Idaho.

The CHAIRMAN. To any extent?

Mr. HOLZHEIMER. Yes, it does; "to any extent."

The CHAIRMAN. You think you could not, for moral reasons, stand on a platform that was in opposition to polygamous cohabitation?

Mr. HOLZHEIMER. No, sir; the Senator does not want to mistake me, because I am as much opposed to it as any man.

The CHAIRMAN. But you could not stand—

Mr. WORTHINGTON. Let him finish his answer.

The CHAIRMAN. I will take care of that.

Mr. HOLZHEIMER. For this reason, if the Senator will pardon me, that the tendency of this fight was to array one end of the State against the other.

The CHAIRMAN. You said that.

Mr. HOLZHEIMER. And the conducting of the campaign was on a

high moral plane, holding all the people guilty for what some may have done. I believed that was wrong, and still think so.

The CHAIRMAN. You would oppose any proposition to eliminate in Idaho the practice of polygamous cohabitation?

Mr. HOLZHEIMER. No, sir; I would not. I would aid it, coming properly.

The CHAIRMAN. What would be the proper way of having it come? How would a constitutional amendment suit you?

Mr. HOLZHEIMER. I can not see any objection to it.

The CHAIRMAN. A constitutional amendment prohibiting polygamy in all the States.

Mr. HOLZHEIMER. I can not see a bit of objection to it.

The CHAIRMAN. You would be for it?

Mr. HOLZHEIMER. There would be nothing personal in that. It would be carrying out the intent of the law. I would.

Mr. TAYLER. But you do not believe in prosecuting men in Utah who are living in polygamous cohabitation?

Mr. HOLZHEIMER. I have not said that.

Mr. TAYLER. Do you?

Senator DUBOIS. Mr. Tayler means Idaho.

Mr. TAYLER. Yes, Idaho, I mean.

Mr. HOLZHEIMER. I am inclined to think they should stop it.

Mr. TAYLER. They should stop it?

Mr. HOLZHEIMER. Yes.

Mr. TAYLER. That is abstract. Do you think they ought to be prosecuted?

Mr. HOLZHEIMER. If it is necessary.

Mr. TAYLER. I think that is as near as we will get to the fact.

The CHAIRMAN. The committee will take a recess until 1.30 o'clock p. m.

Thereupon (at 12 o'clock meridian) the committee took a recess until 1.30 o'clock p. m.

AFTER RECESS.

The committee reassembled at the expiration of the recess.

The CHAIRMAN. Proceed, Mr. Worthington.

Mr. WORTHINGTON. We will call Mr. Martin.

TESTIMONY OF FRANK MARTIN.

FRANK MARTIN, being duly sworn, was examined, and testified as follows:

Mr. WORTHINGTON. Your full name, Mr. Martin, please?

Mr. MARTIN. Frank Martin.

Mr. WORTHINGTON. And your age?

Mr. MARTIN. Forty-one.

Mr. WORTHINGTON. Where do you reside?

Mr. MARTIN. In Boise City, Idaho.

Mr. WORTHINGTON. What is your business or occupation?

Mr. MARTIN. Attorney at law.

Mr. WORTHINGTON. How long have you lived in Idaho?

Mr. MARTIN. Since 1886.

Mr. WORTHINGTON. And have you lived at Boise all the time?

Mr. MARTIN. Since 1892. Near Boise the rest of the time.

Mr. WORTHINGTON. How long have you been practicing law in that country?

Mr. MARTIN. Since 1892.

Mr. WORTHINGTON. Are you a Mormon or a non-Mormon?

Mr. MARTIN. I am not a Mormon.

Mr. WORTHINGTON. Then you must be a non-Mormon. I mean by that you are what we call here a Gentile?

Mr. MARTIN. Yes; I am a Gentile.

Mr. WORTHINGTON. Have you had any connection or affiliation at all with the Mormon Church in any way?

Mr. MARTIN. No, sir.

Mr. WORTHINGTON. Have you had anything to do with political affairs in Idaho?

Mr. MARTIN. Yes, somewhat.

Mr. WORTHINGTON. And in a general way?

Mr. MARTIN. Yes, sir.

Mr. WORTHINGTON. To what extent, and how?

Mr. MARTIN. Well, I have taken more or less part in the different campaigns in Idaho since 1892.

Mr. WORTHINGTON. Might I ask, by the way, whether you have taken part as a Democrat or a Republican or a Populist or what?

Mr. MARTIN. As a Democrat.

Mr. WORTHINGTON. All the time?

Mr. MARTIN. Yes, sir.

Mr. WORTHINGTON. In a general way, what connection have you had with political affairs there since 1890?

Mr. MARTIN. I have been on committees and helped to do committee work, and I have made speeches in different campaigns in different portions of the State. I ran for office once.

Mr. WORTHINGTON. Have you attended any of the Democratic State conventions since 1890?

Mr. MARTIN. Yes; I have attended them all either as a delegate or as a visitor since the beginning of the convention of 1890.

Mr. WORTHINGTON. You are in a general way familiar with their proceedings?

Mr. MARTIN. Yes.

Mr. WORTHINGTON. Have you gone over the State at all—and I ask that especially with reference to the so-called Mormon counties in the southern part of the State?

Mr. MARTIN. I have campaigned in all those counties. I have made speeches in them and visited them on political errands in different ways.

Mr. WORTHINGTON. Are you acquainted with a good many of the people down there, Mormons and others?

Mr. MARTIN. Yes, quite largely.

Mr. WORTHINGTON. In the Mormon counties?

Mr. MARTIN. Yes.

Mr. WORTHINGTON. Have you at any time been chairman of the Democratic State committee?

Mr. MARTIN. No. I was secretary of the Democratic State committee at one time.

Mr. WORTHINGTON. When was that?

Mr. MARTIN. From 1898 to 1900.

Mr. WORTHINGTON. It has been testified here, as a part of the general understanding in that State, that the chairmen of the respective political parties always go down to Salt Lake City when a campaign is coming on and come back and whisper that it is all right, whatever that means. Can you give us any information on that subject?

Mr. MARTIN. In 1890 I was not so well acquainted with what the State committee did, but during the campaign of 1892 I was more or less at the State headquarters and with them. In 1894 I helped the State chairman quite a good deal in the work. In 1896 I did the same. In 1898 to 1900 I was secretary of the State committee. In 1900 I was a candidate on the State ticket and was acquainted with the affairs of the committee. At none of those did either the State chairman or any representative of his go to Salt Lake to consult with the Mormon Church as to the Mormon vote. Whether that was done in 1902 or in 1904, I don't know.

Mr. WORTHINGTON. Who was chairman in 1902 and 1904 of the Democratic State committee?

Mr. MARTIN. Mr. Donnelly, of Kootenai County, was chairman in 1902, and Mr. Charles H. Jackson in 1904.

Mr. WORTHINGTON. The same gentleman who testified here?

Mr. MARTIN. Yes.

Mr. WORTHINGTON. Mr. Cobb also testified in these words: "I do not know of any politician to-day (in Idaho, he meant) but who is in favor of granting to the Mormon Church any request that they make."

How does your acquaintance with the Democratic politicians generally in that State agree with that statement?

Mr. MARTIN. I should say that condition never existed, so far as the Democratic party is concerned.

Mr. WORTHINGTON. You speak of the Democratic party, I presume, because you belong to it?

Mr. MARTIN. I am not acquainted with the affairs of the Republican party so well.

Mr. WORTHINGTON. You seem to be very familiar with the affairs of the Democratic party. Let me ask you what the Mormons have asked in these State conventions that you have had?

Mr. MARTIN. They have never asked for anything at all.

Mr. WORTHINGTON. Let us take it since the State was admitted. Since the State of Idaho was admitted, what Mormon has been nominated, let us say, by the Democratic party for any State office in the State?

Mr. MARTIN. One. There was one man nominated for district judge who had been a Mormon, but, I believe, was not a member of the church at the time he was nominated.

Mr. WORTHINGTON. He was understood not to be a member at the time he was nominated?

Mr. MARTIN. Yes; so I understood; and it was generally understood that he had severed his connection with the church a good many years before. There was one man in 1900 nominated for State auditor who was a Mormon in good standing, I understood, in the church. He afterwards was withdrawn from the ticket. There was a trade made or a fusion between the Democrats and the Populists,

and he was withdrawn from the ticket so as to put a Populist in his place.

Mr. WORTHINGTON. Then the only Mormon that the Democratic party has nominated there since statehood was dropped off in that fusion arrangement?

Mr. MARTIN. Yes.

Mr. WORTHINGTON. As to State officers who have been elected, whether on the Democratic ticket or the Republican ticket, how many State officers have you had who are Mormons since the State was admitted into the Union?

Mr. MARTIN. Just one; just the past attorney-general, John A. Bagley.

Mr. WORTHINGTON. And he did not get a second term?

Mr. MARTIN. No; he was not nominated.

Mr. WORTHINGTON. Mr. Jackson, to whom you have referred, also testified here:

"It is impossible for any man or any party to go against the Mormon Church in Idaho, whether he is a Republican or a Democrat. Unless the Mormon Church supports the individual he might as well give up. There is no hope for you."

How do you agree with Mr. Jackson as to that?

Mr. MARTIN. I will answer that by saying that I found the Mormons in politics about the same as other people. I have not noticed that the church particularly influences their actions any more than any other people.

Mr. WORTHINGTON. Right there, then, let me ask you as to your estimate of the proportion of the Mormon vote in Idaho to the whole vote.

Mr. MARTIN. I should say about one-fifth.

Mr. WORTHINGTON. How many Mormon votes do you estimate there are in Idaho outside of the six Mormon counties that have been mentioned here?

Mr. MARTIN. From 500 to 600.

Mr. WORTHINGTON. How does the number of Gentiles in Mormon counties in Idaho compare with the number of Mormons in Gentile counties?

Mr. MARTIN. Ten or 12 to 1. There are 10 or 12 Gentiles in the Mormon counties to every Mormon in the Gentile counties, I should say.

Mr. WORTHINGTON. What do you say as to the proportion of Mormon votes in the State to the whole number of voters?

Mr. MARTIN. About one-fifth, I think.

Mr. WORTHINGTON. You agree with what purports to be an extract from Senator Dubois's remarks on that subject, do you?

Mr. MARTIN. Yes, sir; I think that is about correct.

Mr. WORTHINGTON. From your observation and from common report there, what do you say as to the Mormon Church interfering in politics in Idaho during your time there, as a church?

Mr. MARTIN. I have never known anything that I could say was an interference on the part of the church.

Mr. WORTHINGTON. By way of specification of this general charge, Mr. Jackson said it is understood in Idaho that the Mormon Church defeated Governor Morrison for renomination last summer. Are you

acquainted with the common understanding of the people on that subject?

Mr. MARTIN. I think so.

Mr. WORTHINGTON. What is it?

Mr. MARTIN. I do not think that is the common understanding. It was charged by Mr. Jackson and Mr. Clay and others during the campaign in their campaign speeches. They endeavored to show that that was true—that the Mormon Church had defeated Governor Morrison for renomination—but my opinion would be that possibly 80 per cent of the people of the State believe that that is not true.

Mr. WORTHINGTON. Did you have anything to do with the Democratic State convention last year?

Mr. MARTIN. I was simply present. I did not participate as a delegate.

Mr. WORTHINGTON. But you knew what was going on, did you, in reference to this antipolygamy plank about which something has been said here this morning?

Mr. MARTIN. Yes, I was there and was in touch with what was going on all the time.

Mr. WORTHINGTON. You knew what was going on?

Mr. MARTIN. I knew what was going on.

Mr. WORTHINGTON. Tell us what was going on in regard to that plank with reference to adultery being in it or not in it.

Mr. MARTIN. As I remember the resolutions they were just as they were read here by Senator Dubois this morning from the report of the convention. Those were the resolutions, as I remember them—the various resolutions that were introduced.

Mr. WORTHINGTON. Do you know anything about any understanding that was attempted to be made with the Mormons in reference to whether adultery should or should not be in the platform, and what difference it should make?

Mr. MARTIN. In order to give this explanation understandingly I will have to go back before the convention.

Mr. WORTHINGTON. Since it has been gone into, I would like to understand it, for one.

Mr. MARTIN. Just briefly, Senator Dubois was the leader in the anti-Mormon agitation there a good many years ago, which resulted in disfranchising the Mormons, those who were polygamists and those who were not—all of them. That struggle engendered some feeling between the Mormon people and Senator Dubois, which has continued to the present time with more or less vitality. After the speech of Senator Dubois in the United States Senate in 1903 that has been quoted a good deal, I talked with a number of Mormon leaders, and they felt very good about it. They thought the Senator had become friendly to them. He returned to the State in the fall of 1903, and it was given out among those with whom he conversed that he had expressed his determination of pushing the Smoot inquiry—the charges against Senator Smoot—and of making the Mormon question an issue in our political campaigns again. Of course that started the agitation and the talk along the lines of the Mormon question more or less until the convention met at Weiser in June, which elected delegates to our national convention.

A resolution which is popularly supposed to have been drawn by the senior Senator from Idaho was introduced in that convention

at Weiser, having been, if I am not mistaken, first passed by the Ada County convention. Senator Dubois was present at the time of the Ada County convention—I may be mistaken in that—but I think it was first passed by the Ada County convention, and then presented to the Weiser convention.

Senator DUBOIS. Yes; that is correct.

Mr. MARTIN. It was generally understood, Senator, that you were the author of the resolution.

Senator DUBOIS. Well, that is not true.

Mr. MARTIN. That was the understanding out there, and I never knew whether it was true or not.

Mr. WORTHINGTON. It was the general understanding that it would affect the political situation?

Mr. MARTIN. Yes. Then at Weiser this resolution was introduced in our State convention. I do not remember the exact wording of it, but it was the proposition that a plank be inserted in the national platform—

Mr. WORTHINGTON. Of the Democratic party?

Mr. MARTIN. Yes; I think to amend the Constitution of the United States, but I am not sure that was the exact wording. I have read it a number of times, but the exact wording escapes my mind just now. It is probably in evidence.

While that was being debated (I was not present, but I know this from newspaper reports and from talking with delegates who were at the convention) a delegate from Fremont County—and I do not now recall his name—called attention to the fact that there were no statutes punishing certain sexual crimes, and asked why they were not included in this resolution; also stating that the Mormon people, if they were included so as to take out the sting a little, and not make it appear that it was an attack on the Mormon people, would all support it. That resolution was introduced without including these other sexual crimes as well as polygamy. Mr. Lafe Pence, formerly of Colorado, who was a member of that convention and a leader on the side of those who were advocating this resolution, said that they would accept such an amendment, and an adjournment was taken with an instruction to this man to draft the kind of amendment he wanted. He drafted it, and after the convention was called to order again he attempted to introduce his amendment.

Mr. Pence raised some objection at that time, evidently not willing to live up to the agreement that had been made to include them, and he was ruled out on a point of order and the original resolution was passed which had been introduced by those agreeing with the views of Senator Dubois, that the question should be raised. It was taken back to the national convention and a resolution was secured, not in the terms of that resolution, but partly covering the question. Then our nominating convention was held at Lewiston on the 15th of August to nominate State candidates and adopt a State platform.

I went up from Boise City to Lewiston, and most of the delegates from the southeastern counties were on the same train and on the same boat, Mormons and non-Mormons, and they all agreed that they were perfectly willing to have a resolution adopted which would in terms indorse the action of the national convention. They said that it was unnecessary, that no conditions existed in the State of Idaho which called for anything of the kind; that the agitation was unfair and un-

just; but as long as the national committee had adopted those resolutions, they were willing that they should be indorsed in terms in the State convention. This was not satisfactory to those who took the other view, and the various resolutions came before the committee on resolutions appointed by the convention. One resolution was presented to the committee, which, I understood, and it was currently stated at the time around the convention, was either drawn by the senior Senator from Idaho or else had his sanction, which did not include any of the sexual crimes except illegal cohabitation and polygamy. The committee having in remembrance the fact that it had been proposed at the Weiser convention that they would all accept such a resolution if it embodied all of the sexual crimes, reported the resolution. That is, a majority report reported the resolution which was read this morning—the first one. I do not remember the exact terms.

Mr. WORTHINGTON. It included adultery?

Mr. MARTIN. It included adultery and declared against church interference, etc.

Now, I found in discussing it with the Mormon people (and I think they stated to me how they felt about it) that the stumbling block with them was not so much—was not, in fact, they said, at all—that this resolution declared against polygamy and illegal cohabitation, as it was the particular manner in which the church interference proposition in politics was used and the results that they feared would flow from it, or rather the animus they feared was behind it.

Mr. WORTHINGTON. What was that animus and what were those results?

Mr. MARTIN. They said they had been disfranchised in Idaho once under the leadership of Senator Dubois, and that they felt it was his determination to disfranchise them again in order that he might gain the benefit politically.

Mr. WORTHINGTON. Gain it how, politically?

Mr. MARTIN. These counties would return men to the legislature who would be opposed to his reelection as Senator.

Mr. WORTHINGTON. In 1906, you mean?

Mr. MARTIN. In 1906; and they regarded this declaration and this movement as simply the entering wedge to disfranchise them again. They did not want to give up their right to vote and take part in the government of the State.

Mr. WORTHINGTON. Have you finished.

Mr. MARTIN. Well, they declared, both in convention, in speeches, and they declared this privately to me and to others, that they were not opposed to the declaration against polygamy or against illegal cohabitation, but they were opposed to this movement because they feared that it had the intention behind it to disfranchise them.

Mr. WORTHINGTON. Do I understand you correctly to say that when you were going up on the train and on the boat you talked with Mormons and non-Mormons both?

Mr. MARTIN. Yes.

Mr. WORTHINGTON. And that both Mormons and non-Mormons concurred in opposition to this plank?

Mr. MARTIN. Yes; from certain counties. The counties were divided, and even the delegation in the same county was divided in many counties on the question.

Mr. WORTHINGTON. When this platform was adopted and the campaign began, did you support the ticket? Did you take any part in the campaign?

Mr. MARTIN. I supported the ticket, but I took no part in the campaign.

Mr. WORTHINGTON. Was there any reason for that?

Mr. MARTIN. Yes. Mr. Jackson, when he opened his headquarters, strung a big banner across the street, saying "We are for men, not for sheep." The candidate for governor on the Republican ticket was a large owner of sheep. That was to emphasize the fact that that was to be urged against him as candidate for governor. I met Mr. Jackson on the street and rather twitted him for putting up such a banner, and he invited me to come up to the office.

Mr. WORTHINGTON. Is this the same Mr. Jackson who has been here?

Mr. MARTIN. Yes; the chairman of the State central committee. He asked me to sit down and talk with him, which I did. Among other things, he asked me if I would go out in the campaign and make speeches. He said that he would like very much to have me go and give all the time I could. He asked me to furnish him the times when I could go out, the number of days I could go out, and he said the committee would prefer to designate the places where I should speak, but they wanted me to go, and if I insisted I should designate the places myself where I would speak. I told him I was willing to go out and make speeches for the party and would give him the times when I could go as soon as our court term closed and would leave it to the committee to designate where I should speak. But, I said, "Mr. Jackson, I want to be perfectly fair with you. I consider what you declare to be the paramount issue—this Mormon question—entirely a fake issue, false and selfish in its conception, and unwarranted by the condition of our State. I don't think there has been a time since I have known the State when there has been as little need for this agitation as now. I am willing to go, but I shall make purely Democratic speeches, discuss the national issues, and support the Presidential candidate. I am willing to discuss other issues in the State campaign, but I will not discuss the Mormon issue." I was not requested any more to go out. I never heard anything more of my going out, so I did not go out.

Mr. WORTHINGTON. What action did the other leading men in the State take in that regard?

Mr. MARTIN. I know of a few. Judge J. H. Hawley, who was the candidate of our party for United States Senator two years ago, at the time Senator Heyburn was elected, and, if not the leading Democrat, one of the leading Democrats of the State—

Mr. WORTHINGTON. Did he decline on the same grounds that you took?

Mr. MARTIN. A letter was written to him—I do not know whether he was personally approached or not, but a letter was written to him by Chairman Jackson—inviting him to go out and make speeches, and asking him to name the times when he could go, and so forth. I did not see his letter of reply, but as I was informed of its contents he replied that he was ready to go and make the speeches; that he would pay his own expenses; that he would reserve the right to make Democratic speeches after discussing the national issues and advocating

the election of our candidate for President, Judge Parker, and would not discuss the so-called Mormon issue. He did not go out, and I am told by Judge Hawley that he did not receive any further request to go out.

Mr. WORTHINGTON. You say he offered to pay his own expenses. May I ask whether anything was said on that subject when you were talking to Mr. Jackson?

Mr. MARTIN. I am not sure now.

Mr. WORTHINGTON. Your proposition was that you would go out and discuss the issues of the national platform?

Mr. MARTIN. Yes. Mr. J. C. Pence, who had formerly campaigned in the State quite a little, told me that he was talked to by Chairman Jackson about the same matter. Mr. Jackson wanted to know of him if he would go out, and said: "We want four issues discussed—the Mormon issue, the sheep issue, or what is known in our State as the 2-mile-limit law, the State treasury deposit law, and the temperance question." He told Mr. Jackson he would go out and speak, but he would reserve the right to support Judge Parker and discuss the national issues. He was willing to discuss all of the other issues except the Mormon question, which he would not discuss. Mr. Jackson replied to him that he did not want the national issues discussed in the campaign and they wanted the time all practically put on the Mormon question. He heard nothing further. The request for him to go out was dropped at that point.

Mr. WORTHINGTON. Would you call these men of whom you have been speaking leading Democratic men in the State?

Mr. MARTIN. Yes.

Mr. WORTHINGTON. Do you recall any others who took a similar stand or who were dropped in the same way?

Mr. MARTIN. Judge Perky, who was our chairman from 1900 to 1902 and judge of the district court afterwards, was invited to go out and make speeches. He went out and made one and discussed the national issues, advocating the election of Judge Parker; and he was not billed any further. He was brought back to Boise, and when he returned Mr. Jackson told him he did not want that class of speeches; that he wanted the Mormon issue discussed entirely; that people were tired of tariff; they wanted to hear about Mormonism. Judge Perky told him that he thought the interests of the Presidential candidate should not be neglected as they had been, and the national issues should be discussed. Jackson told him he did not want it done, so his services ended.

Those are all I know of who discussed the matter with Jackson. There might have been others.

Mr. WORTHINGTON. Let me ask in regard to your own case. You, as a leading Democrat of the State, did not take any part in the campaign for the reason you have stated. What, if anything, had the Mormon Church to do with your being out of it?

Mr. MARTIN. Nothing in the world.

Mr. WORTHINGTON. What, so far as you know from the common understanding and from the talk with these men, had it to do with their staying out?

Mr. MARTIN. Nothing whatever.

Mr. WORTHINGTON. In the next place, what position did the Demo-

cratic newspapers of the State take in this campaign issue which had been put up in this way?

Mr. MARTIN. Most of the Democratic newspapers, especially the leading ones, were opposed to this issue.

Mr. WORTHINGTON. How did they express their opposition?

Mr. MARTIN. Most of them editorially. Many of them, mind you, supported the ticket. While they expressed their editorial opposition to this policy, saying it was wrong and uncalled for, they at the same time gave their support and advocated the election of the men on the ticket.

Mr. WORTHINGTON. As indicating whether the outcome of that election resulted from the interference of the Mormon Church or from some other cause, will you tell me on what issues the campaign was actually waged by the Democrats who did go out?

Mr. MARTIN. It was actually waged on the Mormon issue by those who took part in the campaign. I heard a number of the speeches. Senator Dubois returned from Salt Lake City, where he had assisted in opening the campaign of the American party, and made the first speech of our campaign at Boise City, in which he discussed entirely the Mormon issue. He mentioned nothing else. He did not refer to our candidate for President or any of our national issues. Mr. Clay, the candidate for Congress—

Mr. WORTHINGTON. The Democratic candidate?

Mr. MARTIN. Yes—did the same thing in his speech, which I heard at Boise. He was particularly bitter in denunciation of the Mormons, and I am informed that it was generally understood he continued to be so during the entire campaign.

Mr. WORTHINGTON. What was the common understanding as to the nature of that abuse? I would like to have a specification, if you remember, so that we may judge what effect it would be liable to have on the Mormon people.

Mr. MARTIN. The general trend of it was that they were violating the law; that they were criminals; that they were going secretly into polygamous marriages or polygamous relations; that they were making corrupt deals and trades in the politics of the State, and it was currently reported that in his speech at Glenns Ferry, Mr. Clay made very serious reflections upon the girls and women of the Mormon people.

Mr. WORTHINGTON. The same that were testified to here by another witness?

Mr. MARTIN. I did not hear the testimony of the other witness, but perhaps.

Mr. WORTHINGTON. I do not like to have this repeated, but what was the current report that Mr. Clay had said in that speech about the Mormon women and girls?

Mr. TAYLER. Can you find anybody who heard it?

Mr. WORTHINGTON. It makes no difference whether I can find anybody who heard it or not. If it was commonly understood in the community that he had said it, it would have the same effect.

Mr. TAYLER. I do not object to its competency. I think you are doing very well with it, but I wanted to know if you had discovered anybody who ever had heard it said.

Mr. WORTHINGTON. I think if we had time to bring the people here who would testify in regard to it, we could find plenty of them.

Mr. TAYLER. Your time has been limited.

Mr. MARTIN. I do not think it would add anything for me to repeat the language.

Mr. WORTHINGTON. It was a serious reflection on Mormon women?

Mr. MARTIN. It was a serious reflection on Mormon women and girls.

Senator McCOMAS. I understand it is not the language he used, but the language somebody else told you he had used?

Mr. MARTIN. It was currently reported. I do not know whether he used it or not, Senator. It was currently reported all over the State that he used it.

Mr. WORTHINGTON. Exactly in the same way that everything Mr. Jackson testified to here was established, without a single exception.

Senator McCOMAS. Do you know Mr. Clay?

Mr. MARTIN. Yes, sir; I know Mr. Clay very well.

Senator McCOMAS. Have you ever spoken to him in respect to this language you say he used?

Mr. MARTIN. I have not seen him since the election.

Senator DUBOIS. What kind of a man is Clay?

Mr. MARTIN. Mr. Clay is a first-class man, Senator.

Senator DUBOIS. Of very high moral character?

Mr. MARTIN. Yes, he is. He is a very fine man.

Senator DUBOIS. He is a man you would hardly think would make a statement to a public audience that he did not think he had a basis for making?

Mr. MARTIN. I do not think he would make a statement that he did not believe was true. I regard Mr. Clay as a man of very high character, and I have a very high regard for him. I know him very well indeed.

Senator DUBOIS. Do you know whether or not it is a fact that he spent a good deal of his life among the Mormon people?

Mr. MARTIN. In Utah only, not in Idaho. I will say I believe Mr. Clay did not know the conditions in Idaho, but I think he thought he did; that he believed a lot of this stuff that had been repeated to him and that he was repeating.

Mr. WORTHINGTON. Did you participate at all in the matter which came before the legislature of Idaho in the early part of 1903 in regard to a resolution for a constitutional convention?

Mr. MARTIN. Only by way of consultation with one of the Democratic leaders of the legislature.

Mr. WORTHINGTON. Which leader?

Mr. MARTIN. Mr. Moore, of Idaho County.

Mr. WORTHINGTON. Can you tell us whether or not, prior to the passage of that resolution, there had been any discussion of the subject in Idaho?

Mr. MARTIN. At all of our legislatures—practically every one—there had been one, two, and three amendments proposed to our constitution; and so many of them came that it had been discussed at different times if the constitution needed so much amending it might be well to have a constitutional convention. The matter of a constitutional convention had been discussed at other sessions. Mr. Moore came to me with a bill that had been introduced by a member from Latah County—I think it was a Mr. Price, or, at any rate, a member from Latah County—providing for a constitutional convention to

meet on the 4th of July—I think, the last 4th of July—and members were to be appointed by different political parties, etc. He asked me about it, and I pointed out to him, first, that such a proceeding as that was contrary to the provisions of our constitution. It had been introduced in the house, read once, and referred to a committee. Then he discussed with me the question of a constitutional convention, and I told him I did not favor it; that I thought the constitution did not need so much amending anyway, and anything that was needed could be provided for by amendments. He said he had talked with Judge Hawley, of whom I have spoken before, and Mr. Hawley very much favored a constitutional convention. I went with him and talked with Mr. Hawley afterwards about the matter. Mr. Hawley's pet idea was to have a constitutional convention to put in our State a superior-court system, such as they had in different States. That idea, among others, had been advocated before—to change the court system. This resolution of Price, from Latah County, was not in accordance with the terms of our constitution for holding a constitutional convention. Then, later in the session, a resolution which complied with the terms of the constitution was introduced by some one and passed the houses. I was talked to about it, and, so far as I knew, it was understood, and everybody in the legislature favored it, and the resolution was passed practically unanimously in both houses. I do not remember now that there was any vote against it.

Mr. WORTHINGTON. Then there had been discussion in this way, to your knowledge, about the constitutional convention before that resolution was passed?

Mr. MARTIN. Yes; for years before.

Mr. WORTHINGTON. Do you know Mr. Gooding, the governor?

Mr. MARTIN. Yes, sir.

Mr. WORTHINGTON. How long have you known him?

Mr. MARTIN. I have known Mr. Gooding since 1894—ten years.

Mr. WORTHINGTON. It has been testified here that there is some doubt as to whether he is a Mormon or not. What do you say as to that?

Mr. MARTIN. I know he is a Gentile, just as I know that Senator Dubois and other of my friends are Gentiles. I never heard it discussed at all; but I know he is.

Mr. WORTHINGTON. Up until the time Mr. Jackson testified to the doubt here, did you ever hear it questioned?

Mr. MARTIN. I never heard it questioned.

Mr. WORTHINGTON. Do you know Mr. Turner, who was the auditor of the State?

Mr. MARTIN. Yes; I know Mr. Turner.

Mr. WORTHINGTON. Is he a Mormon, or not?

Mr. MARTIN. He is not a Mormon, I understand.

Mr. WORTHINGTON. From your acquaintance with the Mormon people in the State, have you learned anything as to their position in reference to this matter of polygamy—the younger people especially?

Mr. MARTIN. Yes; I have discussed it a good deal with them, being among them and with them in the campaign. They all expressed themselves against it—as glad that the church stopped it, and are against it.

Mr. WORTHINGTON. You do not live in the Mormon region?

Mr. MARTIN. No; I live at the State capital.

Mr. WORTHINGTON. You live in the same neighborhood with Mr. Jackson, Mr. Cobb, and Mr. Balderston?

Mr. MARTIN. Yes; the same place.

Mr. WORTHINGTON. From your understanding and the information you get there as to the situation, what do you say as to whether polygamy has been increasing in Idaho—the number of men who have plural wives?

Mr. MARTIN. My opinion is that it has not increased and has decreased to a certain extent, some of the old men who had wives dying.

Mr. WORTHINGTON. Have you heard, by reputation or otherwise, of any new plural marriages there?

Mr. MARTIN. I have never heard of one, and, during all the agitation, so far as I know, none has been pointed out as occurring in Idaho.

Mr. WORTHINGTON. It is stated here by Mr. Jackson that these 600 Mormons outside of the Mormon counties control the politics of the counties in which they live by holding the balance of power. What do you say as to that?

Mr. MARTIN. Outside of the counties that you designate the Mormon counties, the southeastern counties, there are perhaps not to exceed 200 in any county, and they have nothing to do with influencing political action so far as I know, unless it be some individual, who, apart from his religion, would be an influential man.

Mr. WORTHINGTON. Do you know Mr. Budge?

Mr. MARTIN. Yes.

Mr. WORTHINGTON. One of the men who has been a witness here?

Mr. MARTIN. Yes.

Mr. WORTHINGTON. And admitted that he has been living with plural wives?

Mr. MARTIN. Yes; I know Mr. Budge.

Mr. WORTHINGTON. How is he treated by the people in Idaho generally?

Mr. MARTIN. Just as they treat anybody else.

Mr. WORTHINGTON. Do you remember his traveling around that county on the stump with leading men, such as Senator Dubois?

Mr. MARTIN. In 1894 it was in the papers, and true, I presume, that in his own county he campaigned with Senator Dubois. Senator Dubois left the Republican party the next campaign, and he has been with other prominent Republicans in his own county there and run for office, I think, at one time.

Mr. WORTHINGTON. There is some testimony here also about Mr. Budge and a man named Hart. They had some difficulty in which the church interfered on the part of Mr. Budge. Do you know something about that?

Mr. MARTIN. Yes; I know Mr. Hart. He is a very personal friend of mine. We have talked the matter over, I expect, a dozen times. He has told me his trouble.

Mr. WORTHINGTON. He is a Mormon, is he?

Mr. MARTIN. Yes; he is a Mormon.

Mr. WORTHINGTON. I believe Mr. Hart became a candidate for office after this difficulty, did he not?

Mr. MARTIN. Yes; the difficulty occurred in 1900, and he was candidate for county clerk of his county in 1902.

Mr. WORTHINGTON. How did Mr. Budge stand in the county?

Mr. MARTIN. He opposed very bitterly Mr. Hart's candidacy, and Mr. Budge is president of the stake of his county.

Mr. WORTHINGTON. He opposed Mr. Hart, did he?

Mr. MARTIN. Very bitterly.

Mr. WORTHINGTON. Publicly?

Mr. MARTIN. Yes.

Mr. WORTHINGTON. On account of this trouble that had occurred between them?

Mr. MARTIN. Yes. He personally visited the Mormon families and asked them not to vote for Hart.

Mr. WORTHINGTON. What was the result of the election?

Mr. MARTIN. He was elected by twice the majority of any other man on the Democratic ticket.

Mr. WORTHINGTON. Mr. Hart was?

Mr. MARTIN. Yes. It seemed to have helped him rather than hurt him. I might say I was in Bear Lake County just before the election, when Mr. Hart was elected in 1902. I made a speech in one of the strongest Mormon towns in the county, and among other things took up the question of the difference between Mr. Hart and Mr. Budge, and advocated the election of Mr. Hart, and criticised President Budge for his attempted interference, holding the high ecclesiastical position he did.

Mr. WORTHINGTON. This was immediately after the trouble occurred?

Mr. BUDGE. The trouble occurred in 1900; this was in 1902.

The CHAIRMAN. The president of the stake used every possible effort to defeat him, with the result that he got in a Mormon county a larger majority than anyone else in the county?

Mr. MARTIN. Yes.

Mr. WORTHINGTON. Speaking of Mr. Budge, something has been said about the inability of having him punished for his polygamous cohabitation because his relatives are in office there. Did you copy a little while ago from your Idaho statute book the provision of your constitution in reference to transferring judges from one district to another?

Mr. MARTIN. I did.

Mr. WORTHINGTON. I wish you would read it here, that it may be incorporated in the record at this point.

Mr. MARTIN. This is section 12, article 5, of the State constitution. It is a part of the section.

Mr. WORTHINGTON. Yes, sir; it is all that relates to this subject?

Mr. MARTIN. It is all that relates to this subject. It is as follows:

"A judge of any district court may hold a district court in any county at the request of the judge of the district court thereof, and upon the request of the governor it shall be his duty to do so."

Mr. TAYLER. Will you read that again, please, so that it will percolate through my mind?

Mr. MARTIN (reading): "A judge of any district court may hold a district court in any county at the request of the judge of the district court thereof, and upon the request of the governor it shall be his duty to do so."

Mr. TAYLER. That is, the duty of the man who is requested by the local judge to go into his county?

Mr. MARTIN. No; I do not understand it that way. It shall be the

duty of any district judge of the State, if the governor requests him to do so, to go into any county and hold a term of court.

Mr. WORTHINGTON. Do you know whether that has been acted upon?

Mr. MARTIN. That was acted upon once.

Mr. WORTHINGTON. Was it simply by the district judge requesting a man to come, and he did not go, and then the governor ordered him to go?

Mr. MARTIN. No; the governor of the State requested him to go and hold a term of the district court outside of his district, and he held it.

Mr. WORTHINGTON. Without any request of the district judge of that county?

Mr. MARTIN. Yes.

Mr. WORTHINGTON. With reference to Mr. Holzheimer, who has just testified here, did you know anything of the current understanding at the time that he declined to accept the nomination for Congress?

Mr. MARTIN. Yes; I knew the circumstances surrounding it.

Mr. WORTHINGTON. I wish you would look at this paragraph from the Lewiston Tribune of about that date and tell me whether that expressed what you understood to be the situation at that time?

Mr. MARTIN (after examining the article). Yes; that is about the situation as I understood it to exist.

Mr. WORTHINGTON. I would like to have that go in the record at this point. I do not care to read it. It is in the same line as Mr. Holzheimer's testimony.

Mr. TAYLER. Let me look at it.

The article referred to is as follows:

" HOLZHEIMER'S NOMINATION.

"The Lewiston Tribune, in its account of the convention proceedings, has the following relative to the nomination of F. H. Holzheimer, of this city:

"Hon. F. H. Holzheimer, of Pocatello, who had been prominent in the fight against the anti-Mormon fight, was soon besieged by the Dubois and Heitfeld men and solicited to become a candidate for Congress. It was argued to him that this would unite the northern and southern Democracy back of the ticket. Holzheimer persistently refused to have his name presented, and when Judge F. E. Fogg, a staunch Heitfeld supporter, placed in nomination the Pocatello man, the latter was noticeably surprised. He held a hurried consultation with the Bannock delegation and finally consented to their wishes.

"Mr. Holzheimer in his work before the convention had become a favorite, and his announcement of acceptance was wildly cheered. He is an attorney of much ability, a splendid platform orator, and a few years ago was a prominent member of the Utah legislature."

Mr. WORTHINGTON. Mr. Martin, to come back to this campaign of 1904, in view of what took place there during that campaign, what you have testified to and what you have observed, was it a matter of any surprise to you that the Mormon vote for the Democratic ticket was small?

Mr. MARTIN. No; I was surprised that as many of them voted the ticket as did.

Mr. WORTHINGTON. How do you know any of them voted the ticket? It has been said here that none of them did.

Mr. MARTIN. I know some of them personally. There are some of the Democrats that I know personally were supporting the ticket voting for it. That is about the only way I know it.

Mr. WORTHINGTON. Was there anything took place in that campaign which indicated any disposition on the part of those who were managing it on the Democratic side to sacrifice the national ticket in the interest of the State ticket?

Mr. MARTIN. Yes; it appeared to me, and it was the opinion of all of the old-line Democrats there, that the campaign was made the way it was for the especial purpose of trying to get votes for Governor Heitfeld at the expense of the Presidential candidate, Judge Parker. It was specifically stated by Senator Dubois in opening the campaign that it was not a political issue; that people should come and support his State ticket regardless of party. It was specifically stated so by Mr. Clay and others; and in their campaign, so far as I learned, they at no time advocated the election of Judge Parker or pushed that matter at all. The gentleman who traveled with Senator Dubois, Mr. Stalker, was a Republican, and he would open his speeches by saying to the people that he was a Republican, that he had always voted the Republican ticket, and should vote for President Roosevelt, then saying that the people of the State should all vote for Mr. Heitfeld.

Mr. WORTHINGTON. You say he went around with Senator Dubois?

Mr. MARTIN. He traveled with Senator Dubois.

Mr. WORTHINGTON. And made speeches for Roosevelt and for Heitfeld?

Mr. MARTIN. I would not say he made speeches for President Roosevelt, but he let it be understood that he was supporting Roosevelt. He discussed this question practically in its entirety in his speeches. He would simply say he was a Republican and would support President Roosevelt, and let it go at that. The same thing, I understand, was done by the ladies from outside, who were brought in there to speak in the campaign. A number of ladies were brought from the East—or two, anyhow, that I know of—to speak in the campaign, to try to influence the women of Idaho to vote for Mr. Heitfeld.

Mr. WORTHINGTON. Who were those ladies?

Mr. MARTIN. Mrs. White was one of them, and a Miss or Mrs. Webster was the other. In fact, a number of the old-line Democrats complained very bitterly, and so did the Democratic papers, because this committee was apparently trying to sacrifice Judge Parker, our Presidential candidate, to try to get votes for their State ticket; and that was the general understanding among the Democrats with whom I associated and talked.

Mr. WORTHINGTON. You spoke about the American party in Utah. Was that a party?

Mr. MARTIN. That was a party formed by Republicans and Democrats, a kind of an independent party. It took the name of the American party for the purpose of opposing the church, as I understood it.

Mr. WORTHINGTON. It was a political party!

Mr. MARTIN. Yes; it was a political party. It had a State ticket.

Mr. WORTHINGTON. You may cross-examine, Mr. Tayler.

Mr. TAYLER. Mr. Martin, where does the public record exist of your protest against this outrage perpetrated in Idaho last year against the national Democratic ticket?

Mr. MARTIN. There was no protest filed at any place that I know of, Mr. Tayler.

Mr. TAYLER. Did he make no speech against it?

Mr. MARTIN. I made no speech in the campaign at all.

Mr. TAYLER. Nor did you have an interview published against it?

Mr. MARTIN. A number of newspapers were calling attention to it and criticising the committee for doing it, and a number of the Democrats talked it among themselves.

Mr. TAYLER. Under the hat?

Mr. MARTIN. Well, I don't know that you would call it under the hat; it was quite public. We talked it around the streets and every place.

Mr. TAYLER. Your name does not appear in any published print associated with any such protest?

Mr. MARTIN. I think there was no such protest, as a protest, filed, Mr. Tayler.

Mr. TAYLER. I am not talking about a signed, sealed, witnessed parchment protest. I mean any statement by you in any newspaper or by any public speech.

Mr. MARTIN. I think I have answered your question, Mr. Tayler.

Mr. TAYLER. Well, answer it again, then, for I do not understand you.

Mr. MARTIN. As I say, there was no protest made other than what I have explained to you.

Mr. TAYLER. Just private conversation?

Mr. WORTHINGTON. He said they were public, on the street, Mr. Tayler.

Mr. TAYLER. Wait a minute.

Mr. MARTIN. Newspaper reports and newspaper editorials.

Mr. TAYLER. Was your name ever associated with them in the public prints?

Mr. MARTIN. I don't know whether I was interviewed on the question or not. Perhaps I was.

Mr. TAYLER. Governor Heitfeld ran ahead of the Democratic national ticket in the Gentile counties, did he not?

Mr. MARTIN. Most of them.

Mr. TAYLER. And he ran behind the Democratic national ticket in the Mormon counties, all of them?

Mr. MARTIN. No; I think not.

Mr. TAYLER. You think not?

Mr. MARTIN. At least he was very close in four of them, in the Mormon counties. With the exception of two Mormon counties the parties voted their tickets nearer together than in any other counties. Mr. Gooding, the Republican candidate for governor, and Mr. Roosevelt were very close together, and Mr. Heitfeld and Mr. Parker in all of the Mormon counties except two.

Mr. TAYLER. In the northern and Gentile counties, most of them, Heitfeld ran very much ahead of Parker, did he not?

Mr. MARTIN. Noticeably ahead; yes. And Mr. Roosevelt ran ahead of Mr. Gooding about the same number of votes.

Mr. TAYLER. Do you sustain any professional relations with the Church of Jesus Christ of Latter-Day Saints?

Mr. MARTIN. No, sir.

Mr. TAYLER. You have not been employed by them in any litigation?

Mr. MARTIN. No, sir.

Mr. TAYLER. How many are there of them in Boise?

Mr. MARTIN. I should judge there were 150 of them there.

Mr. TAYLER. Do you mean voters?

Mr. MARTIN. No; altogether.

Mr. TAYLER. They have a church there, have they not?

Mr. MARTIN. There might be more. There are from 75 to 100 voters, more or less. I would not think there were over 100, and possibly not that high. Yes; they have a church there.

Mr. TAYLER. You were present at this Lewiston convention, you said?

Mr. MARTIN. Yes.

Mr. TAYLER. You went up with a large number of delegates, Mormons and others?

Mr. MARTIN. Yes, sir.

Mr. TAYLER. And, according to your memory, the opposition which these Mormon delegates had to the proposed action of the convention did not grow out of the proposed plank against polygamy and polygamous cohabitation, but against its reference to church interference?

Mr. MARTIN. That was the expression of the Mormon delegates and of the Gentiles who lived in the Mormon counties.

Mr. TAYLER. I infer from the tone of your testimony that the statements made that the Mormon Church has interfered in Idaho politics comes to you with the shock of a great surprise?

Mr. MARTIN. No; you have drawn the wrong inference, Mr. Tayler.

Mr. TAYLER. Well, I draw that inference from your testimony. It does not surprise you, then? You have heard it often, have you?

Mr. MARTIN. I have. The defeated party always tries to give some reason for its defeat, and I have heard among other things that it alleged the Mormon Church had interfered here or there to defeat a man.

Mr. TAYLER. So that you have never heard of it except in such moments of excitement or from the lips of people who have suffered the consequences?

Mr. MARTIN. I would not say I never had heard of it, because I heard Judge Balderston, a man whom I believe never ran for any office and who testified here before your committee, say he believed it; but as a rule you have stated correctly what I have heard.

Mr. TAYLER. But in the calm discussion that occurs between campaigns, when people try to tell the truth, you never hear it talked of at all?

Mr. MARTIN. Very little.

Mr. TAYLER. You think there is no apprehension among the people of Idaho that the Mormon Church does seek to control or influence politics in Idaho?

Mr. MARTIN. I think if there is any apprehension at all on that point it is confined to a very few people.

Mr. TAYLER. You have none whatever?

Mr. MARTIN. I have none whatever.

Mr. TAYLER. You were at this Lewiston convention. Did you hear Senator Dubois speak there?

Mr. MARTIN. I did. I sat just behind the Senator a few feet when he made his speech.

Mr. TAYLER. Did he not speak in the highest terms of the Mormon people as a people?

Mr. MARTIN. Some of them.

Mr. TAYLER. I said the Mormon people as a people, with especial distinction against the ruling members of it and those who were living in violation of the law. Did he not speak most highly of them?

Mr. MARTIN. My memory is that Senator Dubois expressed his opinion that the church was interfering in politics and was violating its compact not to practice polygamy; that the church was encouraging it; that it must be stopped or it would involve all of their members in trouble and punishment; that he knew many, and practically all, of the younger Mormons were opposed to it, and that he was their friend and was fighting for them really. I think that was the tone of the Senator's speech, if I remember correctly.

Mr. TAYLER. Do you remember his saying something like this:

"We are making no fight on the Mormon Church or the Mormon people. We are making a fight on some of the vices of the Mormon organization, and upon some of the claims of the high authority which controls that organization?"

Mr. MARTIN. I think that sounds familiar.

Mr. TAYLER. And how about this:

"In their heart of hearts, and as I look them in the face I assert there is not a Mormon here who does not wish me godspeed in my efforts to put the leaders of the Mormon Church in Salt Lake out of Idaho politics forever?"

Mr. MARTIN. I think probably the Senator said it. I would not say that he did, but it sounds as though he might have said it.

Mr. TAYLER. That is in accord with your recollection of the spirit of his speech, is it not?

Mr. MARTIN. I think so; yes, sir.

Mr. TAYLER. And this:

"I want to emphasize one thing so that there will be no mistake. This is no fight on the Mormon people. I know them. I have lived among them for twenty-five years. They are all right if they are let alone. If their church leaders will not interfere with them in politics we will have that same reign of peace and good-will which we had for the six years after the ballot was restored to them when the church did not interfere in politics. And I say the Mormon hierarchy at Salt Lake has brought this controversy upon themselves."

Do you recall his saying something of that sort?

Mr. MARTIN. I could not say positively that he said that or that he did not; but I could answer that as I have the others, that his speech was along that line.

Mr. TAYLER. Did he say another word in all that speech offensive, directly or by indirection, to the rank and file, the vast body of the Mormons in Idaho?

Mr. MARTIN. I will say, Mr. Tayler, that as a whole the speech was a very dignified, able address. It contained nothing offensive to good taste or to the rights of anyone, as I remember it.

Mr. TAYLER. Was Senator Dubois recognized as the leader in this fight?

Mr. MARTIN. In this anti-Mormon fight?

Mr. TAYLER. Yes.

Mr. MARTIN. Yes, sir.

Mr. TAYLER. Do you think the Mormons who felt their rights or their privileges, their freedom or their consciences, attacked would expect to find in what Senator Dubois said a representation of what was the purpose of that anti-Mormon organization?

Mr. MARTIN. I know that the Mormon people there honestly felt that what the Senator said in that speech did not give the real intention of the movement. They thought that the real intention of the movement was to disfranchise them.

Mr. TAYLER. Precisely. Now, Mr. Martin, as an intelligent man, do you apprehend that that conception sprang from the people and went up to the top, or originated in the top and spread down among the people?

Mr. MARTIN. I think it was deeply seated in the feeling of almost every Mormon regardless of his station in life and was founded on the past.

Mr. TAYLER. Do you think any intelligent man, exercising his own judgment, feared that he was going to be disfranchised who himself was violating no law?

Mr. MARTIN. I think they did.

Mr. TAYLER. You think the rank and file of the Mormons who had been living there for years, who were a part of that civilization and knew what the law was, were afraid that they would be disfranchised?

Mr. MARTIN. I think many of them were.

Mr. TAYLER. Do you think that was the general opinion of them all?

Mr. MARTIN. I think that was the opinion of the majority of them.

Mr. TAYLER. Of the majority of all the 40,000 people?

Mr. MARTIN. I think so. They feared it.

Mr. TAYLER. You know them well? You know the Mormons well, do you not?

Mr. MARTIN. I know many of them well.

Mr. TAYLER. How many?

Mr. MARTIN. I could not name them, Mr. Tayler.

Mr. TAYLER. You have lived in Idaho?

Mr. MARTIN. I have never lived in a Mormon settlement in Idaho, but I have been in their towns, made speeches in their towns. I have gone to their towns on business. I have many warm friends among the leading Mormons of the State and have been among them quite a good deal.

Mr. TAYLER. Do you know a man named Rich, who was a delegate there?

Mr. MARTIN. I know Judge Rich quite well.

Mr. TAYLER. He was a delegate there?

Mr. MARTIN. Yes.

Mr. TAYLER. Do you remember an interruption he made?

Mr. MARTIN. I might if the interruption was called to my attention. I don't know what you mean now.

Mr. TAYLER. Do you remember his rising in indignation and saying that there were no Mormons in the convention that originally adopted the test oath?

Mr. MARTIN. No; I do not remember that.

Mr. TAYLER. You do not remember any such interruption?

Mr. MARTIN. No.

Mr. TAYLER. Could you undertake to name the Democratic papers that did not support the Democratic party in this last fight?

Mr. MARTIN. I could only name some of them, Mr. Tayler. The Lewiston Tribune, a daily paper, and the leading Democratic paper in what is known as northern Idaho, supported the ticket; but at the same time editorially condemned the Mormon issue as being uncalled for, unjust, and unwise. The Capital News, of Boise, perhaps the leading Democratic paper of the State, very bitterly assailed bringing this Mormon question into our politics, and while it did not repudiate the ticket, I think the ticket felt that it did not give them much support, as Mr. Jackson called his committee together, or a few members of it, and had a resolution passed that they did not recognize it as a Democratic paper any longer. The Parma Herald repudiated injecting this Mormonism into the fight.

Mr. TAYLER. That is a Democratic paper?

Mr. MARTIN. Yes; these are all Democratic papers I am talking about. But it did not repudiate the ticket. The same course was adopted by the News, the Idaho City World, the paper at Mountain Home, the Bulletin. The Pocatello Advance bolted the ticket entirely on account of this question, and——

Mr. TAYLER. Did it bolt the ticket or bolt the party?

Mr. MARTIN. Put it any way you please.

Mr. TAYLER. It makes some difference, I suspect. Is it a Republican paper to-day?

Mr. MARTIN. No; I understand it claims to be a Democratic paper to-day. The Examiner, published in Bear Lake County, took the same position—that is, it did not bolt the ticket, but opposed very bitterly this issue. The Democratic paper in Fremont County—I am not sure now, but I think the name is the News—did the same, and there were others. I believe that is all I can name.

Mr. TAYLER. Apart from the Lewiston or the Boise papers, those were most of them down in the Mormon counties?

Mr. MARTIN. No.

Mr. TAYLER. Not most of them?

Mr. MARTIN. Most of them were not in the Mormon counties. The Examiner was in a Mormon county and the Fremont County News was in a Mormon county.

Mr. TAYLER. The Pocatello Advance was in a Mormon county?

Mr. MARTIN. I think the county in which it is published is more than half Gentile, so that it could hardly be said to be in a Mormon county. The others are all in Gentile counties.

Mr. TAYLER. Then there were about twenty-five papers, on the contrary, supporting the ticket and the platform, were there not?

Mr. MARTIN. I could not say as to the number, but I do not believe there are twenty-five Democratic papers in the State.

Mr. TAYLER. You do not?

Mr. MARTIN. I do not; no, sir—altogether, counting those that did not support it and those that did.

Mr. TAYLER. I guess there are about thirty?

Mr. MARTIN. Perhaps there are.

Mr. TAYLER. This Mountain Home is in a Mormon district, is it not?

Mr. MARTIN. No, sir.

Mr. TAYLER. Where is it?

Mr. MARTIN. It is in Elmore County. There are perhaps twenty-five Mormons in it, I presume, in the whole county.

Mr. TAYLER. Twenty-five Mormons in the whole county?

Mr. MARTIN. Twenty-five Mormon families—25 Mormon votes, you might say.

Mr. TAYLER. Senator Dubois' views on the Mormon question have been thoroughly understood, have they not, for more than twenty years?

Mr. MARTIN. No; it was understood that Senator Dubois' views coincided with the views of myself and others—that the Mormon question had ceased to be one of public concern and that polygamy was dead, and that the Mormon Church was trying in good faith to live up to what had been expected of it. That was understood to be Senator Dubois's views——

Mr. TAYLER. Precisely; but——

Mr. WORTHINGTON. Let him finish.

Mr. TAYLER. I will get along with him.

Mr. WORTHINGTON. He has not finished his answer.

Mr. TAYLER. Don't get excited.

Mr. WORTHINGTON. I will not stop until the committee has ruled. Mr. Chairman, this witness has been interrupted in the midst of an answer, and I insist he should be allowed to finish it.

Mr. TAYLER. If you will not get excited, the witness and I will get along.

Mr. WORTHINGTON. I have a right to get excited when you are trying to shut off the witness and put him in a false position before the committee.

Mr. TAYLER. I am not trying to shut him off. I want him to say all he has to say about it.

Mr. WORTHINGTON. I ask that the witness be allowed to finish his answer.

The CHAIRMAN. The reporter will repeat the question and answer.

The reporter read as follows:

"Senator Dubois's views on the Mormon question have been thoroughly understood, have they not, for more than twenty years?"

"Mr. MARTIN. No; it was understood that Senator Dubois's views coincided with the views of myself and others, that the Mormon question had ceased to be one of public concern, and that polygamy was dead, and the Mormon Church was trying in good faith to live up to what had been expected of it. That was understood to be Senator Dubois's views"——

Mr. TAYLER. At that time I interjected. I suspect my question has been answered quite fully and literally.

The CHAIRMAN. Had you finished your answer?

Mr. MARTIN. I had not.

Mr. TAYLER. It does not make any difference whether he had or not. The witness is not the judge, always.

The CHAIRMAN. There is no trouble about it. You have heard the question, witness. Have you any further answer to that question?

Mr. MARTIN. Yes, if I could have the opportunity, Mr. Chairman.

Mr. WORTHINGTON. If the Chairman pleases, I would like to have the question read. I am making the point as a matter of principle.

The CHAIRMAN. The Chair understands the witness has answered the question.

Mr. TAYLER. Of course the witness might make a speech here for two hours, but my question was answered. It called for a categorical answer, and I do not want to be driven away from the point I want. I want the witness to answer as fully and frankly as he desires.

Mr. MARTIN. I will say, Mr. Chairman, that I had not completed my answer when I was interrupted.

Mr. TAYLER. I will ask the reporter to read the question.

The reporter read as follows:

"Mr. TAYLER. Senator Dubois's views on the Mormon question have been thoroughly understood, have they not, for more than twenty years?"

Mr. TAYLER. Now, Mr. Chairman, that is my question. I do not care to have time taken up by a speech on the subject.

Mr. WORTHINGTON. I submit that, having answered categorically, he has a right to explain.

The CHAIRMAN. One moment. Do you understand the question now, Mr. Martin?

Mr. MARTIN. I thought I understood it all the time, Mr. Chairman.

The CHAIRMAN. Read the question again.

Mr. MARTIN. But I had only partly answered it when I was stopped.

The CHAIRMAN. Read the question again.

The reporter again read the question.

The CHAIRMAN. Now you can answer that question.

Mr. MARTIN. All right.

Mr. TAYLER. Please answer yes or no, if you can. If you can not, I will ask you another question.

Mr. MARTIN. They were not understood to be the same at all times.

Mr. TAYLER. That you think answers my question, do you?

Mr. MARTIN. I think so.

Mr. TAYLER. So you do not think that people have understood what Senator Dubois's views were, even though he changed them overnight?

Mr. MARTIN. It is my opinion that the people have thought they understood what Senator Dubois's position was, but it has not been the same at all times.

Mr. TAYLER. Yours has been consistent throughout?

Mr. MARTIN. I never had anything to do with the Mormon question.

Mr. TAYLER. That is all.

The CHAIRMAN. I want to ask you one or two questions. I understand you have been connected at different times with the Democratic State central committee.

Mr. MARTIN. Yes.

The CHAIRMAN. In what capacity? Just state the position you have occupied.

Mr. MARTIN. I have been a member of it, and secretary of it.

The CHAIRMAN. In what campaigns?

Mr. MARTIN. In 1894 and 1896. I was secretary of it from 1898 to 1900, and I was on the State ticket in 1900.

The CHAIRMAN. Were you present at any time at the consultations or meetings of the committee? I suppose you were; you were the secretary of the committee.

Mr. MARTIN. Yes; I was not secretary all of the time, Senator.

The CHAIRMAN. When you were secretary?

Mr. MARTIN. Yes; and at other times I was present at their consultations and meetings.

The CHAIRMAN. Frequently?

Mr. MARTIN. Yes; during all these years.

The CHAIRMAN. I inquire as a matter of information whether at these meetings there was any solicitude as to how the Mormon people would vote?

Mr. MARTIN. No; I could not say there was. It was spoken of at different times, whether or not there would be any church influence, or was any, and how they would vote, the same as the question of a miners' union would vote, and other people.

The CHAIRMAN. Of course. So that it was a matter of discussion in your committee—the State central committee?

Mr. MARTIN. Yes; it was talked of.

The CHAIRMAN. As to how the Mormon people would vote?

Mr. MARTIN. Yes; how all the people would vote.

The CHAIRMAN. Yes; I understand. But I am asking about this now.

Mr. MARTIN. Well, not particularly; no, Senator. That was not a particular matter of solicitude at any of these meetings, any more than the general results of the State or vote of the State.

The CHAIRMAN. It was discussed, I suppose?

Mr. MARTIN. Yes; it was mentioned.

The CHAIRMAN. And there was some discussion as to how the church would act in those matters?

Mr. MARTIN. Oh, some member would suggest, "Would the church interfere?" or "Was there any danger that it might interfere?"

The CHAIRMAN. So that that matter was before the committee and was discussed?

Mr. MARTIN. Very little, I might say, however, Senator.

The CHAIRMAN. I understand. That is all.

Mr. WORTHINGTON. One question I neglected to ask you. Have you held any official position in the State?

Mr. MARTIN. I was attorney-general of the State during 1901 and 1902.

Mr. WORTHINGTON. I wish, Mr. Stenographer, you would read the question which the witness was answering when he was interrupted a little while ago, and you may say anything further, Mr. Martin, you wish to say in answer to the question. Read the question and the answer as far as it has gone.

The CHAIRMAN. Do you think that is necessary now, Mr. Worthington?

Mr. WORTHINGTON. I do think so. He was asked to state the stand-

ing of Senator Dubois, who was recognized as the Democratic leader. I think anything he may have to say on that subject would be as important as a direct answer to the question.

The CHAIRMAN. The committee understands he answered the question fully, but I was not noticing at the time.

Mr. WORTHINGTON. He said three times, Mr. Chairman, that he had not fully answered the question.

The CHAIRMAN. Then the question was repeated, and he answered it.

Mr. WORTHINGTON. Well, I would like to have the question read now, as well as the answer as far as it went. Then I wish to ask the witness whether he has anything further to say on that subject to explain his position.

Senator McCOMAS. I suggest that he remembers the question and remembers the answer, and it would save time to let him go on and say anything further he has to say.

Mr. MARTIN. All I would have to say would be this: In the early days when Senator Dubois was a Republican he was the leader of the anti-Mormon fight there that resulted in their being disfranchised. His views were well known to the people of Idaho then. After the manifesto Senator Dubois advocated repealing our test oath, putting our Mormon people in the same condition that other people were in in regard to the elective franchise, and publicly expressed himself as believing that the Mormon question was settled; that they had stopped interfering in politics, if they ever did; that they had stopped taking new wives and were living up to their agreement. That was understood to be his opinion up until, I should say, in the fall of 1903, when he seemed to change his opinion and believed the church was not living up to its agreement, was interfering in politics, and practicing polygamy, and we did not change our opinion with him. A good many of us in the State—I believe a majority of the people—believed he was right, that they had quit interfering with politics and they had quit taking new wives, and the only polygamy was practiced by the old ones who had taken wives before the manifesto. We believed that that was the condition then, and we believe it is still the condition. The fact is that the Senator changed his mind, and he has not stated anything to change the mind of the people of the State.

The CHAIRMAN. I would ask, in view of your last statement, whether it is true that before the manifesto polygamy was practiced in Idaho, and whether church interference existed?

Mr. MARTIN. Church interference?

The CHAIRMAN. Yes.

Mr. MARTIN. I could not say as to the latter, Senator, but I think, from my common knowledge, that polygamy was practiced and advocated prior to the manifesto.

The CHAIRMAN. Yes; it was advocated and practiced in Idaho?

Mr. MARTIN. I understand so.

The CHAIRMAN. Now, what was the general understanding as to church interference before that time in political matters?

Mr. MARTIN. Well, it was a mooted question. Some said they did interfere and some said they did not.

The CHAIRMAN. What was the consensus of opinion upon that question?

Mr. MARTIN. I think at that time a majority of the people of that State believed that they did. I wish to say one word in explanation, if you will permit me.

The CHAIRMAN. Certainly; you have that right.

Mr. MARTIN. Mr. Tayler asked me if I had been employed by the Mormon Church in any business capacity, or something of the kind. There is a matter I would not want misconstrued. My name appears upon the court record as an attorney in a case for the Mormon Church. It is in a case in Boise, but I was not employed by the Mormon Church or any official, but by the Christian Church of Boise. They were selling their property to the Mormon people, and I was their attorney. It became necessary to acquire title, and in bringing the suit to acquire the title I appear in the capacity of attorney for the Mormon Church, but I was not in their employment. I was in the employment of the Christian Church of Boise, which I attend, although I am not a member of it.

The CHAIRMAN. Now, Mr. Tayler, you may proceed.

Mr. TAYLER. You say Senator Dubois seems to have changed his view. The charge is made, is it not, and, as you understand it, pretty thoroughly proved that the high officials of the church are practicing polygamy—that is, polygamous cohabitation?

Mr. MARTIN. Cohabiting with their plural wives?

Mr. TAYLER. And having children by them. You know that, do you not?

Mr. MARTIN. I know it by the fact that it has developed in the testimony here.

Mr. TAYLER. Of course that is the only way any of us know it.

Mr. MARTIN. Just a moment. And it was rumored in our State that Mr. Budge had children by his polygamous wife, which I knew before this investigation opened.

Mr. TAYLER. Just a rumor in the State. Does it rise to the dignity of a popular conviction?

Mr. MARTIN. I do not think it had been advertised enough for it to have been so known.

Mr. TAYLER. You know that these same high officials of the church, who have been having children by their plural wives, solemnly promised that they would not have children by their plural wives, do you not?

Mr. MARTIN. I heard of it.

Mr. TAYLER. And has it not been stated that they also testified in the litigation that was connected with the church property that they were not to cohabit with these plural wives, and that they also violated that; that the head of the church said that the purpose of the manifesto was to secure a compliance with the law of the land?

Mr. MARTIN. I understand that is true.

Mr. TAYLER. And that they are violating that, and the rule of the church? You understand all that, do you not?

Mr. MARTIN. I understand that to be true. I have read it in the testimony.

Mr. TAYLER. And that the state of mind prevailing among Gentiles out there—among many Gentiles, not yourself—respecting the attitude and fairness of the leaders of the Mormon Church has changed, on account of these developed facts, within the last five or six years?

Mr. MARTIN. No; I believe 80 per cent of the Gentile people of Idaho believe, as I do, that the Mormons in Idaho—now, leave out Utah; I don't know anything about that—are not contracting new plural marriages, and that the only polygamy there is practiced by the old ones who were married before the manifesto, and they only number a few as compared with the population.

Mr. TAYLER. And that they care nothing about?

Mr. MARTIN. Well, they have passed it over as, apparently, the best way to get rid of it—let them die off.

Mr. TAYLER. That is all.

Mr. MARTIN. I wish to say this, however, Mr. Tayler, that the people of the State of Idaho—the Gentile people—are as much opposed to polygamy as any people in the Union, and are not only willing, but able, to take care of it themselves.

Mr. TAYLER. They are?

Mr. MARTIN. Yes, sir.

Mr. TAYLER. Mr. Budge still goes unpunished?

Mr. MARTIN. Yes, sir; Mr. Budge still goes unpunished.

Mr. TAYLER. And, as he says, 40 more?

Mr. MARTIN. Perhaps.

Mr. TAYLER. Mr. Budge says himself that there are 40 living in polygamy.

Mr. MARTIN. Perhaps.

Mr. TAYLER. And the people of Idaho, according to your statement, are taking care of those cases?

Mr. MARTIN. They are taking care of the fact—

Mr. TAYLER. They are taking care not to prosecute them.

Mr. MARTIN. Of the fact that polygamy will not increase. I wish to say for myself that I would punish, if I was doing it, those old cases. I believe they ought to be punished; but a majority of our people seem to think that the best way, as far as concerns those old fellows who contracted these relations before the manifesto, as long as they stop it and do not take any new wives, or as long as no new wives are taken, is to let it go, to let it gradually die out, to let the old ones die.

Mr. TAYLER. That is, it was wrong to issue the counterfeit money, but as long as it is out they can proceed to pass and utter it?

Mr. MARTIN. It is an anomalous condition, and the question in the minds of a great many is whether it would benefit the State to take those old men and put them in the penitentiary.

Mr. TAYLER. Old men? Do you not know there are many polygamists in Idaho under 50 years of age?

Mr. MARTIN. I do not know that to be true.

Mr. TAYLER. What do you know about their being very old?

Mr. MARTIN. Most of them that I have had pointed out to me as polygamists were old men.

Mr. TAYLER. How many have you had pointed out to you?

Mr. MARTIN. Probably 10 or 15.

Mr. TAYLER. That is all.

The CHAIRMAN. Who is your next witness?

Mr. WORTHINGTON. Mr. Brady.

TESTIMONY OF JAMES H. BRADY.

JAMES H. BRADY, being duly sworn, was examined and testified as follows:

Mr. VAN COTT. What is your name, Mr. Brady?

Mr. BRADY. James H. Brady.

Mr. VAN COTT. What is your age?

Mr. BRADY. Forty-two.

Mr. VAN COTT. Where were you born?

Mr. BRADY. In Pennsylvania.

Mr. VAN COTT. How long did you live in Pennsylvania?

Mr. BRADY. I lived there until I was about 7 years of age.

Mr. VAN COTT. Then where did you live?

Mr. BRADY. I moved from there to Kansas, down by Kansas City.

Mr. VAN COTT. How long did you live there?

Mr. BRADY. Until 1892.

Mr. VAN COTT. Did you then become interested in Idaho?

Mr. BRADY. Yes, sir; I was interested before that. I became interested in Idaho about 1890.

Mr. VAN COTT. In a business way?

Mr. BRADY. In a business way; yes, sir.

Mr. VAN COTT. Then you went to Idaho in 1892?

Mr. BRADY. No; I went to Chicago in 1892, but spent about half my time in Idaho.

Mr. VAN COTT. With your business?

Mr. BRADY. With my business; yes, sir. Operating a canal, etc.

Mr. VAN COTT. Did you finally move to Idaho?

Mr. BRADY. Yes, sir; about four years ago.

Mr. VAN COTT. And you now live there?

Mr. BRADY. Yes, sir.

Mr. VAN COTT. Just indicate in a general way what is your business?

Mr. BRADY. I operate some irrigation canals and own a power plant at American Falls.

Mr. VAN COTT. Electric?

Mr. BRADY. Electric—water power that furnishes power to Pocatello, American Falls, Rose Fork, and Blackfoot.

Mr. VAN COTT. Where do you live now in Idaho?

Mr. BRADY. At Pocatello, Idaho.

Mr. VAN COTT. That is in Bannock County?

Mr. BRADY. Yes, sir.

Mr. VAN COTT. And that has been called one of the Mormon counties?

Mr. BRADY. It has.

Mr. VAN COTT. Have you taken any interest in politics since you have been in Idaho?

Mr. BRADY. Some; yes.

Mr. VAN COTT. Do you belong to the Mormon Church?

Mr. BRADY. I do not.

Mr. VAN COTT. Have you ever?

Mr. BRADY. I never have.

Mr. VAN COTT. Do you belong to any church?

Mr. BRADY. I am not a member of any church. I was raised as a Presbyterian. We have no Presbyterian Church at Pocatello, and

my wife is a member of the Congregational Church, and I attend that church.

Mr. VAN COTT. When did you first take an interest in politics in Idaho?

Mr. BRADY. Well, I have been taking more or less interest for the last eight years, but no active part in it.

Mr. VAN COTT. Have you held any office in Idaho?

Mr. BRADY. No office, except at the present time chairman of the Republican State central committee.

Mr. VAN COTT. When did you become chairman?

Mr. BRADY. At the last convention, held at Moscow, in August.

Mr. VAN COTT. Was that in 1904?

Mr. BRADY. 1904.

Mr. VAN COTT. Who had the active charge of the political campaign in Idaho for the Republicans in 1904?

Mr. BRADY. I did.

Mr. VAN COTT. Have you visited in what are called the Mormon counties?

Mr. BRADY. I did; yes, sir.

Mr. VAN COTT. And in the Gentile counties?

Mr. BRADY. Almost all of them; not all of them. The railroad facilities are such that it is impossible to visit all of the counties.

Mr. VAN COTT. First calling attention to Bannock County, that you have stated is one of the Mormon counties, what is your opinion as to which has the majority in that county, Mormons or Gentiles?

Mr. BRADY. Gentiles.

Mr. VAN COTT. But it is called a Mormon county?

Mr. BRADY. Yes, sir.

Mr. VAN COTT. What is your opinion as to the number of Mormons in the Gentile counties?

Mr. BRADY. Between 600—I am talking about voters now; you would have to make calculations from that—between 600 and 650 in the Gentile counties.

Mr. VAN COTT. How many Gentile voters are there in what are called the Mormon counties?

Mr. BRADY. I should judge there are 40 per cent of Gentile voters—somewhere near that.

Mr. VAN COTT. Will you please give us the number of Gentile voters, in your opinion, instead of giving it in the percentage?

Mr. BRADY. The Gentile voters?

Mr. VAN COTT. Yes; in the Mormon counties.

Mr. BRADY. I would put it between 5,500 and 6,000. Let me understand that question again.

The question was read by the reporter, as follows:

“Mr. VAN COTT. Will you please give us the number of Gentile voters, in your opinion, instead of giving it in the percentage?”

“Mr. BRADY. The Gentile voters?”

“Mr. VAN COTT. Yes; in the Mormon counties.”

“Mr. BRADY. I would put it between 5,500 and 6,000.”

Mr. VAN COTT. Are you satisfied with the answer?

Mr. BRADY. No; I am not satisfied with the answer. I want to be satisfied in my mind. I never had figured it in that form before. I figured all those matters by percentages. I should say between eight and ten thousand in the six Mormon counties.

Mr. VAN COTT. In these voters, are there included men and women?

Mr. BRADY. Yes. The women vote in Idaho.

Mr. VAN COTT. How many voters are there in the State of Idaho?

Mr. BRADY. We cast about 72,000 votes this year.

Mr. VAN COTT. How many of those, in your opinion, are Mormon voters?

Mr. BRADY. Between 13,000 and 14,000.

Mr. VAN COTT. You are familiar with what has been called the Lewiston convention?

Mr. BRADY. In a general way. I did not attend the convention.

Mr. VAN COTT. And the Democratic platform?

Mr. BRADY. Yes, sir.

Mr. VAN COTT. Commencing after the adoption of the Lewiston platform, or the Democratic platform at the Lewiston convention, will you run along in chronological order and give a general account of the campaign as it was actually waged, giving special attention to what was the position of the Democratic party and its speakers in that campaign?

Mr. BRADY. I am to understand you as meaning the general manner in which we conducted the campaign?

Mr. VAN COTT. Yes, sir.

Mr. BRADY. And the opposition in the State that we presumed we had from the Democratic party?

Mr. VAN COTT. Yes; so as to give a clear idea to gentlemen who are not familiar with the Idaho situation of how Democrats were converted to Republicanism—how the campaign was waged.

Mr. BRADY. The main reason why Idaho went Republican, I will say in a general way before commencing a detailed explanation, is the fact that the people of Idaho believe in the Republican principles—that is, the principle of protection, and matters of that kind, and were very thoroughly in accord with the National Administration.

Going into detail as to how I conducted the campaign, I will say that we held our convention at Moscow a short time before the Lewiston convention was held; in fact, only about three days before, and after we adjourned and went home some of our members went down and attended the Lewiston convention. We, of course, were very much interested in the course that would be pursued by those men, and I had parties there for the purpose of finding out what the policy of the Democratic party was going to be, so that I would know how to meet the issues that they would raise.

They had a very heated discussion, as I am advised, and as has been testified to here by men who were present and know, and, of course, it is unnecessary for me to go over that part of it; but they finally adopted the platform on which they made their campaign. At that time I did not know whether they were going to single out this antipolygamy plank or whether they were going to make a paramount issue of the sheep question or the timber question or the State depositary law, and it took me several days to get my bearings. But we soon discovered that their main issue in the campaign was going to be the antipolygamy plank in the platform. In fact, I became thoroughly convinced of that when Senator Dubois, who was the acknowledged leader of the party in Idaho, went to Salt Lake and made a speech at the opening of the campaign of the American party. He came up from there directly to Idaho, and the next night made a

speech in Boise, opening the campaign in Idaho. We considered him the most prominent man in the party in that State at the time, and from the speeches that he made, copies of which I had read, and at Boise had taken down in shorthand for the purpose of using them and knowing what he was going to say, and by attending the meeting in person myself and hearing Senator Dubois's speech, I was satisfied that the issues were settled—that we were going to be Republicanism on one side and the antipolygamy plank, practically, and anti-Mormonism on the other.

I then, of course, as anyone would do in my position, started out to find out the best manner to get votes. That is what I was there for. I instructed my men to simply stick to party lines; to ask the people to vote the Republican ticket for the reason that the Republican party was the party of progress and protection, and that these things were what they wanted in our State. How well we succeeded in convincing them that my position was correct I leave the returns to say.

The further we got into the campaign the more I discovered that this was developing into what we called in that country a straight anti-Mormon fight. It was not an antipolygamy fight. It was simply an anti-Mormon fight—arraying one class of people against another. Of course I was not in Idaho at the time of this early contest and controversy, and was in a position to look on these matters with probably more coolness than some of the men who had gone through it; but there certainly was during this campaign no reason existing, that had not existed since 1894, why this issue should be brought up at this time. The people generally were satisfied with conditions. The Mormon counties have, in all the past years since 1896, drifted with the other counties in politics. We have had two or three isms out there. They went off on greenbackism, and they went off on free silverism, and a good many conservative people in the State thought they were going on another kind of an ism, whether it was anti-Mormonism or not, and that we had had about enough of it. The business men and the safe and sane people took hold of the matter and made an aggressive campaign, and made it on strictly party lines and party issues on the side of the Republican party, and absolutely and wholly on the anti-Mormon issue on the side of the Democratic party.

In bringing these matters before the people, we asked them the question whether or not Senator Dubois was justified in bringing on this question at this time; and the people, regardless of whether they lived in the Gentile counties or the Mormon counties, gave their answer in a very decisive manner. The counties outside of the Mormon counties settled this question absolutely in our State this year; and the Mormon counties, while they went with a larger percentage, I will say, for the ticket than some of the other counties, yet they were absolutely driven to it. Everything, in my judgment, that could be done was done by the Democratic leaders to throw away the Mormon vote and make it come to us. I, as chairman of the committee, was perfectly willing to take all the votes that were to be had. I went after them and did everything I could do to inflame the Mormon people against Mr. Dubois's methods; and I am frank to say that I did not succeed as well as I anticipated I would in the southeastern counties. The Dubois ticket polled almost 6,000 votes in those six eastern counties, and the Mormons certainly demonstrated their loyalty to their

State and national ticket by voting for Heitfeld and Parker almost together. If you will take the vote in the six southeastern counties on President, you will find that in the six counties Mr. Parker polled only 178 votes behind Mr. Heitfeld, which is very close together in that respect.

I think that in a general way covers what I was to answer as to the manner in which we conducted the fight and the lines on which we thought we had to fight.

Mr. VAN COTT. Now, Mr. Brady, a little more in detail as to how you took advantage of the manner in which the Democratic leaders conducted their fight in bringing that to the attention of the Mormon people and of the Gentile voters; for instance, whether you circulated any letters or things of that kind.

Mr. BRADY. Yes, sir; I did that in every instance I could.

Mr. VAN COTT. Tell us about it.

Mr. BRADY. In the first place, I want to say that the testimony of my Democratic friends here to-day is quite interesting to me. I did not know exactly about this feeling before the campaign or I might have used it to advantage. We supposed they were just simply sulking in their tents. Outside of Senator Dubois and ex-Senator Heitfeld, there was no prominent known Democratic leader went out and took an active, open interest in the campaign. We discovered that it was not the intention of Senator Dubois and his friends to support Mr. Parker; that it was their intention to give the people to understand that they were going to vote for Mr. Roosevelt and Mr. Heitfeld. Senator Dubois, in some very able speeches which he made and which I had taken down in shorthand and read over personally, never, except on one occasion, and that casually, referred to the national ticket. We discovered that their theory was to vote for Heitfeld and for Roosevelt. Heitfeld and Roosevelt was the cry, and they carried it out on that line.

Now, after what has happened you might not think that among these people down east or southeast there was a friendly feeling existing in favor of Senator Dubois; but the hardest task, or one of the hardest tasks, I had in the campaign was to make the Democratic Mormons believe that Fred, as they called the Senator familiarly, would say the things about them or permit a man to stand on the platform and say the things about them; that he did say and that those other people said. I have had Democratic Mormons tell me plainly that they did not believe it. They thought it was a Republican trick, and that they did not believe that Senator Dubois would say those things about them; that they had had their troubles back years ago; that they had settled it all up; that he had got the franchise back for them—at least, they gave him that credit—and that they did not believe he had done as I said he did.

Mr. VAN COTT. How did you convince them?

Mr. BRADY. By taking documents to them; by having his speeches printed and having Stalker's speeches printed and circulating them among the people. He wrote a letter—I think it is here—in which he closes by saying he believes all Mormons to be criminals, or words to that effect. I had 10,000 copies of that letter printed and circulated it among the Mormon people.

Senator DUBOIS. Is that the one you had printed?

Mr. BRADY. Yes.

Senator DUBOIS. Inasmuch as we have had the original letter read, I would like to have that read, to see how it compares with the original.

Mr. BRADY. I haven't got it, but if you say this is not a true copy I will admit it.

Mr. WORTHINGTON. Is this the paper you circulated [indicating]?

Mr. BRADY. Yes; this is the paper I circulated.

Mr. VAN COTT. Is this a lithographic copy?

Mr. BRADY. No; it is a photographic copy.

Senator DUBOIS. I did not know it had been circulated until Governor McConnell testified to it.

Mr. WORTHINGTON. Let us have the whole letter go in. That is the best way.

The ACTING CHAIRMAN (Senator McComas). The letter will go in.

Mr. TAYLER. I think the letter is already in.

The ACTING CHAIRMAN. This copy will go in as circulated.

Mr. TAYLER. The same letter went in yesterday.

Mr. BRADY. That is a photographic copy. We had a photograph made and a plate made from that and printed from it.

Mr. VAN COTT. Mr. Brady, the writing below Senator Dubois's signature was not a part of it?

Mr. BRADY. No; that was from the people that printed it, saying that that was the best they could do from the copy. That was what I meant to scratch off. I had another copy with me, but I misplaced it somewhere on the train. That is the copy that they sent to me from the lithographers, and their note is down there saying this is the best they can do from the original that they have.

Mr. VAN COTT. You arrived at the point where you stated that you had 10,000 of these circulated. Where?

Mr. BRADY. Through the Mormon counties.

Mr. VAN COTT. Did you have trouble in making the Democratic Mormons believe that this photographic copy was genuine?

Mr. BRADY. I did, in some cases. Yes, sir; they questioned that, but as a general thing I had it presented to them by people in whom they had confidence, and I finally got it accepted as a fact. I took the position that that was not an attack on the Mormon Church, but an attack on the whole Mormon people. It says "criminals, as I regard the Mormon people to be."

Mr. VAN COTT. Is this letter that you refer to the same one that is dated October 3, 1904, and headed "Spokane, Wash.," and that went in with Mr. McConnell's testimony?

Mr. BRADY. I could not say as to that, for I was not here; but this is a copy of the original letter that Mr. Dubois wrote to Senator McConnell.

Mr. WORTHINGTON. We want that to go in so that it may appear what was circulated.

The ACTING CHAIRMAN. It may go in. It is very short.

The letter referred to is as follows:

"THE SPOKANE,
"Spokane, Wash., October 3, 1904.

"Hon. W. J. McCONNELL, Moscow, Idaho.

"MY DEAR GOVERNOR: I have yours of September 28, asking me to meet you in joint debate at Moscow on October 12. As you are not a candidate for any high office and do not hold any official position, and

are not now in a position of responsibility, I can not give up my time, which is valuable, for discussion with you.

"I sincerely hope you will take part in the campaign and answer my written arguments or my spoken arguments. The Review published a long article from me about two weeks ago to which I invite your attention. I do not intend any discourtesy to you in refusing to debate with you, but I hardly think I would be justified in debating with anyone unless they are candidates for or now occupy positions which call upon them either to make or to enforce laws against criminals, as I regard the Mormon people to be.

"Sincerely, yours,

FRED T. DUBOIS."

Mr. VAN COTT. Did you circulate any other thing in the Mormon counties?

Mr. BRADY. I circulated copies of speeches of Senator Dubois and of Stalker and some of the addresses by Mrs. White.

Mr. VAN COTT. For instance, take Senator Dubois. Have you anything before you, any brief extract, that you circulated among the Mormons, to call their particular attention to it?

Mr. BRADY. I marked the position that he took in the Lewiston convention about the people being honest and straightforward. I have got it here.

Mr. VAN COTT. Well, that is one part.

Mr. BRADY. Then I marked other parts through. I would score them where I wanted them to see them and call their attention specially to it.

Mr. VAN COTT. Is there anything about Stalker—anything that he said that you circulated?

Mr. BRADY. Mr. Stalker made a very strong speech against the Mormons—the Mormon people as a whole.

Mr. VAN COTT. The substance?

Mr. BRADY. The substance, in general, and especially he charged in his speeches that the children down in the southeastern counties had been tied to a whipping post and whipped into insensibility. I knew that anybody that lived in the southeastern counties knew that that was absolutely false, and I circulated his speech and called special attention to that part of it. That inflamed the Gentiles as well as the Mormons, for the reason that the Gentiles thought it was a reflection on them to think that they would permit anything of that kind to exist.

Mr. VAN COTT. How extensively did you circulate that?

Mr. BRADY. I had 10,000 copies of that circulated. The articles referred to are as follows:

SPEECH MADE BY HON. FRED T. DUBOIS AT BOISE, IDAHO, SEPTEMBER 15, 1904.

"Ladies and gentlemen: I am always pleased to address an audience in Boise, and I think that at least once in two years, for eighteen years, I have discussed with you and with the people of the State of Idaho public questions, and I do not recall a time when I have ever advised the people to do anything which I myself, at least, did not believe it to be for their best advantage. I have stood in the clear light of public life for twenty-two years in this Territory and State;

you know every public act of mine, and looking back over the past with me, you older men, and you older women, I think you will not recall one instance where I have advised you to do anything which was not for your advantage, at least in my judgment.

"Now, I wish to read to you a portion of the Democratic platform adopted at Lewiston—the one over which there is some controversy [reading]: 'We demand the extermination of polygamy and unlawful cohabitation within the State of Idaho, and complete separation of church and state in political affairs.' If there is anyone here that does not indorse that I will be very glad for them to raise their hand. What is there in that declaration that any law-abiding citizen, anyone worthy of the name of American citizen, can object to? That is all there is of it. Is there an attack on any church there? If so, that church ought to be attacked. If any church will not subscribe to that it ought to be attacked. I wish you could have been with me last night in Salt Lake City, where a tremendous audience was assembled, composed of the very best manhood and womanhood of that State. There they were, surrounded by this tremendous power of the Mormon Church, meeting to insist that this church should not dominate the political affairs of that State. I said to them last night: 'I bow to you; I take off my hat to you for your splendid courage. You are surrounded by this mighty power, you are in a hopeless minority, yet you come here in the open to protest and denounce what no American citizen would submit to.' I said to them last night, also, that in Idaho we were more fortunately situated, that here we had four Gentile votes to one Mormon vote, and what a shame it would be to us if with that power we turned this State over to the Mormon hierarchy. O men, O women, of Idaho, you are not going to do it, you are not going to be misled by someone who says: 'This is politics. Simply a play of politics.' Well, if it is politics, I will take our side of the political proposition, anybody else can take the Mormon side. If they will reduce it to a political proposition, and not get on the high ground of American citizenship, I will take the politics I am advocating as against the politics the Mormon hierarchy is advocating.

"Now, this present controversy is not of our making; we have not forced this fight; this fight has been forced on us. It might be interesting for some who have come into the State in recent years to review history a little. When the Edmunds law was passed in 1882 polygamy was openly and flagrantly taught and practiced all throughout southeastern Idaho; the domination of the Mormon Church in political affairs was final and open. An illustration came in that southeastern section which caused the formation of the anti-Mormon party that led finally to the manifesto of the Mormon Church. What are now Bannock, Bingham, and Fremont counties was then Oneida County, which extended from the Utah line to Montana and comprised at that time one-sixth of the population of Idaho. I went down there to attend a Democratic convention—so called. The Mormons of those days were all Democrats, and there was not a single Republican Mormon in Idaho Territory; every one was a Democrat. I went on to look at this Democratic convention, and a Mr. Rix, who was a Mormon bishop of that county and had been in that country only about three weeks, presided over its deliberations. There were 85 Mormon delegates and 7 Gentile delegates in

the convention. Rix did not even know the names of his neighbors. He had a list of officers in his pocket which he had gotten from the authorities in Salt Lake. He pulled them out of his pocket and read off, 'I will nominate so and so for sheriff.' He would get 85 votes and the opposing nominee would get 7. 'I will nominate so and so for assessor.' He would get 85 votes and the other nominee would get 7, and so on down the entire line.

"The seven Gentile Democrats left the convention, organized with us, passed the test oath, disfranchised the Mormons, and freed the Territory of Idaho from them. That fight was intense and bitter. I hoped I never would be engaged in one like it again. It continued with stubbornness for ten years. We had a constitutional convention in Idaho, where we adopted our present magnificent constitution; and we put in our constitution our test oath, which provides that no one who belongs to an organization that teaches or practices polygamy or which puts the ecclesiastical above the civil law shall hold office. That was our fight in early days. There were but few votes against that provision, and when it was ratified by the people at the polls there were no votes to speak of against the provision.

"The day that I was honored by being sent to Washington as Delegate in Congress, and upon reelection I took my constitution to Washington with me. There was a bitter fight over the test oath in our constitution and in that contest the Supreme Court of the United States declared that our constitution was right and that if the people here believed it was necessary to disfranchise those men and women for violation of the laws of this State, it was our duty to do so. A great many came to me and wanted that portion of our constitution eliminated. I said to them then, and I have not changed my opinion one bit in these twenty-two years—I said to them: 'You can keep us out of the Union as long as you see fit. It is a privilege of Congress to admit Territories when they wish. You do not have to admit us. We can not compel you to give us statehood, but you can not bring us into the Union of States for a consideration our people do not make and which they do not ratify. We will go into the Union of States with that test oath in our constitution, or we will stay out of the Union of States.' We were admitted with it. The fight continued in Utah and here until finally the first president of the Mormon Church issued their manifesto to the world, in which they pledged themselves that they would give up polygamy and church dictation in political affairs. They signed their names to it. It was ratified twice in their joint conferences with 10,000 Mormons assembled. These 10,000 Mormons twice in general conference sustained their manifesto by uplifting hands. This was at the end of this bitter fight of ten years. No one can understand the sigh of relief of each of us who had been engaged in that fight when the manifesto was published. The fight was over. It was ended, and we were all to be American citizens. We were all to be united in building up this magnificent country of ours. We took the Mormons by the hand and said to them: 'Come; it is over, and now we will all live within the laws.'

"I was the first one to send word in a written communication from Washington to the Republican State committee and to the Republican papers: 'We must restore franchise to the Mormons. The fight is over. They will live within the law, as president and people

have stated so. Now let us be brothers together, repeal the law, restore the franchise to them, and put all on an equality.' I was criticised more severely for that than I am now—than for making the contention that I am now making. I was right for insisting that their franchise be restored to them, and afterwards, as a Senator of the United States, when the admission of Utah was being considered, and I was Republican Senator, the old Eastern Senators who had been making the fight on the Mormons came to me and said: 'You have been through all this question—can they be trusted?' I said: 'I pledge my faith; I have lived among these people, they have issued this manifesto, and I pledge my faith they will be honest.' They were admitted. One by one, insidiously, every law at Washington was repealed; one by one, insidiously, every law in Idaho was repealed, until to-day in Idaho you have no provision to punish polygamy or unlawful cohabitation.

"And when this had been done, quietly, they started to take possession of Idaho State as they had possession of Idaho Territory. I say we have not brought on this contest; the Mormon hierarchy has brought it on, not the Mormon people. The Mormon people were honest when they held up their hands and sustained that manifesto; the Mormon people are honest now in wishing their leaders to obey the solemn compact and pledges made the Government on their honor, and in securing amnesty they pledged themselves to refrain from polygamous living and to keep their hands out of politics. I say that most of the Mormon people now want to keep their compact; it is the rulers and their influence we are fighting, for womanhood and manhood.

"Two years ago, not to go back any farther, during our campaign, a polygamous apostle, John Henry Smith, went into the southeastern Idaho and told the Mormon people how to vote, told them under direction of their apostolic authority, not speaking in public as I am speaking now. I recall the circumstances very well; I was in that section of the country campaigning when the apostles came and had headquarters here. When it was understood what these apostles were doing, Mr. Fischer and Mr. Sheridan and the other people were very much exercised, and Mr. Daniels sent Mr. W. J. D'Arcy, one of the proprietors of the Evening Capital News, to Salt Lake City to protest to Joseph F. Smith, president of the church, against this interference, and demand him to take these apostles out of southeastern Idaho. I was making a speech at Malad when Mr. D'Arcy came through. He did not know who I was. He was on his way to Salt Lake City. After my speech Mr. D'Arcy came to me and told me his mission. He said: 'I am going to Salt Lake to protest, not only as chairman of the Democratic State committee, but on the part of the Evening Capital News, the leading Democratic paper of the State.' Mr. D'Arcy, myself, David L. Evans, and Lorenzo Evans, two Democratic Mormon leaders, and a number of other prominent Mormons met and consulted as to what Mr. D'Arcy should do, what would be the best method of procedure.

"We all agreed that Mr. D'Arcy should go to Salt Lake City and enter a protest against the interference of the apostles in this contest. Mr. D'Arcy went down to Salt Lake City, had an interview with Joseph F. Smith, and demanded that he take these apostles out of Idaho and quit interfering. He said to him, so Mr. D'Arcy after-

wards told me, 'If you persist in dominating the politics of Idaho from Utah, we will disfranchise you.' After that the last legislature elected Mr. John Henry Smith. This same polygamous apostle came to Boise and surreptitiously secured the passage of a law to take the test oath out of our constitution. I appeal to all of you who are here, who have come into the State within the past ten years, if you knew that there was such a thing as a test oath in our constitution. I know you did not, it was not bothering anyone, the laws to carry it into effect had been repealed; it was not doing anyone any harm, but they wanted it out.

"I had the honor of writing a letter to the State central committee protesting against this constitutional amendment, and when the Mormon attorney-general, now Mr. Bagley, I will not say 'polygamous attorney-general,' I say 'Mormon attorney-general,' discovered, I understand through the advice of a very distinguished attorney, that the provision calling for a constitutional convention had been improperly passed they were cowered.

"The Mormon people of the State were informed they intended to undertake to amend our constitution by taking the test oath out of it, in which they were arrested and were afraid to face the issue. If the law was properly passed and they had the courage, they were coming out and submit to the people this fall whether to change our statutes.

"That law is as good as any on our statute books; it was a subterfuge and they were afraid to face it when the people found out what they were trying to do. They are the ones who made the compact in Idaho; they are going back, and have gone back, to their old methods.

"In Utah they elected Reed Smoot, apostle of the Mormon Church, to be Senator of the United States. I happened to be a member of the committee on privileges and a protest was entered against the seating of Mr. Smoot.

"An investigation began, before which I confess to you I did not have any idea that conditions were so bad, until that investigation revealed them. We examined nobody excepting high officials of the Mormon Church. The president of the Mormon Church testified before the committee that he had five wives and forty-two children; that he had born to him thirteen children since the manifesto, which he himself signed. He said he was violating not only the laws of God, but the laws of man. In answer to the question: 'Did you not say positively that you are leading a polygamous life?' He said: 'I did.' And then said: 'What are you going to do about it?' He did not say it in those words, but said: 'We have statehood now in Utah; we control the courts, the juries, and the sheriffs, and elect the officers. I will take chances with my people; they are in sympathy with me. I will continue to practice these things, and your Government can not interfere with us.'

"Mr. Lyman, who will be the next president of the church, is living in open polygamy. I say that he will be the next president of the church because the president of the twelve apostles succeeds to the presidency of the church whenever there is a vacancy, and the next apostle succeeds to him, going up by succession. For the next fifty years, according to their unwritten law, there will be a polygamist at the head of the Mormon Church.

"They published broadcast, swore before the committee that no

new polygamous marriages were being celebrated. We proved under oath by these head officials of the Mormon Church that three apostles out of the twelve had taken plural wives since the manifesto. In addition to that, two other apostles have married Mormons into polygamy since the issuance of the manifesto, in which they gave their solemn pledge that this practice would cease, and yet they say that there are no new plural marriages. There are five apostles out of twelve on their own sworn testimony living in polygamy. What do you think the rank and file are going to do? Is that an example to deter other Mormons from entering into polygamy?

"To get down to the investigation as to their dictation in politics, Joseph Smith was asked the question whether Mr. Smoot had to get his consent before he could be a candidate for the United States Senate and he said yes. 'Did you give your consent to Mr. Smoot to be a candidate for the United States Senate?' 'I did. He asked me to do it and I did.' 'Did you give your consent to anyone else to be a candidate for the United States Senate?' 'I did not.' 'Then you gave your consent to man of one party to be a candidate for the United States Senate, but you did not give your consent to any other party?' 'No; I gave my consent to Reed Smoot.'

"That, of course, was an order to elect Reed Smoot to the United States Senate, and there was no candidate against him in any other party, and Reed Smoot is Senator of the Mormon Church and not your Senator, not Senator of the people of the United States, nor a Senator of the people of the State of Utah.

"These are the conditions which they have forced upon us; they have made the disclosure of these facts absolutely necessary. They have forced us in this State to declare that Idaho shall be for American citizens and shall not be ruled by a hierarchy from Salt Lake City.

"The people of this State have it for themselves to decide, whether they will send the word out to the good women of the East, and the good men of the East, who are very much interested in this question, whether here in Idaho, where these foul conditions exist, we condone or condemn it.

"We will send word to them whether we will help to rid the country of this hierarchical rule, of this polygamous practice, or whether we will condone these actions.

"It is different in Utah, where they must depend entirely on outside influence. Here in Idaho it is by ourselves, and no trivial political considerations can weigh in our opinions as against the higher type of American citizenship we should preserve in this State of Idaho. The contest at the present time is being watched now in Utah as well as here. It is a contest against this power of the Mormon leaders; it is an effort to shake off this power which they exercise over their followers.

"You will wonder, perhaps, why their followers themselves can not shake them off. It is plain enough. They have been born and brought up in those communities; they are surrounded by this influence; they have their natural religious prejudices to overcome, and they know that if they do not obey the orders of these apostolic authorities they are unchurched, or, as President Smith himself put it, "they unchurch themselves." Avenues in society and business which are open to them as Mormons are closed otherwise, so that it is

almost impossible for these Mormons to rebel against this authority; but I know from conversations that I have had with a great many of them that they wish us godspeed in this fight to keep this State American.

"I thank you very much."

SPEECH OF STALKER—HE IS A CHILD OF POLYGAMOUS MARRIAGE—DISCUSSES MORMON QUESTION AND RECITES PRACTICES OF CHURCH IN SUPPORT OF CONTENTION MADE BY SENATOR DUBOIS.

[From the Lewiston Morning Tribune of Monday, October 10, 1904.]

William Hyde Stalker, of Boise, who is touring the State with Senator Dubois and delivering anti-Mormon speeches, is a child of a polygamous marriage, his father having three wives and twenty-eight children. Mr. Stalker's speeches are therefore attracting much attention. In his address at the court house Saturday night, he said:

"I have been denominated by the junior Senator from Idaho 'a vagabond' because I have the tamerity to present before the people of the State of Idaho my convictions on a question which, more than any other, demands the attention of the good men and women of this State. As Senator Dubois has said, I am doing this purely of my own responsibility. I am neglecting my business in doing this work, and I am not receiving one cent as a consideration.

"In starting out I want to explain to you that I am a Republican. I have always been a Republican. For the past ten years I have taken part in the politics of Oregon, county and State, and in my humble way I have done all that I could to further the cause of the Republicans. I moved to Boise, Idaho, in February of the present year, and when I became settled the preliminaries of the political campaign were being discussed. Among the questions that came up was this Mormon question, and I believed at that time that the Republican party would incorporate a plank in its platform similar to the one adopted by the Democratic party. I knew then, as I know now, that owing to the developments of the past year and a half, and my own experience during the past twenty years, that this question is the paramount issue of this campaign. I was born in southeastern Idaho and raised among the Mormon people; in fact, my people formerly belonged to the Mormon Church. As you have doubtless read in the papers, I am the son of a polygamous marriage. I am going to attempt to prove to you to-night that polygamy is the essential element of Mormonism; it is the sine qua non of the Mormon system. I have with me their book of the faith, known as the doctrine of the covenants, a book which contains the prophecies of Joseph Smith, jr., the prophet. Of all the characters of the Mormon Church, Joseph Smith is supreme. The Mormon people believe and Joseph Smith claims that his utterances were of divine origin, and inspired by God. I will read a portion of the revelation of Joseph Smith bearing on eternity of marriage, including the plurality of wives, given through Joseph, the prophet, in Nauvoo, Ill., July 12, 1843. It is as follows:

"Verily, thus sayeth the Lord unto you my servant, Joseph, that inasmuch as you have inquired of My hand to know and understand wherein I, the Lord, justified my servants, Abraham, Isaac, and Jacob, as also Moses, David, and Solomon, my servants, as touching

the principle and doctrine of their having many wives and concubines. For behold, I reveal unto you a new and everlasting covenant, and if ye abide not that covenant, then ye are damned, for no one can reject this covenant and be permitted to enter into My glory.'

"You will notice, and I want you to bear in mind carefully these two words, 'new' and 'everlasting;' and also I would like to have you note the statement there 'and if ye abide not that covenant, then are ye damned.' I say to you, my friends, that you are damned if you do and you are damned if you don't. To quote further, before making the next quotation, I want to make an explanation. Joseph Smith had a wife, whose name was Emma Smith. She was a woman of spirit, she had a mind of her own, and there were some things which Joseph did which did not meet with her approval. He had been practicing the doctrine of the plurality of wives even before the doctrine was promulgated by himself, and Emma Smith had become acquainted with the fact. She had told him that she would leave him if he persisted in the polygamous relation, and it took a revelation from God to change her mind.

"Note the following from the same revelation: 'Verily I say unto you, a commandment I give unto my handmaid, Emma Smith, your wife, whom I have given unto you that she stay herself.' What do you think of that? Don't you think that that is rather a mean advantage to call upon the Almighty to silence a woman? But let us quote further: 'And let mine handmaid, Emma Smith, receive all those that have been given unto my servant Joseph, and who are virtuous and pure before me.' You will notice that the Lord commands Emma Smith to put up with Joseph in the polygamous relation, and to go on with the quotation: 'And I command mine handmaid, Emma Smith, to abide and cleave unto my servant Joseph and to none else, but if she will not abide this commandment she shall be destroyed, saith the Lord, for I am the Lord thy God and will destroy her if she abides not in my law.' Do you understand the significance of the word 'destroy' as it is used in this text? If you read a statement like that from the Bible, you would understand that the language had reference to another world, but it does not mean destruction in another world. It means exactly what it says, and Emma Smith so understood it. When that revelation was promulgated it was accepted by the Mormon people, the followers of Joseph, and the pressure was brought to bear upon Emma Smith and she was compelled to abide this law. Her spirit was broken and her womanhood destroyed.

"Hundreds of women in Utah and southeastern Idaho to-day are laboring under the same difficulty. They detest polygamy, many of them, but there is the written word, the spoken word of God. There is no escape; the words of the Lord are mighty and righteous altogether. This basely materialistic philosophy is given the stamp of divine approval, and these poor, long-suffering women acquiesce because it is the will of God. Let me quote a little further from the same revelation: 'And again, as pertaining to the law of priesthood, if any man espouse a virgin and desires 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.' I want to call your attention to the clause 'and the first give her consent.' Joseph F. Smith was asked in the Reed Smoot investigation, 'Sup-

pose that the first does not give her consent?' 'Then,' replied Joseph, 'if the first does not give her consent, he is justified in taking the second anyhow.' What do you think of that kind of consent? I tell you, ladies and gentlemen, that a woman under this system has no voice in matters that concern her own happiness and welfare. A woman is a nonentity under this system. We in north Idaho regard women as the embodiment of virtue. We look to her for the ennobling and refining element in our social condition. We regard her as equal in every sense of the word. Her consent is required before we attempt to do anything of any importance; not so under the Mormon system.

"I want to call your attention to one more paragraph taken from the same revelation and then I am through with this. It is this: 'And if a man have ten virgins given unto him by this law he can not commit adultery, for they belong to him and they are given unto him, therefore is he justified.' What do you think of this? This is taken from the doctrine and covenants, edition of 1903, and there is no reference, either by footnote or on the title page or by addenda or otherwise, any reference to the counter revelation of Wilford Woodruff, given in 1890. This revelation of Wilford Woodruff was in answer to the earnest supplication of this gentleman: 'What, O Lord, shall we do to stop this terrible persecution of the enemies of Thy people?' The Lord answered Mr. Woodruff, and told him in effect that He, the God of the Mormons, is not big enough to whip Uncle Sam, and that they had better cease the practice of polygamy. This revelation was embodied in a manifesto given to the United States Government, as referred to by Senator Dubois. The Mormon people, through their leaders, never had any intention of living up to this supposed revelation of Wilford Woodruff. It was a trick to deceive the Government and to accomplish the thing that they desired more than anything else, namely, statehood for Utah. This they accomplished.

"There is another tenet of the church which I wish to call your attention to and which is almost of equal importance with the one that I have just cited. It bears upon the question of finances. The heading of this revelation is as follows: 'Revelation given through Joseph, the prophet, at Far West, Missouri, July 8, 1838, in answer to the question, "O Lord, show unto Thy servant how much Thou requirest of the properties of the people for a tithing," and the text is as follows: "Verily, thus saith the Lord, I require all their surplus properties to be put into the hands of the bishop of my Church of Zion for the building of my house and for the laying of the foundation of Zion and for the priesthood and for the debts of the presidency of My church."' More particularly the latter.

"Did you ever hear in all of your experience of such audacity as this? 'I require all the surplus property of the people to be put into the hands of my bishops, and it is done. There is no tenet of the church that is enforced with such relentlessness as this one. The result is that as near as may be estimated there is paid into the treasury of the church over \$2,000,000 per annum. Of course the bishop of the Church of Zion is not required to account to anyone for the disposition of this enormous fund, and the world is kept in ignorance of the enormity of the graft. Sufficient to say, there are no wealthy men among the laymen.

"A man's advancement in this world, as well as his happiness in the next, depend entirely upon his subserviency to the will of the church. Now, I am going to show you how this tenet and the previous one that I referred to a moment ago bearing on the question of polygamy, constitute the foundation of the system. The converts to this system are recruited from the poor and oppressed of the nations of the earth. A missionary goes to some European country, and of course he says nothing to the people about polygamy. He tells them that Utah is a land of plenty and that Zion is a refuge designed for them. They are induced to leave their native land and come to Utah. Of course, when they get there, they have nothing left. The church comes to their support and they become indebted to the church. This advantage the church utilizes. The people become more and more subservient the longer they live there and gradually the system is unfolded to these simple-minded people. In time some of these people prosper and, breathing the free air of America, there is occasionally some that develop independence of spirit. A man must not have independence of spirit under a system of this kind, and this polygamy dodge is resorted to to break his spirit. Some elder of the church visits him and tells him that he has had a revelation, or that someone has had a revelation, that it is advisable for him to enter into polygamy; that the welfare of man in the celestial kingdom depends altogether upon the number of wives he has.

"Of course, the independent man in a good many instances resents, but the pressure from all sides is so great that he is compelled at last to yield. Once in polygamy, there is no escape. If he ever realizes the enormity of his mistake, it is impossible for him to correct it. When a man has three or four wives and children by all of them, you readily see the futility of attempting to escape, should he desire to break away. This thing confronts him: There is not a civilized country under the sun that will recognize socially, or in any other way, a man who has been guilty of the crime of polygamy. There is only one thing for him to do, either to remain in Utah, or southeastern Idaho, or some other dark corner of the universe. He could not come to nor in Idaho and live among you; you would not tolerate him; therefore whether he leaves the church or not he must live and lie with them. You get the idea of my contention from this. Compel a man to commit a crime and he must abide the consequences of that crime.

"Let me show you how they manipulate the tithing. The church has at its disposal this enormous fund. They carry on a colonization system. For instance, to illustrate what I mean, a Mormon apostle came to the Grande Ronde Valley, in Oregon, one of the most beautiful and fertile valleys in Oregon, and he told the people that he wanted to build a sugar factory in that country. The people were very glad indeed to have such an industry in their country. He told them that his people would build a factory and that they would pay the farmers \$5 per ton for sugar beets. He also told the people that he would require a subsidy from them. This subsidy was raised, and then he told them that he must have 8,000 acres of land in the heart of the Grande Ronde Valley. This land was sold to him. The people wanted to know what he wanted with this land, and he told them that he wanted to bring some people there who understood beet culture. You know it requires a peculiar kind of intelligence to raise

beets. This was all very well. The factory was built, and after all was finished he told the people it would be impossible to pay \$5 per ton for the Grande Ronde Valley beets for the reason that their saccharine properties were limited. He told the people that he would pay them \$3.50 per ton. Of course the people rebelled at this, and they finally compromised at \$4 per ton. This we will denominate as Exhibit A.

"Now, what about this land and the factory? They manned the sugar factory with no one except Mormons from Utah. No Gentile was given a position of any capacity about the factory. They brought their vassals from Utah and placed them on the 8,000-acre tract and placed a bishop over them. To show you the influence that they exert, after only five years' residence in that country they hold the balance of political power in Union County, and the Republican party of that county, as in the State of Idaho, has sold itself body and soul to this pseudo-religious, commercial, soulless corporation. There is a Mormon in the post-office at Lagrande, Oreg., and a Mormon as first deputy in the sheriff's office of the same county. They have stores of their own in Lagrande, and the people—the Mormon people—stand by their own people to the detriment of all others. I have talked with some of the business men in Lagrande and Grande Ronde Valley, and they are not at all pleased with their Mormon venture. They will regret their action the longest day that they shall live, for they shall feel the iron hand of the hierarchy more severely as the years go by. It is a matter of history—the Mormon people have made a number of moves since the organization first started, and they have never lived in peace with their neighbors anywhere that they have ever lived. They have even gone so far as to take up arms against the United States Government.

"Before closing I want to call your attention to my own experience in the system. As you know, I was born in southeastern Idaho; my people originally were Mormons. My father came to Utah in 1847 or thereabouts. He was always a good and faithful member, a man of education and refinement, but he had too much spirit, and to break his spirit he was forced into polygamy. He married three wives, and as a result of these marriages 28 children were born to him. He moved to southeastern Idaho in 1860. This was a Mormon county at that time, as it is now. You old men who are here understand what it was to live in Idaho at that time. On the one side was the hostile Indian, on the other was an unfriendly climate, besides grasshoppers and crickets to annoy and destroy the crops. My father got hold of property there, land, and tried to make a living for his large family farming. In 1870 or thereabouts he decided to go into the hotel business. There were two stores in Franklin at that time; one was the Zion's Cooperative Mercantile Institution, and the other was owned by a Gentile. The Gentiles were beginning to move into the country on account of the faith that a railroad was in course of construction into it. It was the Little Utah Northern, narrow-gauge road. The Mormons who controlled this Zion's Cooperative Mercantile Institution refused to extend credit to my father, and there was nothing for him to do but to trade at the Gentile store. For this he was called before a committee of the church and told that he must ask forgiveness of the church and forever desist from trading with these Gentiles or be excommunicated. He told them that

it was his desire to comply with the wishes of the church, but he was indebted to these Gentiles, that they had been very kind to him, and it was impossible for him to break away from them until he paid them what he owed them. He was suspended.

"A little later the Gentiles who lived there and other liberals prevailed upon him to run for the legislature. He did so, without the consent of the church, and was elected. He was promptly excommunicated. He had committed the unpardonable sin of asserting his manhood, trading where he pleased, and exercising his right as a citizen. Then began a series of persecutions, running through a period of thirty years. His family was ostracised socially, and they were submitted to all kinds of petty persecutions and insult. He stood like a lion at bay, facing them and fighting them fiercely until the present year, when he sold out his property at a sacrifice and retired from active business to a home at Salt Lake. He is an old man now, tottering with two canes, broken in health, looking back upon a life which he considers is worse than wasted. The error committed, as he thought, in obedience to a command from God has brought down upon him and his children self-reproach and the reproach of the world. There is no escape from it. There are many men who, like my father, look back upon a life of disappointment and who eagerly wait for the summons to call them away from a world whose past has been full of bitterness and whose future promises nothing to compensate them for the pain of living.

"Let me tell you something about the family life in polygamous countries. This Mormon priesthood tell us that there is happiness and joy in this system, but I will tell you, my friends, that I lived in one of the largest polygamous communities in Idaho and I never saw any happiness connected with it. I have seen these polygamous wives toil year in and year out from 4 o'clock in the morning till 12 o'clock at night to maintain the family of 12 or 15 children. The great majority of them are emaciated, their faces bear evidence of toil and disappointment, all of the finer womanly sense is destroyed, their health is broken down, their hearts are broken, and life is a burden to them. I have seen little children when the sleet of November beat down upon their little bare legs and feet with scarcely enough clothing upon them to hide their nakedness. I have heard the groans and the shriek of terror from the little child at the whipping post and the earnest plea of the mother whose child had been beaten into insensibility by the man who had lost all this finer feeling from the tyranny of this accursed system and who now possessed all the attributes of the beast. I tell you, ladies and gentlemen, that this system is calculated to destroy all the finer sensibilities and all the independence of manhood and womanhood.

"If what I say to you is true, and you can not gainsay it, there is not a man with the opposition who will get up on this floor and deny a word of it. There is not a man who can deny a word of it, and yet the chairman of the Democratic State central committee has charged the leaders of the Republican party with a deal whereby the Mormon vote shall be delivered to them, and as a consideration for the same Smith Wooley, a Mormon bishop, is appointed to the assay office at Boise and Mr. Heyburn is to vote for the seating of Reed Smoot, the Mormon apostle elected to the United States Senate from Utah. The Republican leaders say that this is not an issue. They say that there

is no polygamy, nor church dictation in political affairs in Idaho. Mr. Gooding said that there were only 19 cases of old polygamy in Idaho and no new ones, but I can name for you, and I shall, 11 cases of polygamy in one town of 400 or 500 population in Idaho. There are at least 20 cases in the same town. Here are some of them:

"James G. Lowe, who was sheep inspector under Governor Hunt, lives openly with his wives in Franklin; S. R. Parkinson, of the same place, and W. R. Woodward live openly in polygamy; Bishop Hatch, who was postmaster at Franklin, was forced to resign last year because of his illicit living; John Biggs, James McNeal, Dave Kingsford, Isaac Nash, James Lewis, and James Atkinson, all of this same village, men whom I know are all guilty of unlawful cohabitation. Mr. Heyburn says that if I know of these cases I should have the nerve to prosecute them. If he and his associates will pass laws whereby these men can be prosecuted, it will not take me long to convince him that I have the nerve to make a complaint against these people.

"If what I say is true, and as I said before, it can not be disproven, this question is an issue in Idaho. It is the only issue of great importance that is before you, and the fight is on, and so far as I am concerned it will continue until the last vestige of this stain is wiped away from the good name of the State of Idaho. There never was a time in the history of this country that when a crisis arose the good people of the country did not rise and meet it. When the Spanish-American war was on both Houses of the National Legislature rose up as one man and voted the necessary fifty millions for the carrying on of that war. There was no asking whether it was a Democratic measure or a Republican measure, the good name of our glorious country was at stake. These men were not partisan then, nor will they be now. I believe that the good men and women of Idaho will sustain us in our contention this fall. I have no doubt about it; however, this question is going to be settled this time for all time. When this fight is over there will not be an opportunity presented to these people to break their most solemn oaths and to destroy and degrade our men and women. When it is finished this time they will be glad to accept peace and to abide by the terms of that peace.

"I thank you one and all for your kind and courteous attention."

Mr. VAN COTT. Did you send any men into the Mormon counties?

Mr. BRADY. The work of circulating these things in the Mormon counties was mostly done by people down in the counties. I would get different Mormons to go around and circulate them, and at the same time talk to these people and explain the situation to them.

Mr. VAN COTT. Did you do anything toward having the Mormon voters hear what Senator Dubois actually said about them on the public platform?

Mr. BRADY. Yes, sir.

Mr. VAN COTT. What did you do?

Mr. BRADY. I had great difficulty in one certain section there of getting these things believed. I sent two different men down before they would listen to it, and then I found that Senator Dubois was going to speak at Blackfoot on a certain occasion, the Saturday night before the election, and at Pocatello the night before the election, and I arranged to have as many Mormons hear what he had

to say about them as it was possible for me to get out there. I had some from different places around there. That is, I was not there in person, but I told them to have people go there and hear what he said. I am advised that there were at least 250 Mormons at each of his meetings, and they heard what he said. After they heard it then, of course, they could not help but believe it; and I think those statements that he made aided our cause very materially on that occasion.

Mr. VAN COTT. What is your opinion as to whether Judge Parker actually was traded for the Democratic governor in Idaho?

Mr. BRADY. I do not think there was any question about it. The condition shows that the vote of Heitfeld in the northern counties ran just as far behind Parker as Roosevelt did ahead of Governor Gooding. In the southeastern counties, as I say, as a whole, they ran about neck and neck. There were only about 173, if I figure it correctly—and anyone can figure it—difference between the two in the six counties. Now, take it in Bear Lake County. There is an instance of the extreme position that the Mormons took in this campaign. In the vote there Gooding ran a small amount ahead of Roosevelt, and there were about 400 Mormons that voted for Parker, he receiving about 790 votes that did not vote for Heitfeld at all—did not cast any vote on governor. I think they would not vote the Republican ticket, but wanted to resent the action that Mr. Dubois and his friends had taken against them as a people.

Mr. VAN COTT. So that there will be no doubt about your opinion, what is it as to whether Judge Parker was sacrificed by the Democratic candidate—whether he was or was not?

Mr. BRADY. I think he was on every occasion where it would get a vote for Heitfeld.

Mr. VAN COTT. Did Senator Dubois make any statement to you personally about the Mormon vote?

Mr. BRADY. Senator Dubois?

Mr. VAN COTT. Yes.

Mr. BRADY. Yes, sir.

Mr. VAN COTT. What was it?

Mr. BRADY. He was coming in on the train from Weiser to Nampa, and in a general way he was telling me what he was going to do to us, and I was telling him what we were going to do to them, and so forth; and he told me that he did not want the Mormon vote in the southeastern counties; that the larger majority we got down in those counties the better it would please them; that it would demonstrate just exactly the position he took. I told him I would certainly accommodate him in the matter and take all the votes I could get.

Mr. VAN COTT. Calling attention to Idaho County, is that a Gentile county?

Mr. BRADY. Yes, sir; that is absolutely a Gentile county.

Mr. VAN COTT. Are there any Mormons in it?

Mr. BRADY. Oh, not over half dozen families. There is no Mormon vote in Idaho County that cuts any figure whatever.

Mr. VAN COTT. I wish you would explain what the politics of that county was before the 1904 campaign, the character of the people in that county, and the result that followed the Democratic campaign.

Mr. BRADY. Idaho County, in Idaho, until this year has never been carried by the Republican party. It has always been Democratic.

and the people that went there in the early days were southerners, quite a number of them, who were in the confederate army and have been steadfast Democrats ever since the State was organized, and to my best knowledge there are at least 1,000 Catholics in that county. Of course, I therefore sent men in there who would talk to those people about the conditions and what I thought ought to be done in the matter. We took the position that these people down there in the southeastern counties were being persecuted; that there was no condition existed at this time that necessitated Idaho raising this question, and I called their attention to the old A. P. A. fight, and things of that kind, and they seemed to fully agree with us. The vote shows that we carried Idaho County by a handsome majority, and there was certainly no Mormon influence used there.

Mr. VAN COTT. Why was it, in your judgment, that the people in that county voted the Republican ticket?

Mr. BRADY. In my judgment it was because the Democratic party did not take hold of any national issues, but simply tried to set one class of people of the State against the other; that the Democratic party of Idaho County simply resented it the same as they did down in Bear Lake County.

Mr. VAN COTT. The people there, I assume, are opposed to polygamy and unlawful cohabitation?

Mr. BRADY. They certainly are.

Mr. VAN COTT. When I say "there," I mean Idaho County.

Mr. BRADY. They certainly are.

Mr. VAN COTT. Have you any editorial that was published in Idaho County on that particular subject?

Mr. BRADY. I do not think I have it at hand now.

Mr. VAN COTT. Have you an editorial that was entitled, "Kill it now?"

Mr. BRADY. Mr. Holzheimer has that paper.

Mr. TAYLER. While they are waiting, Mr. Brady, let me ask you something I did not quite understand. Did I understand you correctly that you believed that the Democrats in Idaho County resented this attempt to array one side of the State against the other, and showed it by their vote?

Mr. BRADY. Yes, sir; that was my answer.

Mr. TAYLER. That is what I caught. I was looking for something else at the time.

Mr. BRADY. Also that they resented the fact that they would not and did not discuss national issues or support Mr. Parker.

Mr. VAN COTT (handing witness a paper). What paper is it that that editorial is in, Mr. Brady?

Mr. BRADY. It is in the Pocatello Advance.

Mr. VAN COTT. Is that a Gentile paper?

Mr. BRADY. Yes, sir; a Democratic Gentile paper.

Mr. VAN COTT. What would you say as to whether that editorial expresses the sentiment, as you understand it to be, in Idaho County?

Mr. BRADY. This is in Bannock County.

Mr. VAN COTT. As you understand it to be in Bannock County?

Mr. BRADY. This, I think, expresses the general feeling of a large portion of the Democrats of Bannock County.

Mr. WORTHINGTON. Is it a Democratic paper or a Republican paper?

MR. BRADY. Democratic.

MR. VAN COTT. We ask to have that editorial copied into the record. Have you any objection, Mr. Tayler?

MR. TAYLER. No.

The editorial referred to is as follows:

[From the Pocatello Advance, Pocatello, Idaho, August 23, 1904.]

"KILL IT NOW.

"Should a stranger seek to enter your house for the purpose of destroying the peace, quiet, harmony, and prosperity of your household, you would be justified in opposing him with all the strength at your command, and the fact that he should actually gain an entrance and should begin to carry his purposes into effect would not be deemed reason whereby all efforts on your part to dislodge him should be discontinued.

"Much greater, then, would be your justification should your old enemy, who had opposed and fought you for years, coming with pleadings of forgiveness, confessing his wrongs, and asking your friendship and support, be taken into your household and elevated to the highest seat of honor, and should then immediately set about with false pretenses and designs and misrepresentations to disrupt the household which had received him and to lead astray members of the family, to their detriment and your own, much greater then would be your justification for fighting him even to the death.

"This is the identical position the Democratic party is now in. Senator Fred T. Dubois, the ancient enemy of the party, who has fought it down to defeat, when he wore the garb of the opposition, and who never found a word of praise for it until such time as he wanted to use it for his personal gain, came to the party with confessions of his wrongs in the past and with promises of good for the future, begged to be taken into the party. Contrary to the best judgment of many he was not only received on his pretensions and promises, but was at once rewarded with the best place the party has in its power to bestow.

"No sooner had he been received than he began to conspire and to devise means whereby he might lead astray large numbers of the members of the party. The first year he was received, in spite of the fact that the party machinery was in the control of reliable Democrats of years devotion to the party and in whom the people had confidence, the opposing party was raised from a minority party of over 10,000 two years previous to only 2,000 that year. Then, after the party won by this narrow margin and Dubois had been elected United States Senator, he again applied his designs against the party and won the head official of the State from the friendship of the men who placed him there and caused him to place in positions of trust and honor those close to Mr. Dubois himself, with the result that the administration was filled with scandal and dissension, and at the next election, still manipulated by Dubois, was defeated by over 7,000.

"Not satisfied with leading the party from a 10,000 majority to a 7,000 minority in the short space of two years, he is now determined upon driving from the party the sympathies and votes of more than

20,000 of the inhabitants of the State. This he succeeded in doing by deception and deceit or some other means at the recent convention at Lewiston in spite of the fact that a respectable majority of the convention had said that they did not wish to further experiment with his dangerous and un-Democratic doctrines. By personal pleas and blandishments and by promises of possible official appointments he induced a sufficient number of misguided members of the party to reverse their own cool judgments and to adopt his policy of disrupting the party for the sake of venting his personal spleen and to possibly assist him again into his position of honor and trust, and that, too, on a principle that is as foreign to Democratic doctrine as is his practical morality from his pretended virtue.

"With this history before them and with the knowledge that his efforts are solely against the best interests of the party and of the State, shall not Democrats, those who are Democrats from principle and tradition, be justified in carrying their fight against their usurper to the point where they can save themselves, the party, and those who have been misled by him from the consequences of their madness? Shall they not fight to the utmost this old enemy who, under false pretenses of friendship and repentance for former injustice done the party, is now doing greater injustice than ever before?

"At the Lewiston convention, contrary to the will of the majority when expressed as their own judgment, he foisted upon the people of the State under the name of Democracy a sectional and religious fight that has no place and never had under a Democratic name. Why should there be further idling in this matter? Why not take the only remedy now offered to quickly and effectually stamp this usurper and his un-Democratic policy from the party? It was once said that Dubois came into the Democratic party; it should now be said that the Democratic party has gone into Dubois, and is no longer the Democratic party in Idaho, but is the Dubois party. The last convention took the action that it did not because the party wanted it to, or because the delegates wanted to, but because Dubois wanted it. Nothing can so effectually bring his deluded followers to their senses as an overwhelming and unmistakable defeat.

"The ticket named by the convention and left after the withdrawals is, as a whole, the weakest ever named by a political party in the State.

"That named by the Republicans is not satisfactory, and can not be wholly so to Democrats, but in this crisis that confronts the party let those who are Democrats from principle and devotion arise to the occasion by casting their votes where every one will count two against this unreasonable and uncalled-for action of the man Dubois.

"This so-called Mormon issue in this State has existed under present conditions for more than thirteen years, with the exception that it is less an issue now than ever before, yet Mr. Dubois has but just now discovered it! With the death of the men whom Senator Dubois has almost daily associated with, not only for these thirteen years, but for many more years, without discovering the iniquity which he now sees, the evil which he complains of will be at an end; and the people of the State, especially those who live among the people who are the objects of his attacks, demand that they be not involved in an end-

less, fanatical, religious warfare that will forever disturb their social, business, and friendly relations and bring the State into an unjust and unnecessary disrepute, retarding its present splendid and substantial growth by advertising to the world a condition which does not exist.

"This modern A. P. A.-ism of Dubois is un-Democratic, and the only way to settle the meddling and disturbance of this professional agitator is for the Democrats of the State to place their votes where they will count for the most—namely, for the Republican State ticket.

"This they can do without affecting in any manner their Democracy or their allegiance to the great party which has before been led wrong, but has always got right. Democrats can maintain their allegiance to Parker and Davis and conservative and safe National Government, while at the same time ridding themselves of a leader who has never understood a single Democratic principle in his life, and who is steadily but surely leading the party to absolute destruction in the State.

"Overwhelming defeat will be the only thing that will bring those in control of the party to a realization that the Democratic party is neither the instrument by which the individual may aggrandize himself or by which unnecessary religious prejudices may be created that the innocent members of a church may be punished for the sins or vices of a few. There need be no agitation of this subject. Let individual Democrats walk up to the polls and cast their votes for Parker and Davis in the nation and for the defeat of Duboisism in Idaho. This party heresy must be killed, and let the Democrats kill it now."

MR. VAN CORN. What was the attitude of the Democratic newspapers in Idaho as to the platform of the Democratic party, and as to the manner in which its campaign was waged?

MR. BRADY. I can not give it in detail; that is, the names of all of the papers. I thought I had that with me, but I have not. We had 68 straight Republican papers in Idaho. We had 12 Democratic papers in Idaho—and I can only give you the names of a few of them that I happen to have down—that refused to support the ticket or the policy that had been outlined to them by the executive committee and their chairman. They all, I believe—in fact, I do not know of a single instance where they bolted or found any fault with the national ticket—said good words for the national ticket, and simply kept silent or said something that was unpleasant on the State issues.

MR. VAN CORN. Did any Democratic papers support the Republican party?

MR. BRADY. Well, there was no Democratic paper in the State that came out and put our national or State tickets at the head of the paper. The work that the Democratic papers that were not supporting the Dubois ticket did was very effective, and, in fact, I think fully as much so as if they had put our ticket at the head of their columns. But, take the Pocatello Advance as an instance. That paper loyally supported Parker and Davis and very bitterly fought not the State ticket, but the issues that they were fighting on. They did not say anything detrimental to the men that were on the ticket. They simply criticized the policy. There were only 14 papers in the State that supported their ticket, and they were mostly small papers. I had my man in charge of the press bureau figure up, and he figured

that the circulation of all of them was less than 8,000; but I could not name those papers, as I have not the list before me.

Mr. VAN COTT. Did the Republicans carry Governor Gooding's county, city, and precinct?

Mr. BRADY. They did; by a good, strong majority.

Mr. VAN COTT. Did they carry Senator Heitfeld's county, city, and precinct?

Mr. BRADY. They did.

Mr. VAN COTT. Did they carry the county, city, and precinct in which Charles H. Jackson lived?

Mr. BRADY. They did.

Mr. VAN COTT. Did they carry the same in Senator Dubois's county, city, and precinct?

Mr. BRADY. They did.

Mr. VAN COTT. Did they carry the same in Mr. Clay's county, city, and precinct?

Mr. BRADY. They did.

Mr. VAN COTT. Is Governor Gooding a Mormon?

Mr. BRADY. He is not. He is a member of the Episcopal Church. He was baptized in the Episcopal Church, and is now a member in good standing.

Mr. VAN COTT. Could Mr. Gooding have been elected without any of the Republican votes of the six Mormon counties or in the contiguous counties?

Mr. BRADY. Yes, sir. Governor Gooding could have been elected if every Republican vote in the six counties had been thrown out and every Democratic vote in the six counties had been counted. He would still have had a majority of something over 8,000.

Mr. VAN COTT. Have you investigated to find whether Governor Gooding ran closer to the Republican electors in the State of Idaho than any Northern or Eastern State in the Union?

Mr. BRADY. He did in all the States that I looked up. I can not remember just what ones, but he came closer to Mr. Roosevelt than they did in any of our adjoining States—Montana or Washington or California—any of those States. He just ran 5,000 and some votes behind President Roosevelt in our State.

Mr. VAN COTT. Did you observe anything in what is called the Mormon counties to justify any apprehension or fear that Democratic speakers might be roughly handled there?

Mr. BRADY. Absolutely nothing. They were treated on all occasions courteously, and I think Senator Dubois will agree with me that he had fully as large meetings in the southeast as he had at any place in the State.

Mr. VAN COTT. What is your information as to the number of polygamists residing in the State of Idaho?

Mr. BRADY. I had occasion to investigate that matter very closely. I did it with a great deal of care. I put the men on their honor who gave me the information, and told them that I believed I was entitled to know these conditions. The investigations that were made satisfied me in my own mind that we did not have to exceed 58 polygamists in the State of Idaho.

Mr. VAN COTT. How many were reported to you?

Mr. BRADY. Fifty-six.

Mr. VAN COTT. When was that report made?

Mr. BRADY. That was made along about the middle of November.

Mr. VAN COTT. Of last year?

Mr. BRADY. Last year; yes, sir.

Mr. VAN COTT. Why do you now put it at '56?

Mr. BRADY. Two of them have since died.

Mr. VAN COTT. Have you had any occasion to observe whether any members high in the Mormon Church have come into Idaho and talked politics?

Mr. BRADY. I have.

Mr. VAN COTT. And who were the men?

Mr. BRADY. John Henry Smith and Mr. Cowley.

Mr. VAN COTT. Both Republicans?

Mr. BRADY. Both Republicans.

Mr. VAN COTT. Did you also observe the effect that their work had in Mormon counties, cities, and precincts where they spoke?

Mr. BRADY. Well, I was satisfied that I could do better without them than with them, and for that reason I had no occasion to use them, and I did not use them. I did not want them to come into the State for any political purpose whatever; and my honest judgment is that there never has been a time that their coming to Idaho and making speeches made any particular difference in the vote cast.

Mr. VAN COTT. It has been mentioned that President Budge went over to some part of Idaho and did work there in this last campaign for the Republican party. Did you have occasion to observe the result of that work?

Mr. BRADY. We lost Blaine County.

Mr. VAN COTT. Is that where he worked?

Mr. BRADY. Yes, sir.

Mr. VAN COTT. What became of the precinct where he worked?

Mr. BRADY. We lost that.

Mr. VAN COTT. What is your opinion as to the sentiment among the young Mormon people as to polygamy?

Mr. BRADY. I think they are unalterably opposed to polygamy and unlawful cohabitation, just as much so as your daughters and your sons in this country.

Mr. VAN COTT. What is your opinion as to the constancy of the Mormon people in voting their party tickets?

Mr. BRADY. I think it undoubtedly averages up with the Gentile vote. For my own information, I compiled some statistics on that, showing the vote in the five northern counties, the six southeastern counties, and the ten southwestern counties for the years 1896 and up to this date, including the last election; and the drift of the vote in the different parts of the State just goes along together, with the exception of one year. That was in the year 1898. The northern counties were stronger Republican than the others, but the average between the other two groups, the ten southwestern and the six southeastern, was just about the same. In the other five campaigns I do not think you will find 10 per cent difference in one part of the State or the other as to which way the vote went until this year, and this year—

Mr. WORTHINGTON. You mean 1904?

Mr. BRADY. 1904—the Mormon people believed themselves to be unjustly attacked, and as I say there was certainly no effort made by the

managers of the Democratic party to get votes down there. I am convinced in my own mind that they did not want them, and I think the method they pursued was the cause of the increase down in that county, largely.

Mr. VAN COTT. Mr. Tayler, may I have that list of men that Mr. Owen furnished who were living in unlawful cohabitation in the State of Idaho?

Mr. TAYLER. It is in the record.

Mr. VAN COTT. Please give me the page, then. I do not have it at hand to refer to.

Mr. TAYLER. Page 416.

Mr. VAN COTT. I will go on with another question until we find it.

What is the sentiment in Idaho regarding disturbing or leaving undisturbed those men who went into polygamy prior to the manifesto of 1890?

Mr. BRADY. To be absolutely frank in the matter, my judgment is that a majority of the men in Idaho would favor leaving those old men to live out their lives just as they have started in.

Mr. VAN COTT. While you were chairman, did you go to Salt Lake to consult the Mormon Church?

Mr. BRADY. I did not.

Mr. VAN COTT. Does the Mormon Church get whatever it wants in Idaho?

Mr. BRADY. It never has, or else they wanted very little. They have never had but one elective State officer in the fourteen years, as was said truly by Mr. Holzheimer.

Mr. VAN COTT. Can or do the minority Mormon people in Idaho get whatever they want in the State and control and dictate affairs?

Mr. BRADY. They can not. That is simply all bosh in Idaho—that kind of talk. They can not do it. There are no conditions that exist that would permit them to do it. It is just the same as down in Kansas and Nebraska—when a fellow gets beat, he attributes it to the railroads. When they get beat out there, they attribute it to the Mormons; but outside of the fear in the minds of some people of what is going to happen, I do not think it is possible to cite an instance where anything has happened that would be injurious or detrimental to our State.

Mr. VAN COTT. In your opinion, did the Mormon Church have anything whatever to do with the defeat of Mr. Morrison for a second nomination as governor?

Mr. BRADY. No; it had absolutely nothing to do with it.

Mr. VAN COTT. There has been mentioned a resolution that went through the Idaho legislature to call a constitutional convention. Do you know of any reason why there should be such a demand?

Mr. BRADY. Nothing, with the exception that some of our lawyers and some of our best attorneys think that there is need for a constitutional convention. The mass of the people, I think, do not want a constitutional convention, but will amend the constitution from time to time as it may become necessary.

Mr. VAN COTT. Do you know whether Mr. Budge, who has been called the stake president, has been defeated on the Republican ticket in his own county?

Mr. BRADY. He has. I can not recall the year. He was defeated for senator.

Mr. VAN COTT. More than once?

Mr. BRADY. If I remember correctly, he was defeated twice. He was defeated there once for the nomination and again in the general election.

Mr. WORTHINGTON. When you say "for senator," you mean for State senator?

Mr. BRADY. For State senator.

Mr. VAN COTT. Have you a copy of the Weiser platform, Mr. Brady?

Mr. BRADY. I have not.

Senator DUBOIS. I think it is here some place, Mr. Van Cott.

Mr. VAN COTT. Yes; you asked for it, Senator, and I thought Mr. Brady would have it. That is the reason I asked.

Mr. BRADY. I call your attention to the record in this case and to the testimony of Mr. Charles M. Owen, on page 416, and ask if you will just run down those names of persons who are reputed to be polygamists—

Mr. WORTHINGTON. That Mr. Owen says are reputed to be polygamists.

Mr. VAN COTT. And see whether you know any of them.

Mr. BRADY (after examining the list). Some of those men I know, and some I do not.

Mr. VAN COTT. Do you know any of them to be polygamists?

Mr. BRADY. Yes, sir.

Mr. VAN COTT. Do they now live in Idaho?

Mr. BRADY. The ones I know do; yes, sir.

Mr. VAN COTT. The others you do not know?

Mr. BRADY. The others I do not know. This list was furnished to me at that time, and I investigated it very carefully. I found at that time that five of these men—and I am unable to say which ones they were—do not live in Idaho, and since this list was made two of these men have died, one aged 83 and one aged 84 years, leaving of this list now, who are in Idaho, according to the best of my knowledge and belief, seven less than this list calls for.

Mr. WORTHINGTON. Senator Dubois, do you want the clause in this Weiser platform relating to polygamy to go in?

Senator DUBOIS. Yes.

Mr. WORTHINGTON. That can be put in at this stage.

The CHAIRMAN. Let it go in without reading.

Mr. WORTHINGTON. It is the paragraph headed "Polygamy."
The paragraph referred to is as follows:

" POLYGAMY.

"We also instruct our delegates to said national convention to use every honorable means to have said convention place a plank in the national Democratic platform advocating such amendment to the Constitution of the United States as will authorize Congress to pass such national legislation as may be necessary to suppress polygamy or unlawful cohabitation within the United States or any territory subject to its jurisdiction, and to provide for the punishment therefor.

"We also call the attention of the people of the State of Idaho to the fact that there are no adequate means of enforcing the laws in Idaho for the punishment of those living in polygamy or unlawful

cohabitation, and we favor the enactment of additional laws for the immediate suppression of such vice and the punishment of those who practice it. And we ask the Democrats of this State to bear this in mind in selecting their delegates to the Democratic State convention, to be held in Lewiston August 15 next."

Mr. VAN COTT. Mr. Brady, in Idaho do you have political parties, political contests, and chairmen, the same as in other States?

Mr. BRADY. Yes.

Mr. VAN COTT. What is your system of balloting? Is it the Australian system?

Mr. BRADY. Yes, sir; the Australian.

Mr. WORTHINGTON. A man can vote without anybody knowing how he votes?

Mr. BRADY. Yes; he goes in the booth absolutely alone and casts his vote.

Mr. WORTHINGTON. How long has that been in operation?

Mr. BRADY. About five years now.

Mr. VAN COTT. Has there ever been any denial made in Idaho that Senator Dubois wrote the letter to Senator McConnell that you circulated in the Mormon counties?

Mr. BRADY. No, sir; I have the original. I did not bring it with me, but I have it and have read it. It is in my possession at Pocatello now. Senator McConnell sent it to me.

Mr. VAN COTT. That is all.

The CHAIRMAN. Mr. Tayler, you may inquire.

Mr. TAYLER. You say you went over this list of 20 alleged polygamists and you found that some of them are polygamists and others you did not know, and some did not live in Idaho at all?

Mr. BRADY. That was the result of the investigation I made. I did not do that personally.

Mr. TAYLER. Did you think there was any significance to be attached to the fact that a man named here did not live in Idaho?

Mr. BRADY. I did.

Mr. TAYLER. If he had a plural wife in Idaho and came there and stayed with her, that was not an offense against good morals there?

Mr. BRADY. If he would do that we would consider that he lived there.

Mr. TAYLER. Surely. Here is Apostle Cowley. There was no pretense, was there, that he did not live in Utah, if that is where he lives?

Mr. BRADY. No, sir.

Mr. TAYLER. But the name was given there of the woman with whom he cohabitated at Preston, Oneida County.

Mr. BRADY. Yes.

Mr. TAYLER. You would not feel any indisposition to prosecute Apostle Cowley, would you?

Mr. BRADY. No, sir.

Mr. TAYLER. Because he happened to live in Utah?

Mr. BRADY. None in the least.

Mr. TAYLER. I understood you to attach some importance to the fact that a man did not live in Idaho, although he might cohabit with a woman there.

Mr. BRADY. No, I did not. You must have misunderstood me. My idea is that there were five. I made my investigations and I did not include him as one of these five. I can not remember the names,

because I did not know until a very short time, by telegraph, before I came here that I was to be called here, or I could have brought some of these things with me that would have aided the committee considerably, I think, in determining the facts that I tried to state.

Mr. TAYLER. How many Methodist voters are there in Idaho?

Mr. BRADY. How many what?

Mr. TAYLER. Methodist voters.

Mr. BRADY. I did not canvass all the counties for the Methodist vote, but there are about 600 in Ada County.

Mr. TAYLER. Six hundred in the State?

Mr. BRADY. No; in Ada County. I did not charge my mind with them.

Mr. TAYLER. Of course you took just as much pains to find out how many Methodists and Congregationalists and Christians and all that sort of thing there are, as Mormons?

Mr. BRADY. I did not.

Mr. TAYLER. You sent President Budge up to Blaine County?

Mr. BRADY. I did not. He went up there. I don't think you will accuse me of sending him up there.

Mr. TAYLER. That is what he said.

Mr. BRADY. I will explain that to you.

Mr. TAYLER. That is what he said. I do not want to misquote you. He said that in substance.

Mr. WORTHINGTON. The witness says he did not say he sent him.

Mr. BRADY. If he did, he stated what was not a fact, because I think, under existing conditions, I would be a little too shrewd for that.

Mr. TAYLER. Why would you be too shrewd to do it under existing conditions?

Mr. BRADY. Because Mr. Budge going up there—the Mormon people of Idaho would resent church interference in politics right now. You people here may not understand it nor know it, but the Mormon people do not want it any more than anybody else does.

Mr. TAYLER. How did he come to go up there?

Mr. BRADY. I wanted these things taken up there.

Mr. TAYLER. What?

Mr. BRADY. I wanted these articles I had, the attacks on these Mormons, taken up there. My policy was to get this out to all these Mormon people. I had got them at every place except to Blaine County, and I wanted these to be taken there by a man in whom those people had confidence. I wanted Mr. Kimball, who is president of the stake in which Senator Dubois lives, and who is a consistent Democrat, to go up there, but he would not do it, and I did not think to make any further arrangement about that. I asked Budge and some of those fellows to see that those things got up in there. He or the parties could not get Kimball, evidently, to go, and Mr. Budge took the responsibility on himself and went up there.

Mr. TAYLER. Mr. Budge says he never knew there were any Mormons up there until you told him.

Mr. BRADY. That is probably true. They were a small factor—that is, not over 90.

Mr. TAYLER. Anyhow, he went up there as a result of a conversation he had with you?

Mr. BRADY. Doubtless. There is no question about that; but as to my expecting him or desiring him to go there, I did not do it.

Mr. WORTHINGTON. To what page of the testimony do you refer, Mr. Tayler?

Mr. TAYLER. Pages 282 and 283 of the second volume. You have not been in politics there very long?

Mr. BRADY. No, sir; I do not claim to be a politician.

Mr. TAYLER. In regard to this journey that President Budge, who is quite an old man, took to Blaine County. It was quite a long journey, was it not?

Mr. BRADY. Yes, sir.

Mr. TAYLER. About two to three hundred miles?

Mr. BRADY. Yes; to where he went it must have been 200 miles.

Mr. TAYLER. Mr. Budge says that that was very little for him to do compared to what he sometimes does.

Mr. BRADY. That was very little. If he don't do more than that, he don't—

Mr. TAYLER. That was while you were running the party in Idaho that he did in the campaign that which was something, according to his view?

Mr. BRADY. That is right—simply to circulate those documents. I did not attach any importance to that.

Mr. TAYLER. You did not attach any importance to his taking that long journey?

Mr. BRADY. Not to him. I did not expect him to take it.

Mr. TAYLER. You told us the result was unfortunate. You lost Blaine County?

Mr. BRADY. No; I do not attribute the loss altogether to that—not at all. The sheep question entered into it.

Mr. TAYLER. Do you not know that you did better in Blaine County than you did in 1902?

Mr. BRADY. Very little better.

Mr. TAYLER. You did better, did you not?

Mr. BRADY. No; I do not understand it so. You have got the vote there, but I do not understand it so.

Mr. TAYLER. I see the figures here. I discover you did better than you did in 1902.

Mr. WORTHINGTON. Are the figures in the record?

Mr. TAYLER. Yes; they are in the record.

Mr. WORTHINGTON. Where in the record?

Mr. TAYLER. You put them in yesterday. I have to take what you put in as true.

Mr. WORTHINGTON. I am simply asking what are the figures to which you refer, that I may see whether what you say about them is correct.

Mr. TAYLER. They are your figures. That is the important thing.

Mr. WORTHINGTON. The question is not as to our figures, but your deductions from them.

Mr. TAYLER. Not at all. It is not a deduction.

Mr. Brady, you told us something about Idaho County, and about the resentment up there against the effort to array one part of the State against the other. Is that right?

Mr. BRADY. I did no mean to put it so strong as that. I meant simply to say that the majority, evidently, of the Democrats of Idaho

County—who are certainly not Mormons nor sympathizers with Mormons—voted and carried that county for Mr. Gooding this year.

Mr. TAYLER. For whom?

Mr. BRADY. Mr. Gooding. Roosevelt carried it by a way-up majority; but I am basing all my statements to-day, Mr. Tayler, on Mr. Gooding's vote, which is certainly the most unfavorable vote that we can have in the State, for the reason that the entire fight was made against Mr. Gooding and not for Mr. Parker.

Mr. TAYLER. Well, I discover that Mr. Roosevelt carried Idaho County by 1,400, and Mr. Gooding carried it by less than 800.

Mr. BRADY. Yes; that is right.

Mr. TAYLER. So that the expression of resentment in that county of the attitude taken toward the Mormons in the southern part of the State would seem to be a little uncertain.

Mr. BRADY. Well, you must understand that the Democratic leaders were trading Mr. Parker for the Heitfeld vote wherever they could trade it.

Mr. TAYLER. You are talking about an inference, are you not? You have been in politics some, and you have told us the Australian ballot is used. Do you not know that no trading can be done except every individual voter who does the trading does it and knows of it.

Mr. BRADY. Well, they must have evidently done that.

Mr. TAYLER. Oh, you are inferring it!

Mr. BRADY. The vote shows it.

Mr. TAYLER. You infer that from the difference between Gooding's vote, who appeared as a pro-Mormon in a Gentile county——

Mr. BRADY. Yes; I compared the votes.

Mr. TAYLER. I do not want you to be misinterpreted, but the point is rather one of general deduction from this situation, because we can all reason from these figures. How can it be that trading of that kind was going on where men vote as units and not in blocks, unless everybody knew it, not as a matter of inference, but as a matter of positive, concrete knowledge?

Mr. BRADY. I think that was generally known as positive as anything in the Australian ballot system can be. It was understood. It was talked, and the vote of Gooding behind Roosevelt was right with the vote of Heitfeld ahead of Parker. Mr. Parker was nominated in St. Louis. The same plank identically, I understand, was adopted in the St. Louis platform that was adopted in the platform of the Idaho Democracy. Now, why should they resent or throw away or vote against Parker when the same conditions existed to Mr. Parker in the nation as existed to Heitfeld in the State?

Mr. TAYLER. The answer to that would not disturb me at all. I could answer that very quickly, but still it would not serve any useful purpose. It is quite apparent to me what the reason would be. I think that is all.

Senator DUBOIS. Mr. Brady, will you be kind enough to name any one Democratic lady who wanted to trade her vote?

Mr. BRADY. State that again, please.

Senator DUBOIS. Name one of these Democratic ladies throughout the State who made proffers to trade her vote.

Mr. BRADY. I can not do that. I don't pretend to.

Senator DUBOIS. Can you name anyone who ever stated that trading was being done on the lines you indicate?

Mr. BRADY. I can not, Senator, name any person in Idaho who offered to exchange their vote. I do know that they were not asked to vote for Parker, and that there was no speech made in the campaign that advocated their voting for him; and the results show that Parker ran just about as far behind Heitfeld as Roosevelt did ahead of Gooding.

Senator DUBOIS. You took the pains to take down my speeches?

Mr. BRADY. On different occasions; yes, sir.

Senator DUBOIS. Did I not advocate Judge Parker as strongly as I advocated Henry Heitfeld in all my speeches?

Mr. BRADY. No; in no speech, Senator. On what occasion did you advocate the election of Mr. Parker?

Senator DUBOIS. Oh, in almost every speech. I did not go into the State platform or the national platform. I asked them to support the national ticket and the State ticket. That you will find in almost all the speeches. At one or two places I may have left it out, but not often. You say there was no bother or no trouble anywhere during the campaign in Mormon communities?

Mr. BRADY. Not that I heard of, Senator.

Senator DUBOIS. Did you ever hear of Mr. Clay, the candidate for Congress, addressing an audience at Preston?

Mr. BRADY. Yes, sir; I did.

Senator DUBOIS. What did you hear about that?

Mr. BRADY. I asked some of the gentlemen that were there about it. I told them if there was anything of that kind occurred I was very sorry indeed; that Mr. Clay was a gentleman, and was entitled to fair treatment. They said there was absolutely nothing to it. They explained the matter, Senator, by saying that Mr. Clay made a very rabid speech, as they called it, and after he was done speaking, this man got up, in a nice manner—he used good language, and abused nobody—and simply told him he was not in accord with what Mr. Clay had said, and was not in accord with the methods of the State committee. After he sat down Mr. Clay got up and made another talk, and the meeting ended. Mr. Jackson made the statement publicly afterwards that a whole lot of the young Mormons—of the men that were there—came to them after the meeting and said, just as you say, "We are with you in this fight. We approve everything you say."

In the way of explanation here, I want to say something about these young Mormons in Idaho. You people here in the East do not understand our conditions. We have there a population of 225,000 people. Let us say that we have 56 polygamists, who married their wives before the manifesto. Now, out of the 40,000 Mormons that we have, 56 is a very small number. You must remember that there are a great many children who are not polygamous children, whose parents before them were not polygamists for any generation, and they say to these other people that they do not propose to stand for this thing. They propose, just exactly as Senator Dubois says, to wipe this out themselves. If they come East and register at a hotel, and it is found out they are from Idaho or Utah, and they are Mormons, the first thought that enters anybody's head is polygamy. You must understand that we have got homes out there, and that they are pure, outside of this blot that we might say was on years ago; and it is generally understood that those people are

doing the best they can, and that these young people are just as much opposed to polygamy as you or I or anybody else.

It is due to these young people out there to say that.

Senator DUBOIS. Was the chairman of this meeting the one who engaged in the controversy with Mr. Clay?

Mr. BRADY. I understand so; yes, sir.

Mr. DUBOIS. He was a Democratic leader.

Mr. BRADY. Oh, yes; it was a Democratic meeting.

Senator DUBOIS. Did he not object to Mr. Clay's statement and enter into a defense of polygamy? Was not that his objection? Did he not defend polygamy as the Democratic presiding officer of this meeting?

Mr. BRADY. I have forgotten who it was that discussed that with me. I can not give you the name of my informant. I wish I could; but he told me that that was absolutely false; that he did not take up the position of defending polygamy; that he just simply said in a nice way that he was not in accord with them. I do not mean to say whether that was true or whether the facts brought to me were correct or not, but that is what was brought to me.

Senator DUBOIS. How many Mormons do you think are in Idaho, outside of the southeastern counties, so called?

Mr. WORTHINGTON. Do you mean voters, or the whole population?

Senator DUBOIS. All the Mormons.

Mr. BRADY. Outside of the southeastern counties, do you mean?

Senator DUBOIS. Outside of the six counties that are commonly called Mormon counties.

Mr. BRADY. I classed the vote after my poll. I put the vote at 590.

Senator DUBOIS. Outside of those counties?

Mr. BRADY. Outside of those counties; yes, sir.

Senator DUBOIS. How many Mormons would that probably represent?

Mr. BRADY. Well, taking it on the figures in the rest of the State, it would be about three to one. That would be about 1,500.

Senator DUBOIS. Mr. Brady, do you think any Gentile Republicans in the southeast supported Parker for President?

Mr. BRADY. I do not; no, sir.

Senator DUBOIS. Do you think any Gentile Republicans supported Heitfeld for governor?

Mr. BRADY. Yes; doubtless.

Senator DUBOIS. About how many would you think?

Mr. BRADY. I would not attempt to make an estimate. It was not any particular number, but there are always votes that way going backward and forward.

Senator DUBOIS. They were in every precinct, were they not?

Mr. BRADY. No; I would not say so, Senator. I would not think so. It was not perceptible.

Senator DUBOIS. I will put it another way. Do you not think there were Gentile Republicans in southeastern counties who voted for Heitfeld to make up for the loss of Mormon votes to him?

Mr. BRADY. No; I would not think that. My honest judgment is that the Democratic party, outside of Bear Lake County, voted pretty straight for the ticket—voted for Parker and for Heitfeld right straight along. For instance, I took down some of the counties there, and in Bannock County Roosevelt ran 48 ahead of Gooding and Par-

her run 49 ahead of Heitfeld. That demonstrates to me that the party vote was pretty close together there. In Oneida County Roosevelt ran 68 ahead of Gooding and Parker ran 96 ahead of Heitfeld. So it shows to my mind satisfactorily that the vote in those southeastern counties ran very close together on the Presidential vote.

Then another thing, Senator. The reason I think the question was settled by the Gentiles outside of the Mormon counties is from the fact that you can give Mr. Gooding his majority in the 5 northern counties and in Ada, Blaine, Boise, and Washington, making 10 counties, and you can throw out the entire Republican vote of the other 11 counties—that is to say, throw out the entire Republican vote from the 6 southeastern counties and from Custer, Elmore, Lemhi, Lincoln, and Owyhee, and give Senator Heitfeld the entire Democratic vote that was cast in those counties—and Governor Gooding is still elected by a small majority. Now, there is certainly no claim on anybody's part that those 10 counties are influenced in any way by the Mormon vote or church, and it seems to me that it demonstrates very clearly that the people voted the Republican ticket in Idaho this year because they believed in Republican principles and that they did not believe you were justified in raising this church issue in Idaho at this time.

Senator DUBOIS. Mr. Brady, would you favor a constitutional amendment against polygamy and unlawful cohabitation, or do you think there is any necessity for it?

Mr. BRADY. I think that is strong enough in our constitution now, certainly. That is, you mean in the State?

Senator DUBOIS. No; national.

Mr. BRADY. As to that question, gentlemen, Idaho will leave that to you. If after this investigation you people think that it is needed, I would favor it, and Idaho will adopt it.

Senator DUBOIS. Would you favor taking the test oath out of our Idaho constitution?

Mr. BRADY. I would not.

Senator DUBOIS. You would oppose that?

Mr. BRADY. I would oppose it.

The CHAIRMAN. Is there anything further?

Mr. WORTHINGTON. There is one thing Mr. Taylor asked you about that I have not got clear in my mind. That is about Idaho County. I understood you to say that in Idaho County there were a great many Roman Catholics.

Mr. BRADY. Yes, sir; a very large settlement.

Mr. WORTHINGTON. And you said something about the A. P. A. in connection with that matter. What was that?

Mr. BRADY. Well, we took the position with those Catholics up there that this was a similar move to the A. P. A. against the Catholics.

Mr. WORTHINGTON. In other words, that it was religious persecution?

Mr. BRADY. That it was religious persecution, and not politics. That was the position we took with those people up there.

Mr. WORTHINGTON. How does the result of the election in that county support your deduction that this argument influenced the vote of the men of that faith in that county?

Mr. BRADY. Because Governor Gooding carried it by almost 800,

and it has never been carried before by the Republicans in the history of the State. We also carried Lemhi County, Boise County, Owyhee County, and Idaho County, that have never before been carried by the Republicans since the admission of Idaho as a State. This, as you all know, is the first Republican electoral vote that was ever given by the State of Idaho for a Republican President. We took it from the Democratic party, who have always had it, with a very large majority in 1896 in favor of the Democratic nominee, and delivered it to the Republican party by one of the largest majorities of any State in the Union. In fact, we lined it up beside Vermont and Pennsylvania and Maine.

The CHAIRMAN. Is it really necessary that the witness should tell what States of the Union had a majority less than this?

Mr. VAN COTT. By what majority did the Republicans carry the State of Idaho?

Mr. BRADY. By about 29,000 majority.

Mr. TAYLER. Have you not many other counties in Idaho that increased their Republican vote far more than Idaho County?

Mr. BRADY. Oh, yes.

Mr. TAYLER. Take any of them. Take Ada County?

Mr. BRADY. The conditions exist the same in Ada as in Idaho County.

Mr. TAYLER. Did not the majority in Ada County exceed the majority in Idaho County, relatively speaking?

Mr. WORTHINGTON. Do you mean on the State ticket or the national ticket?

Mr. TAYLER. On the State ticket. I am referring to the strength of the party.

Mr. BRADY. I have not figured that closely, Mr. Tayler, but I think, if you will figure it, you will see the gain from what it was two years ago until now—the proportionate per cent in gain—is larger. That was Democratic. It came from Democratic to Republican. Ada County increased about 1,200 majority, while this increased about 600, but the proportionate vote was taken from the Democratic and put on the Republican side, which makes, I think—I will not say positively, but I think if you will figure it out you will find it is so—a gain in Idaho County as great as, if not greater than, in Ada County.

Senator DUBOIS. Do I understand you to say that you think they made the Catholics in Idaho County believe that this was a sort of an A. P. A. fight?

Mr. BRADY. We talked that, Senator. There is no question about it.

Senator DUBOIS. Do you not know, and does not everybody in the State know, that Senator Heitfeld is a Catholic?

Mr. BRADY. Certainly. There is no question about it, and he got beat in a Catholic county. He got beat in his own county and in his own ward.

Senator DUBOIS. Would he be making an A. P. A. fight?

Mr. BRADY. He did not make it. We were telling the fellows what you people were doing. I don't say that you did it.

The CHAIRMAN. Is there anything further?

Mr. VAN COTT. No.

The CHAIRMAN. Who is your next witness?

Mr. VAN COTT. We would like the Idaho witnesses to remain over until they can read their testimony. There has been a very slight opportunity so far to examine it. For that reason we want them to remain until they can read over the testimony and we can have the benefit of a full conference with them.

The CHAIRMAN. All right. Who is your next witness?

Mr. VAN COTT. Mr. Whitecotton.

TESTIMONY OF J. W. N. WHITECOTTON.

J. W. N. WHITECOTTON, being duly sworn, was examined, and testified as follows:

Mr. VAN COTT. What is your name, Mr. Whitecotton?

Mr. WHITECOTTON. J. W. N. Whitecotton.

Mr. VAN COTT. What is your age?

Mr. WHITECOTTON. 45 years.

Mr. VAN COTT. Where were you born?

Mr. WHITECOTTON. In Union County, Ky.

Mr. VAN COTT. How long did you live in Kentucky?

Mr. WHITECOTTON. Until I was about 18 years of age.

Mr. VAN COTT. Did you attend college?

Mr. WHITECOTTON. Not in Kentucky.

Mr. VAN COTT. But did you attend college?

Mr. WHITECOTTON. Yes.

Mr. VAN COTT. Are you a college graduate?

Mr. WHITECOTTON. No, I did not graduate from the classical department. I left before I finished my course.

Mr. VAN COTT. Where did you go to from Kentucky?

Mr. WHITECOTTON. To Kansas.

Mr. VAN COTT. And from Kansas?

Mr. WHITECOTTON. I went to Utah.

Mr. VAN COTT. When did you first go to Utah?

Mr. WHITECOTTON. I arrived in Utah on the 28th of September, 1889.

Mr. VAN COTT. Where have you lived since 1889?

Mr. WHITECOTTON. In Provo City.

Mr. VAN COTT. Is that where Senator Smoot lives?

Mr. WHITECOTTON. It is.

Mr. VAN COTT. Have you any profession?

Mr. WHITECOTTON. I have.

Mr. VAN COTT. What is it?

Mr. WHITECOTTON. Lawyer.

Mr. VAN COTT. How long have you been in the practice of that profession?

Mr. WHITECOTTON. Something over fifteen years.

Mr. VAN COTT. In Utah?

Mr. WHITECOTTON. Yes, sir.

Mr. VAN COTT. Are you a member of the Mormon Church?

Mr. WHITECOTTON. I am not.

Mr. VAN COTT. Have you ever been?

Mr. WHITECOTTON. I never have been.

Mr. VAN COTT. Are you a member of any church?

Mr. WHITECOTTON. Nominally, yes; a sort of brother-in-law to the

church. My wife is a member of the church, and nominally I am a member.

Mr. VAN COTT. What church?

Mr. WHITECOTTON. The Congregational Church.

Mr. VAN COTT. In a general way will you state how extensively you have traveled over the State of Utah, and what opportunities you have had to become acquainted with the Mormon people?

Mr. WHITECOTTON. I am intimately acquainted over Utah County, in Wasatch County, Carbon County, Emery County, Sanpete County, Grand County, Millard County, and I have considerable acquaintance in Salt Lake County, more particularly in the city, as also in Weber County, but more particularly in the city of Ogden.

Mr. VAN COTT. Territorially, about what proportion of the inhabitable part of the State are you familiar with?

Mr. WHITECOTTON. Well, I am more or less familiar with, probably, more than two-thirds of the State, territorially, but so far as the population is concerned, my acquaintance extends over probably 80 per cent or more of the State.

Mr. VAN COTT. In what county is Provo?

Mr. WHITECOTTON. Provo is in Utah County.

Mr. VAN COTT. Which is the most populous county of Utah?

Mr. WHITECOTTON. Salt Lake.

Mr. VAN COTT. And what next?

Mr. WHITECOTTON. Utah.

Mr. VAN COTT. Did you have any occasion to become acquainted with the Mormon people in Utah soon after you arrived?

Mr. WHITECOTTON. Yes; I had such occasion, as a man in my profession has in a town the size of that; and we had, very soon after my arrival there, a city campaign come on. I arrived there the last of September, and the municipal campaign opened, I think, about the 1st of January. It is possible that it was in the latter part of December, but my best recollection is it was after the 1st of January. It was, at any rate, for the election in February following.

Mr. VAN COTT. At that time were there any political parties in Utah, in the sense of national political parties?

Mr. WHITECOTTON. No; there was no national politics there, no organization by any party along national lines.

Mr. VAN COTT. It was Mormon and anti-Mormon.

Mr. WHITECOTTON. The parties were designated the People's party, which stood for the Mormon Church and people, and the Liberal party, which was the organization of the Gentiles.

Mr. VAN COTT. By repute I suppose you knew that polygamy and unlawful cohabitation existed in the State of Utah?

Mr. WHITECOTTON. Yes; it was evident every day. Men were being arraigned in court every day—I think from one to two or three, sometimes more—for polygamy or kindred offenses. I think the great majority of the cases were those of unlawful cohabitation.

Mr. VAN COTT. When did the parties divide on political lines?

Mr. WHITECOTTON. That is somewhat uncertain. There was no talk about division until after the manifesto, which was issued, I think, about the 6th of October, 1890. Soon after that manifesto was issued and had been discussed somewhat by the people the question of dividing up on political lines began to be agitated. It was early in the year 1891 that the first organized work along political lines,

that I know of, was done. At that time Mr. George Sutherland, who has been a member of Congress here, and has just been nominated by his party caucus for the United States Senate, made a tour through Sanpete County, holding meetings and instructing the people along the lines of Republican doctrine, as we understood it. While there may have been earlier efforts in other parts of the State, so far as my knowledge goes that was the first movement in the direction of party organization.

Mr. VAN COTT. Do you know of any other person who took an active part in those early days in advancing Republican doctrine?

Mr. WHITECOTTON. Yes; at the very beginning of that fight one of the first men in our community who came out was the present Senator Smoot. He was not an official at that time. He was a young man in the town.

Mr. VAN COTT. Now, Mr. Whitecotton, commencing with the time that you went there, in 1889, up to a little after the issuance of the manifesto, I wish you would describe the condition that existed in Utah, paying special attention to the feeling between Mormons and Gentiles, the bitterness, if there was any, and things of that kind, to show and to give to the committee the state of feeling that existed before the Mormon church issued the manifesto.

Mr. WHITECOTTON. As nearly as I could sense the sentiment, when I went to Provo, the Mormon people stood as a unit together. The non-Mormons, or Gentiles, stood as a unit in opposition. Of course, in Provo, and everywhere outside, I think, of Salt Lake City, the Gentiles were in the hopeless minority everywhere in the Territory. The Gentile people seemed to consider themselves largely a committee of the whole, whose business it was to advocate the enforcement of what was then known as the "Edmunds-Tucker law." All of the governmental machinery of the Territory was in the hands of the Gentiles. The courts were all constituted by the Federal authorities. The prosecuting officers, the marshals with all their deputies, were all Gentiles at that time, and nobody was allowed to sit upon a jury who could not take an oath that was a species of test oath; and it was known and accepted there as a fact that, so far as the organization of the people for political purposes was concerned, the Mormons stood together. They nominated their candidates for office. The Gentiles went through the form of nominating officers, but it amounted to very little. They simply carried on a campaign as a sort of protest. The sentiment in the People's Party was usually quite unanimous.

When the municipal convention was held in Provo, early in January, to the best of my recollection, 1890, what they called a "slate" had been prepared by the People's Party leaders, and was proposed there. There were two young men in that convention who protested against that slate. They said they were not consulted; that the thing had been put up by the leaders, and was forced upon the people, and they protested against it. There was a local paper published there daily, on week days, that took these two young men to task very severely, and criticised them as a couple of young upstarts.

Mr. TAYLER. How long ago was this?

Mr. WHITECOTTON. That was early in January, 1890.

The CHAIRMAN. Do you regard that as material, Mr. Van Cott?

Mr. VAN COTT. I do regard it as very material, indeed, because it goes to show the sentiment that existed in the Territory at that time. I wish to state, and it would probably be better to state the purpose of it, that I wish to show by this evidence the tremendous progress that has been made in the State of Utah from the time it was a Territory, in 1890, up to date, a period of fourteen years.

Mr. WORTHINGTON. The other side went very fully into these matters.

The CHAIRMAN. I understand there is no objection to it. I did not see the bearing of it.

Mr. VAN COTT. That is the bearing of it, to show the tremendous progress made in fourteen years.

The CHAIRMAN. The committee will stand adjourned until to-morrow morning, at 10 o'clock.

The committee (at 5 o'clock p. m.) adjourned until Friday, January 13, 1905, at 10 o'clock a. m.

WASHINGTON, D. C., *January 13, 1905.*

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

Present: Senators Burrows (chairman), Foraker, Beveridge, Hopkins, Knox, Dubois, and Overman; also Senator Smoot; also Robert W. Tayler, counsel for the protestants, and A. S. Worthington and Waldemar Van Cott, counsel for the respondent.

TESTIMONY OF J. W. N. WHITECOTTON—Resumed.

J. W. N. WHITECOTTON, having been previously sworn, was examined, and testified as follows:

Mr. VAN COTT. Do you know what point you had reached in your statement last night?

Mr. WHITECOTTON. I think I was talking about the feeling that had been engendered by the campaign in Provo City, especially for the February election, 1890.

The people were arrayed there against each other upon the lines of Mormon and non-Mormon. There was no political issue as such at all in the campaign. The Liberals, to which party I belonged, charged that the Mormons were a unit in church and state; that the church had organized the people for political affairs; and the Liberals were simply opposed to that. I think nobody will dispute that that was the state of affairs there.

The result of the election in Provo City was in favor of the People's Party, as they had probably at least 70 per cent of the votes there.

In Salt Lake City the result was different. The Liberals carried that election. Immediately after the election in Provo petitions to Congress were circulated by the Liberals, and generally signed by them, requesting Congress to enact legislation looking to the disfranchisement of the Mormons. I think nothing ever came of that, but there was a great deal of feeling engendered there by the circulation and the signing, by those who did sign it.

The Liberals succeeded in electing one man. That was the justice

of the peace for the city of Provo—Mr. A. A. Noon. I think he had only some eleven votes, but his election resulted from the fact that the nominee of the People's Party was not regularly placed before the people.

Matters went on in that way during the year 1890 until October. I think, however, it was in September, if I am not mistaken, that the conventions for the nominations of candidates for Delegate in Congress occurred. The Liberals placed in nomination C. C. Goodwin, who was then the editor of the Salt Lake Tribune, the organ of the Liberal party, while the People's Party renominated John T. Caine, who was then a Delegate from Utah to the House of Representatives.

That campaign was waged with a good deal of feeling, notwithstanding the fact that early in October the manifesto had been promulgated. There were some people who were willing to accept this manifesto as a surrender of the right to keep united the church and the state. The great body of the Liberals declined to accept that at all, however.

The next year there was some falling off from the Liberal party and a gathering around party lines in local matters. But there was no general election that year. In 1892 the fight still went on between the body of the Liberal party, or Gentiles, and the Mormons. While there were two parties organized upon national lines, the Democratic and the Republican parties, the Liberals refused to disband, and they put a ticket in the field for Congress. I do not remember as to local matters whether they had a ticket or not. But they nominated Mr. C. E. Allen for delegate in Congress in 1892, while the Republicans nominated Frank J. Cannon, who was afterwards elected a delegate and subsequently United States Senator; and he was a Mormon. The Democrats nominated Joseph L. Rawlins, who was a Gentile and afterwards became a United States Senator. That election resulted in the election of Mr. Rawlins as Delegate in Congress.

After he took his seat here as a Delegate he began the work of procuring for Utah an enabling act. I do not remember just the date of the passage of that act, but my recollection is it was in 1894 that the act was passed, which provided for the election of delegates to hold a constitutional convention of Utah for the purpose of drafting and submitting to the people a constitution.

That election was held, I think, early in 1895, if I am not mistaken as to the date. Anyhow, the constitutional convention was held in 1895, and the constitution was adopted by the convention, at least was agreed upon and submitted to the people for ratification, and that was adopted by the people at the fall election of 1895, and at the same time a full set of State officers and district officers was elected in the State.

In 1894, when we held the Congressional election, Mr. Cannon and Mr. Rawlins were again arrayed against each other, and we had no Liberal candidate that year. The Liberal party had disbanded in the meantime and its members had aligned themselves along the national party lines. That election resulted in sending Mr. Frank J. Cannon here as a Delegate in Congress. That was a change from the Democratic Delegate to a Republican Delegate.

In 1895, when we elected the State officers, we had considerable trouble in the State over what was alleged by the Democratic party to be the interference of the church in political matters.

After having put a ticket in the field in the regular course, there was called what was known in Utah politics as the reconvened convention of Democrats. The purpose of that reconvened convention appeared to be to protest against the interference, as it was claimed, of the Mormon hierarchy in the political affairs of the State, yet a Territory; but this election was for State officers.

There was very much bitterness and talk about this matter. There appears to have been a good deal of misunderstanding between certain members of the Mormon Church who were well up in authority and the recognized heads of the church, particularly between Mr. Moses Thatcher, who was then an apostle, and Mr. Brigham H. Roberts, who was, I believe, a president of a seventy, whatever that may be. I am not versed in the inside history or machinery of the church.

These two men claimed that they had a right to offer themselves as candidates for political positions. As I understood it, the church authorities, the organization, claimed that those men, having engaged in certain service for the church, and having had duties laid upon them which were supposed to be sufficient to occupy all their time, had no right, without the consent of their employers, to abandon that employment or to neglect their employment and take up other employment which would necessarily take them away from the scene of their active duty.

There was a good deal of discussion about it. It was finally settled by mutual explanations, and the church authorities making known to these men that they had no disposition to interfere with the political freedom of the people nor with the political freedom of these men themselves; that they simply claimed the right to require the service for which they had engaged the men in the beginning, and that they had no right to hold those positions and go off and do work to the neglect of the first engagement.

The CHAIRMAN. I do not know that I understood you. My attention was diverted for the moment. Who said this?

Mr. WHITECOTTON. I say this was the result of mutual explanations. There was a trial had. That all occurs in the earlier part of this record—the charges that were preferred against Mr. Thatcher—and I understood Mr. Roberts—

The CHAIRMAN. Pardon me. I understood you to say that it was said they had no right to engage in other matters outside of the church, where they had been assigned to duty.

Mr. WHITECOTTON. Not outside of the church, but to the neglect of the duties they had undertaken for the church.

The CHAIRMAN. I want to know who said that—what church authorities?

Mr. WHITECOTTON. The president of the church, what is known as the first presidency, and several members of the apostolate. The names are signed to the charges and the findings that were made, as appears in the earlier part of this record.

The CHAIRMAN. I want to know whether they said that to you personally?

Mr. WHITCOTTON. No, sir. I speak of general history and understanding in the country, as appears from these documents. They were published from time to time in the newspapers, and were taken into political meetings and discussed there.

The heads of the church, as we understand it, claimed that they had been misunderstood and misinterpreted and misrepresented by Mr. Thatcher's utterances in this respect. Mr. Thatcher gave utterance to expressions that indicated that he thought the heads of the church were depriving the people of their political liberties, and he proceeded to wage a campaign on that line; and the church authorities finally, it seems, succeeded in convincing him that they had no such thought, but all they meant to do was to lay down the principle, and enforce it, that a man who occupied a position which required his time should not accept other employment that was incompatible with the discharge of those duties. They finally patched up a peace—they explained and Mr. Thatcher apologized, and the matter was dropped.

However, in the meantime, the legislature had assembled and had elected two United States Senators, who were both Republicans—Mr. Frank J. Cannon and Mr. Arthur Brown—who were elected by the legislature in January, 1896. That was the first State legislature.

From that time on down until now we have heard in Utah more or less complaint, first by one party and then by another, that the other side was getting aid in its political movements from the church. Now, whether it ever had that aid or not I do not know. One thing I do know, that both political parties there have contested every inch of ground, and have appeared to me always to be seeking any favorable wind they might get from the church. For example, as late as the last campaign—I have here a copy of the Deseret News of date November 7 last, I believe the day before election. This paper is the recognized official organ of the Mormon Church; the Mormon people believe in this paper; they look to it for many things; and I find on the fifth page of the paper, under the head of "Advertisement," the Republican ticket set out in full for President, and the State ticket and the judicial ticket of the third district, and the county ticket; and I find on what must be the ninth page—it is on next to the last page, it is not numbered, it is a page inserted—I find another advertisement with a rooster at the head of it, called "The Utah County Democratic ticket."

This paper is published in Salt Lake City. There [exhibiting] is the Utah Democratic county ticket.

Mr. TAYLER. Utah County is not the county in which Salt Lake is situated?

Mr. WHITCOTTON. No, sir; Salt Lake City is in Salt Lake County. Utah County adjoins it on the south.

Mr. TAYLER. Provo is in Utah County?

Mr. WHITCOTTON. Yes, sir; but this paper has general circulation in Utah County. There is also the national, the general ticket.

Mr. VAN COTT. Democratic?

Mr. WHITCOTTON. Democratic. So in this paper both parties published their tickets, not as political matter, so far as the deal between the fellow who published it, the chairman, evidently, and the paper is concerned, because they are advertisements. There could be, in my judgment, no other reason for publishing these tickets in this

paper than that the parties hoped that thereby they might get some kind of an indorsement for the ticket from the publication in which it occurred.

Now, there was no necessity for publishing it for any other reason, because the paper was publishing sample ballots of all the parties, setting forth all the tickets that were before the people. That was published as free matter, for general information. So, in order that they might catch any breeze that might be stirring for their political end, both parties have always kept their sails up, and that has been a general custom. Now, whether that had any effect whatever upon the election I do not know, of course. I can not tell anything about it.

The CHAIRMAN. The gist of your statement is that in this paper, which is recognized as the organ of the church, both parties placed advertisements?

Mr. WHITCOTTON. Both parties secured advertisements in that paper.

The CHAIRMAN. That is what I understand you to have stated.

Mr. WHITCOTTON. That is what I understand; here is the paper that shows it [exhibiting].

Senator KNOX. What is the political complexion of that paper? Does it have any?

Mr. WHITCOTTON. It has not any. Yet it has been accused by the Republican papers in the State of being Democratic. But everybody else has asserted that the church is Republican. I do not know how they reconcile those things. They claim the church is Republican, but that the church organ is Democratic.

My own judgment is that the Deseret News has been as nearly a neutral paper, so far as political matters are concerned, as it is possible to publish and to give political news at all. It publishes the news, but I have never been able to see any partisanship for either party in that paper.

Mr. VAN COTT. Have you finished your answer, Mr. Whitcotton?

Mr. WHITCOTTON. I will simply say this; That so far as the church having taken part in politics is concerned, if it has not done it—and I know no evidence that it has; I mean that which is evidence to me; many people claim it has—it certainly has not been for lack of opportunity. I know the political leaders in the State on both sides as appears by this paper, have sought always to get whatever breeze might come from that source.

Mr. VAN COTT. Now, calling your attention back for a moment to 1889, or early in 1890, before the manifesto was issued, what was the feeling between the Mormons and the Gentiles there? Please state whether it was friendly or whether it was one of intense bitterness.

Mr. WHITCOTTON. There was a great deal of bitterness and there was much friendship. Of course, some people, when they found themselves in opposition to each other, naturally got mad with each other, and they had bitter feelings. Sometimes bitter things were said.

For instance, in my own case, I was a newcomer there. The local organ there used to make fun of me for looking seedy on the street; that I was a newcomer, and that I had only recently got where I could get a square meal, and that when I came there my elbows were

out, and that I looked seedy generally, and that I had come in there and picked up a little business, and now I was beginning to wear better clothes. Well, they advertised me a good deal in that way. I took it as a sort of a pleasantry, and generally got back at them pretty well when I got on the stump. Perhaps I was to blame for their jumping onto me, because in the convention that nominated the People's Party ticket for the election in February, 1890, as I stated yesterday, two young men in that convention bolted, in a sense. I do not know that they bolted the ticket after the convention closed, but they strenuously objected to the methods adopted in the convention. Those two young men were Reed Smoot and S. S. Jones, and this same paper that roasted me for being a newcomer roasted them for being a couple of young upstarts who dared to question the doings of their elders.

Very soon after that I had occasion to make a speech in the opera house for the Liberal party——

Mr. VAN COTT. Passing that for the moment, I will ask you about the newspapers for the different parties in Utah; whether their discussion was bitter and acrimonious?

Mr. WHITECOTTON. Yes, sir; it was bitter; it was acrimonious; it might be said to be acrimonious. The local papers—I mean of the People's Party—charged that these Liberals were largely newcomers there, and if they did not like what they found they might pass on; that they had not been sent for; that there were no strings upon them, or words to that effect, and they might go along.

Mr. VAN COTT. Calling attention for a moment to the prosecution of criminal cases, I wish you would just state briefly the general condition that existed there, so as to show the manner in which the Mormons were prosecuted and sent to the penitentiary.

Mr. WHITECOTTON. We had at Provo City a district court. The Territory was divided into three districts. The first district was cut in two. The court sat at Ogden, Weber County, and in Provo City, but they had a judge each, both in the first district. In the part of the first district that Provo was in we had Utah, Wasatch, Uinta, Juab, Millard, Sanpete, Sevier, Emery, which then included Carbon and Grand counties. Grand then included San Juan, which extended to the Arizona line.

The CHAIRMAN. Do you want him to state the details or just answer the question?

Mr. VAN COTT. I will be satisfied with the general result. Will you repeat the question, Mr. Reporter?

The reporter read as follows:

“Mr. VAN COTT. Calling attention for a moment to the prosecution of criminal cases, I wish you would just state briefly the general condition that existed there, so as to show the manner in which the Mormons were prosecuted and sent to the penitentiary.”

Mr. WHITECOTTON. From all these counties the Mormons who were charged with unlawful cohabitation were gathered in, after they had been indicted by the grand jury that met in Provo to investigate offenses in the territory that I have described.

In addition to that there were in the various counties United States commissioners, before whom offenders were taken when they were first accused, and usually they were bound over after a hearing to

the grand jury that met at Provo. So all the business for this entire district—that is why I mentioned them all—was carried on in Provo.

When I went there in the latter part of September, 1889, there was scarcely a day that there were not from one to several arraignments in the district court there on charges of unlawful cohabitation or adultery. The most of the charges were unlawful cohabitation.

Mr. VAN COTT. Was that true in the other districts?

Mr. WHITCOTTON. I know the other districts only by repute, but from newspaper reports it was about the same all over the Territory.

Senator DUBOIS. Mr. Whitcotton, right here, if you please. You say most of the charges were for unlawful cohabitation. Were there many for polygamy?

Mr. WHITCOTTON. I do not remember a case of polygamy in Provo.

Senator DUBOIS. Why were they for unlawful cohabitation instead of for adultery and polygamy and bigamy?

Mr. WHITCOTTON. The reason was this, as I understand it. I can only give you my understanding of it. The Edmunds law provided, as I remember, for punishing bigamy, polygamy, and adultery, I believe. My recollection of it is that unlawful cohabitation was not provided for in that bill at all, and it was found that it was very difficult to prove the sexual relations between these people and, therefore, while they were satisfied that the people were living in unlawful cohabitation, they were unable to prove adultery. Therefore, in order to reach the evil in its more hidden ways, unlawful cohabitation was made an offense, and it was not necessary to prove any sexual relations between the parties.

Senator DUBOIS. That is proper. Would that same condition exist now?

Mr. WHITCOTTON. Does it exist now?

Senator DUBOIS. Would it, if prosecutions were undertaken now?

Mr. WHITCOTTON. I think it would.

Senator DUBOIS. It would be the same state of affairs?

Mr. WHITCOTTON. I think there would be the same difficulty attending the proving of the sexual relations that existed then.

Senator DUBOIS. So that you could only prove unlawful cohabitation?

Mr. WHITCOTTON. That is all you could prove. I think they would encounter the same embarrassment they had before.

Senator DUBOIS. That is all I want to know.

Mr. VAN COTT. From the newspapers and what you knew generally, was there any polygamist who was living in his visible occupation in the Territory of Utah up to the time of the manifesto?

Mr. WHITCOTTON. I never heard of a case, that I now remember.

Mr. VAN COTT. They were all either in hiding or in the penitentiary?

Mr. WHITCOTTON. Yes, sir; they were called "on the underground." A fellow who was hiding from the officers was called "on the underground."

Mr. VAN COTT. That question existed up to the time of the manifesto?

Mr. WHITCOTTON. Yes, sir; up to the time of the manifesto.

Mr. VAN COTT. After the manifesto you have indicated some of the

general improvements. Going along up to the present time, I wish you would indicate, and indicate concisely, if possible, just what improvements have resulted in the general situation in Utah from about 1889 up to the present time.

Mr. WHITECOTTON. Whereas in 1889 I should say we would have maybe at the rate of more than a hundred a year in Provo, I do not think since that time, since the manifesto, these have been—I should say probably there have not been a dozen cases at Provo of unlawful cohabitation. That would be my judgment.

Mr. TAYLER. You mean cases in court?

Mr. WHITECOTTON. Cases in court. That is what I mean; yes, sir. Of course I do not know a thing about what has happened—

Mr. TAYLER. The word "case" has that double meaning, and I thought you meant court cases.

Mr. WHITECOTTON. Yes, sir.

Mr. VAN COTT. Indicate in politics what has been the improvement from the People's Party and the Liberal party up to the present time?

Mr. WHITECOTTON. We have not any division there now, except on political lines, the same as they have everywhere else. The Mormons and the Gentiles have all divided up on party lines. Everybody is either Republican or Democratic. We have a few Socialists there. That was true until last year, when there was revived what is known as the "American Party," but that had very little existence outside of Salt Lake City and county. That party polled, however, something like 6,000 votes in Salt Lake County last year.

Mr. VAN COTT. I wish you would indicate the general improvement in the feeling between Mormons and Gentiles in business and in every way.

Mr. WHITECOTTON. So far as business is concerned, I have never observed any difference between Mormons and Gentiles. I have never found it in my own business. In fact, I think my proportion of Mormon business has been as large as the proportion of Mormons over Gentiles, so far as I am concerned, since the time I went there.

Mr. VAN COTT. What is the net result of the progress, in your opinion, up to the present time, from 1890, during the fourteen years?

Mr. WHITECOTTON. To one who can remember the situation in 1889 as to the feeling among the people generally, politically and otherwise, I should say the progress had been marvelous.

The truth is, we seldom hear anything about Mormon or Gentile. We do not know what a man is; so much so that at the last municipal election, in 1903, a Gentile was nominated for city marshal in that town against a Mormon. This Gentile had been a deputy marshal who had run in polygamists or unlawful cohabitationists by the dozen. He was elected over the Mormon candidate by over 300, I think, when the town was Republican and the Mormon was a Republican and the Gentile was a Democrat. And as to the justice of the peace, the same man who was elected by 11 votes in 1890, and was a rank Liberal, was elected in October or November, 1903, justice of the peace by over 300.

Mr. VAN COTT. How constant, in your opinion, do the Mormon voters adhere to their party lines?

Mr. WHITECOTTON. They do so more closely than the Gentiles throughout the State, because there never has been an organized re-

volt from their party by the Mormons, while there was by the Gentiles last fall. They went off in a body of some 6,000.

Mr. VAN COTT. Calling attention to the State officers, and without mentioning the details of it, but giving general results, will you state how generally the Gentiles have occupied State offices, and the importance of those offices, and also the salaries?

Mr. WHITECOTTON. I can not give any intelligent idea of that without naming the officers.

The Mormons have never had a member of the supreme court yet. The first three judges who were elected in Utah to the supreme bench were three of the men—the three Republicans—who were there under appointment from the Federal Government and who had been sending these people to the penitentiary.

In the district courts we had 10 district judges to begin with. In the third district, which embraces Salt Lake City and county, there was one Mormon elected in the beginning. That was Judge Le Grande Young. The rest were Gentiles.

In the first district a Mormon was elected, and in the second. In the fourth that was true. In the fifth, in the sixth, and in the seventh the judges were all Gentiles. And those were all strong Mormon counties.

Mr. VAN COTT. Take the supreme court judges. The first three judges were Republicans?

Mr. WHITECOTTON. Yes; of the supreme court.

Mr. VAN COTT. And had they been judges who had been active and vigorous in sending Mormon people to the penitentiary for polygamy and unlawful cohabitation?

Mr. WHITECOTTON. Yes. Judge Zane was the pioneer in that line, and he was made chief justice.

Mr. VAN COTT. In the vote throughout the State how did their vote hold up with the Mormons who were on the general State ticket with them?

Mr. WHITECOTTON. There never was any difference.

Mr. VAN COTT. No difference?

Mr. WHITECOTTON. None perceptible. There might here and there be a man who on account of some personal reason had a few more votes than another on the same ticket.

Mr. VAN COTT. Skipping along to the present supreme court of Utah, are two of those judges now men who have been active in sending polygamists and men engaged in unlawful cohabitation to the penitentiary?

Mr. WHITECOTTON. Judge Barch was a district judge there, and did that, and Judge McCarty, who was elected two years ago last fall, was an assistant United States district attorney and prosecuted the Mormons. And after that he was elected to the district bench, and subsequently to the supreme bench.

Mr. WORTHINGTON. What do you mean when you say he prosecuted the Mormons?

Mr. WHITECOTTON. I mean he prosecuted for unlawful cohabitation. They are about the only kind of Mormons who ever were prosecuted.

Mr. VAN COTT. That is the offense for which they were prosecuted?

Mr. WHITECOTTON. Yes; that is the offense for which they were prosecuted.

Mr. VAN COTT. How did those men on the general ticket hold up with the Mormons on the same ticket?

Mr. WHITECOTTON. I never noticed any difference.

Mr. VAN COTT. Take a few illustrations of prominent Gentiles who have been engaged as judges in sentencing men to the penitentiary or in prosecuting them who have been elected over Democratic Mormons and popular men on the general ticket.

Mr. WHITECOTTON. There was Judge Johnson. He was for a long time United States commissioner, and bound over a great many men from Sanpete County to the grand jury. He was elected district judge in 1895, at the first State election, for a term of five years in a very strong Mormon district, and he was reelected in 1900. But he was defeated for nomination last fall.

Mr. VAN COTT. How did he hold up in his vote?

Mr. WHITECOTTON. I never heard it questioned. I do not know.

Mr. VAN COTT. Take Richard W. Young and Judge McCarty.

Mr. WHITECOTTON. Richard W. Young was a very popular Mormon—a very strong man. He was on the ticket for judge of the supreme court at the first election, and he was defeated. So was S. R. Thurman, a very prominent Democrat and Mormon, a very able man. Both were defeated for judge of the supreme court at the first election.

Mr. VAN COTT. Before 1890 were the Mormon people Democratic in Utah?

Mr. WHITECOTTON. The election shows that they were Democratic.

Mr. VAN COTT. In your opinion, was there a good reason—a natural reason—why they should be Democratic?

Mr. WHITECOTTON. There was a reason, because it was not really Democratic or Republican. It was Mormon and anti-Mormon. The Mormons voted together against the Gentiles. That was the case prior to 1894.

Mr. VAN COTT. There has been adverse criticism because the State went Republican. I now call your attention to the election of 1892, when you had the vote for Mr. Rawlins, a Democrat, and the vote for Mr. Cannon, a Republican, and the Liberal vote. I will ask you whether, when that party dissolved, you would naturally expect the State to become Democratic or Republican?

Mr. WHITECOTTON. After the dissolution of the Liberal party, it was inevitable that it should be Republican.

Mr. VAN COTT. Why?

Mr. WHITECOTTON. Because I suppose at least three-fourths—that has always been the estimate—of the Liberals were Republicans, and when they disbanded in 1893 and came into the Republican party, having polled about 6,000 votes in 1892, if three-fourths of those people were Republicans, when they came over there would be forty-five hundred going to the Republicans and fifteen hundred to the Democrats. That would put a majority of 3,000 onto the Republican side, if it was otherwise equal.

Mr. VAN COTT. As a matter of fact, when the next general election was held, did the State go Republican?

Mr. WHITECOTTON. Oh, yes; it went Republican. I do not remember what the majority was, but I remember very well that Mr. Cannon was elected a Delegate to Congress.

Mr. VAN COTT. Omitting the silver wave which swept over Utah, has Utah been consistently Republican ever since?

Mr. WHITECOTTON. Yes, sir. There never has been a Democratic State officer elected except one, and that was in 1898, when we had the last swell of the silver tide, when Judge Baskin, one of the most rabid anti-Mormons ever in the State, was elected to the supreme bench. At the same time Mr. Roberts was elected to Congress.

Mr. VAN COTT. Is it your understanding that Judge Baskin had been active for many years in advocating legislation in Congress against the Mormon people for the purpose of forcing them to give up polygamy and unlawful cohabitation?

Mr. WHITECOTTON. I understood he had been paid; had been kept here as a lobbyist in that interest.

Mr. VAN COTT. How did Judge Baskin hold up with the Mormons on his own ticket in the general vote of the State?

Mr. WHITECOTTON. My recollection, although I will not be sure that I am right about it, is that Mr. Roberts had about sixty-five hundred and Judge Baskin fifty-eight hundred. I am subject to correction on those figures.

Mr. VAN COTT. Was Mr. Roberts a very popular man in the State of Utah?

Mr. WHITECOTTON. He was. He was at the head of the Young People's Improvement Association.

Mr. VAN COTT. In traveling over the State, and in your acquaintance with the Mormon people, I will ask you to state what you have found to be their sentiment now in regard to the practice of polygamy—that is, I mean the contracting of new polygamous marriages?

Mr. WHITECOTTON. I think the decided sentiment of the Mormon people in Utah is hostile to polygamy.

Mr. VAN COTT. How is the sentiment of the Mormon people in Utah in regard to charges and rumors that the church interferes in politics—that is, whether they approve of it or whether they strongly resent it? Will you express the feeling on that point?

Mr. WHITECOTTON. The people very strongly resent interference from anybody. I never met a man who admitted that he had been approached by any church authority to be influenced in his vote, but I know that the people pride themselves on independent suffrage, and I do not believe any considerable number in Utah will accept any dictation from anybody.

Mr. VAN COTT. Calling your attention to the enabling act for Utah, did polygamists vote at that election for members of the constitutional convention?

Mr. WHITECOTTON. I do not know whether they did or not. They might have done so. The act provided that all male citizens of the United States over the age of 21, who had resided in Utah for one year next preceding the election, might vote.

Mr. VAN COTT. What has been the sentiment among Gentiles in Utah in regard to the prosecution of men who had entered into polygamy before the manifesto of 1890?

Mr. WHITECOTTON. Well, that is a pretty hard question to answer. The Gentiles in Utah have recognized that we have a very hard problem to deal with in that respect. It offers many embarrassing things. There has been a good deal said in this testimony—I have

read it—about an understanding. I know nothing of any understanding in regard to that. But I do know this, that the people generally feel like they do not want to stir up this thing and set it to smelling any more. It has not a good odor.

And there is another thing that they have taken into account in the neighborhood where I am, at least. When we get out to punish this man who is living in polygamy, put him in prison, they take into account somewhat the consequences that will come to his family. Now, the women who went into polygamy in Utah went into it because, although I think under a delusion, they thought it was a religious duty; and they are bound by the obligation. They feel that way. And under the rules of the church, as I understand them, a plural wife, if she is divorced from her husband, may not become the wife of another man, and those plural wives who have children are in a very precarious condition if they are to be entirely separated from the only protector they have. I think that the condition of these women and the children they have has probably entered as largely into the feeling of "let the matter slide along and not bother it" as any other factor.

The truth is I do not think there is any sympathy for the men who are in polygamy. I never heard anybody sympathize with one of them unless he had two or three viragoes. Then he might sympathize with him.

Mr. VAN COTT. The sympathy is for the wives and children?

Mr. WHITECOTTON. For the wives and children. I have never heard anybody express sympathy for the man in polygamy.

Mr. VAN COTT. What is your opinion regarding the progress that has been made in Utah, when you take into consideration the number of people in the Mormon Church in Utah and other places, and also consider that in the fourteen years probably outside of Utah—perhaps some in Utah—there may have been from one to twenty new polygamous marriages, providing always that the Mormon Church has not encouraged the celebration of such marriages?

Mr. WHITECOTTON. As I understand the teaching of the church up to that time to have been that polygamy was a proper thing, I should say the progress has been marvelous.

Mr. VAN COTT. Going back to the early times, you have known that Reed Smoot was a Mormon?

Mr. WHITECOTTON. Yes, sir.

Mr. VAN COTT. George Sutherland lives there?

Mr. WHITECOTTON. Yes, sir.

Mr. VAN COTT. Did you understand Sutherland to be a Gentile?

Mr. WHITECOTTON. He was a candidate for mayor on the Gentile ticket in 1890.

Mr. VAN COTT. I want to know whether before the dissolution of the Liberal party and the People's Party Mr. Smoot actively supported George Sutherland, a Gentile, for mayor of Provo City?

Mr. WHITECOTTON. Now, sir; I do not know anything about that. I know that he kicked up a row in the People's Party convention after they nominated their mayor, but whether he supported Sutherland I really do not know.

Mr. VAN COTT. I wish you would also express an opinion as to how fair the Mormons have been since statehood and since the division on

party lines in regard to offices—that is, whether Gentiles have held a fair proportion of the State and local offices?

Mr. WHITECOTTON. The Gentiles have had a very much larger proportion than they are a proportion of the population. I have a tabulated statement here of that fact, if it is considered important.

Mr. VAN COTT. Let me see your tabulated statement for just a moment?

Mr. WHITECOTTON (handing Mr. Van Cott tabulated statement). It shows the offices held by Mormons and non-Mormons and the aggregate salaries and the salary of each. I think the Mormons in the State, perhaps, have about \$900 the best of it.

Mr. VAN COTT. Do the Gentiles hold half of all the State offices in Utah; at least half?

Mr. WHITECOTTON. I think they do.

Mr. VAN COTT. How is it generally in the prominent counties and cities in Utah?

Mr. WHITECOTTON. Outside of the places where I know the men I do not know, because we do not ask that question.

Mr. VAN COTT. I see. Mr. Chairman, in order to save reading it, I will ask that this tabulated statement be published in the record as showing the officers and their salaries, so as to show whether they are Gentiles or Mormons.

Mr. TAYLER. In what was it printed?

Mr. VAN COTT. The Desert News.

Mr. WHITECOTTON. It was prepared by a Gentile.

Mr. TAYLER. Is this intended as an exhibition of general repute, or what is in people's minds, or as substantive proof of an actual fact?

Mr. VAN COTT. You can take it either way you like.

Mr. TAYLER. Then it is neither, I suppose?

Mr. VAN COTT. It is both.

Mr. WORTHINGTON. Do you know that that list as published in the paper is correct?

Mr. TAYLER. He said he did not.

Mr. WHITECOTTON. No; I do not. But I do know that by refreshing my recollection from that column I can identify almost every one of those offices.

Mr. VAN COTT. If there is any objection, start at the top of the column and give the names.

Senator FORAKER. Does the paper show by whom the statement was prepared?

Mr. VAN COTT. It does not.

Mr. WHITECOTTON. It does not. I know the facts, as I stated.

Three judges of the supreme court draw an aggregate salary of \$15,000 a year. Those men are all Gentiles, or were up to the first of this year—Baskin, Barch, and McCarty. Baskin retired and Judge Straup took his place.

Mr. VAN COTT. He is a Gentile?

Mr. WHITECOTTON. All Gentiles. Clerk of the supreme court Linburn B. Palmer, he is a Gentile from Michigan, and he draws a salary of \$2,100. His assistant clerk and stenographer is Mr. Griffith, and he is a Gentile; he draws \$1,200. The attorney-general is M. A. Breedon; he draws \$2,000; his assistant is W. R. White, and he draws \$1,500. These names are not here, but I know them personally.

Mr. VAN COTT. Is he a Gentile?

Mr. WHITECOTTON. Every one of them is a Gentile. State mining inspector. I do not know whether it is Mr. Thomas now or not. [A pause.] Gomer Thomas is a Gentile; his salary is \$2,000 a year.

The State engineer is Mr. A. F. Doremus; salary \$3,000. The State chemist, I believe, is Mr. Harms.

Mr. VAN COTT. Is Mr. Doremus a Gentile?

Mr. WHITECOTTON. Yes; every one whom I have mentioned is a Gentile. If he is not, I will say so.

State warden, Gentile, \$3,000; Mr. Pratt. He was United States deputy marshal, and ran in more "cohabs" than any man in the State. The State statistician is a Gentile from Kansas, originally, Mr. Charles De Moisy. He has a salary of \$1,500. The assistant statistician I do not know personally. I find him in this list, but I do not know who he is.

Judges and attorneys of the district courts, third judicial district court; Judges Hall and Morse are both Gentiles. Then there were two Mormon judges there. Judge Hall retired the first of this year, and has been succeeded by Judge Ritchie, a Gentile.

Mr. VAN COTT. And is there a Mormon judge in the third district now?

Mr. WHITECOTTON. In the third district?

Mr. VAN COTT. Yes.

Mr. WHITECOTTON. Yes; there is one.

Mr. VAN COTT. Who?

Mr. WHITECOTTON. Judge T. D. Lewis. The Mormons had two judges in the third district, but they lost a judge in the last election, and there are three Gentile judges there and one Mormon. The fourth judge was provided for by the last legislature.

In the fifth judicial district Judge Marioneaux retired the first of this year. He was a Gentile. He was succeeded by a Mormon.

In the seventh district Judge Johnson was a Gentile, and he retired the first of this year, and is succeeded by a Mormon.

The total salaries drawn by the Gentiles is \$52,500.

The governor is a Mormon, and has been; the secretary of State is a Mormon, and has been; the assistant also; the auditor also; and the assistant auditor and the treasurer; the State superintendent of schools; the adjutant-general; the State bank examiner; the game commissioner; the State food inspector, and the State sheep inspector. They are all Mormons.

And of the judges, Judge Hart at the north was a Mormon, succeeded by a Mormon, and the district attorney was a Mormon and is succeeded by one.

In the second district, Judge Rolapp was a Mormon. He is succeeded by Judge Howell, and I do not know whether he is a Mormon or a Gentile.

Senator SMOOT. A Gentile.

Mr. WHITECOTTON. There is a contest on, however.

In the third district, Stewart and Lewis were Mormons, but Stewart was defeated and was succeeded by a Gentile. Lewis succeeded himself, but Stewart is succeeded by a Gentile.

In the fourth district, Judge Booth is a Mormon, and he succeeds himself, and the district attorney is a Mormon, and he is succeeded by a Mormon.

In the fifth district the district attorney is a Mormon; and in the sixth district——

The CHAIRMAN. How about the judge?

Mr. WHITCOTTON. The judge is a Mormon, too.

The CHAIRMAN. Go on.

Mr. WHITCOTTON. In the sixth district the judge is a Mormon; and in the seventh district the district judge is a Mormon, and the district attorney is a Gentile.

Mr. VAN COTT. By the way, has there been an instance in any of the Mormon counties where the district attorney, for instance, has been elected on one ticket, and there has been sufficient cutting to elect an opponent, for instance, for judge?

Mr. WHITCOTTON. Yes; that may have to be corrected yet. In the seventh district there was one Mormon running against another for judge, and the Democratic judge had the election on the face of the returns by 11 votes, and the Gentile district attorney was elected by something like 1,400.

Mr. VAN COTT. Is that in a Mormon district?

Mr. WHITCOTTON. Yes; in a Mormon district.

Senator KNOX. Can you tell me whether in any court presided over by a Mormon judge, where there was a Mormon district attorney, a Mormon has ever been convicted of unlawful cohabitation?

Mr. WHITCOTTON. I do not know of any case.

The CHAIRMAN. Did you complete the districts? You got as far as the seventh.

Mr. WHITCOTTON. Yes, sir; the seventh is the last.

The CHAIRMAN. You omitted, I presume inadvertently, the salaries of the Mormons.

Mr. TAYLER. How many of the district judges are Gentiles and how many are Mormons?

Mr. WHITCOTTON. There are 10 district judges; and this year, since the last election, there is a Mormon in the first, and in the second I do not know; I do not know whether Howell is a Mormon or a Gentile.

Senator SMOOT. He is a Gentile.

Mr. VAN COTT. He is a Gentile.

Mr. WHITCOTTON. If you will note them: The first is a Mormon; in the second a Gentile; in the third three Gentiles and one Mormon; in the fourth a Mormon; in the fifth a Mormon; in the sixth a Mormon, and in the seventh a Mormon.

Mr. TAYLER. The third is principally Salt Lake?

Mr. WHITCOTTON. Yes, sir; Salt Lake City.

Mr. TAYLER. And outside of Salt Lake City there is one Mormon, one Gentile. This Mr. Howell, who was spoken of, who is outside of Salt Lake——

Mr. WHITCOTTON. That is Weber County.

Mr. TAYLER. There are six Mormons?

Mr. WHITCOTTON. Yes, sir.

Mr. VAN COTT. Six Mormons and four Gentiles?

Mr. WHITCOTTON. Yes, sir.

Mr. VAN COTT. And three same judges Gentiles?

Mr. WHITCOTTON. Yes, sir.

Mr. VAN COTT. So that if you take all the judges in the State——

supreme and district—there are seven Gentile judges and six Mormons!

Mr. WHITECOTTON. Yes, sir. Up to the first of this year there were in the fifth and in the seventh Gentile judges, but they all went this year with the landslide they had out there.

Mr. VAN COTT. Now, what is the aggregate of the salaries?

Mr. WHITECOTTON. The aggregate of the Mormon salaries is \$58,900. So there is \$1,400 more salaries. That is based on last year; this is in November—\$1,400 more salaries than for the Mormons than for the Gentiles, and they have a proportion of about 70 per cent of the population of the State, as I understand.

Mr. VAN COTT. There has been considerable said—

The CHAIRMAN. May I ask, in this connection, what the vote in Salt Lake City or in that county is as between the Mormons and the Gentiles? Which party controls?

Mr. WHITECOTTON. That it is impossible to tell, because they have not divided Mormon and Gentile. The last election they had between Mormon and Gentile in that city, as I remember, was 1890—if there was one after that I do not remember it—and the Gentiles elected the mayor, George M. Scott. [A pause.] Yes; they elected Judge Baskin in 1892. That was the last one, I guess, they elected.

The CHAIRMAN. What is the population of that county?

Mr. WHITECOTTON. Of the county?

The CHAIRMAN. Yes.

Mr. WHITECOTTON. I do not know the population of the county. The population of the city at the last census was 54,000. It is estimated now at 70,000.

The CHAIRMAN. Do you know how that population is divided between the Gentiles and the Mormons in the city?

Mr. WHITECOTTON. No, sir; I do not, except as I have stated on the vote. My judgment is that it would be a very close election if it were on Mormon or non-Mormon lines.

The CHAIRMAN. The Gentiles sometimes control in the municipal elections and sometimes the Mormons?

Mr. WHITECOTTON. Yes, sir. I believe the present mayor is a Mormon, and the last one was not.

Mr. VAN COTT. Did you understand the last question of the chairman?

Mr. WHITECOTTON. I think I did.

Mr. VAN COTT. Let the reporter read the question.

The reporter read as follows:

"The CHAIRMAN. The Gentiles sometimes control in the municipal elections and sometimes the Mormons?"

Mr. VAN COTT. Is that true?

Mr. WHITECOTTON. Yes; that is, sometimes a Mormon is elected. They never divide Mormon and Gentile. I misapprehended the chairman's question. I do not mean that there has ever been an election as between the Mormons and the Gentiles in Salt Lake City since 1892, and I am not sure it was done then. I know it was in 1890.

Mr. VAN COTT. Has a general officer who is a polygamist been elected in Utah since statehood?

Mr. WHITECOTTON. Not to my knowledge.

Mr. VAN COTT. Calling your attention now to the Evans bill that was introduced in the legislature of Utah and passed, but which the governor vetoed, I will ask you whether the governor was a Mormon?

Mr. WHITCOTTON. Yes, sir; the governor was a Mormon.

Mr. VAN COTT. I will ask you what was the occasion of the passage of that bill by the legislature; what brought it about?

Mr. WHITCOTTON. I can give only my understanding of it.

There had been a movement started somewhere; I do not know whence it emanated; but there was some person who was reputed to be not a citizen of the States and to be in the employ of some outside concern—the general understanding was he was employed by the New York Journal—to come out and shake up the Mormons a bit.

Mr. WORTHINGTON. What do you mean by shaking up the Mormons a bit?

Mr. WHITCOTTON. I mean hunting out fellows who were living in unlawful cohabitation and swearing to complaints against them and bringing them into court.

Mr. VAN COTT. Was he a public officer?

Mr. WHITCOTTON. Oh, no.

Mr. VAN COTT. I will ask you, so as to save time, whether it was because of that that the Evans bill was introduced in the legislature?

Mr. WHITCOTTON. That was my understanding of it; that it was to prevent anybody but people who were acting bona fide taking a hand in these prosecutions.

Mr. VAN COTT. What, in your opinion, would be the result if either a Mormon or a Gentile officer or officers in the State of Utah, in the regular discharge of their duties, should arrest and prosecute men who were guilty of unlawful cohabitation? What would be the effect socially and politically, in your judgment?

Mr. WHITCOTTON. You mean upon the men who did it?

Mr. VAN COTT. Yes.

The CHAIRMAN. You mean upon the man who made the complaint?

Mr. WORTHINGTON. Yes.

Mr. VAN COTT. Either one—the man who makes the complaint, if he is in the regular discharge of his duties, or the officer who prosecutes, or the officer who sentences.

Mr. WHITCOTTON. I should say it would not make any difference so far as his standing in the community was concerned, except that he would be regarded as a man of courage—nerve to go ahead and do his duty.

Mr. VAN COTT. How would it affect him, in your judgment, in a vote, if he were renominated?

Mr. WHITCOTTON. I am of the opinion that if it had any effect upon his vote it would probably assist him.

Mr. VAN COTT. Has that been the general result as to all Gentiles who have been engaged in that work in the State when they were running for political offices?

Mr. WHITCOTTON. I have never known a Gentile, who had been formerly after the Mormons, to be singled out and opposed on that ground. I have never known a thing of that kind, and I have never known one who has suffered in an election.

The CHAIRMAN. The witness has said that such a man would be

regarded as a man of nerve. Why would it take nerve to make complaint against a violator of the law?

Mr. WHITECOTTON. On account, Mr. Chairman——

The CHAIRMAN. State it as briefly as you can.

Mr. WHITECOTTON. I will be just as brief as I can.

While the people of Utah—all the Mormons; I will speak with reference to them rather than Gentiles in that regard—are sick and tired and disgusted with polygamy; they want to be rid of it; they want to wipe it out and get it under their feet; at the same time when it comes, for instance, to myself or any other person going and making complaint against a neighbor because he is living in unlawful cohabitation, it calls up to us all these things of an unpleasant character among neighbors; throwing the only support the women have into the penitentiary may be, or taking the substance of the man to pay the fine. It makes a man hesitate, and a man who would do that must be a man peculiarly made for seeing nothing but the law. He must be a Javert. No other man can do it. That is what I mean by taking nerve. He must recognize nothing but the anangke of the law. Nothing else must appear. He can not take into account the surrounding circumstances and the atmosphere in which he lives.

Mr. VAN COTT. Do the Gentiles in Utah object more to men living in unlawful cohabitation than they do to new polygamous marriages? By new polygamous marriages I mean since the manifesto.

Mr. WHITECOTTON. No, sir. I think if it were known in the community in which I live that a man had contracted a polygamous marriage and the evidence came out, there would not be half a dozen men in that town who would not pursue that man and put him in the penitentiary. That is the sentiment where I live.

Mr. VAN COTT. Is that the sentiment of the Mormon people?

Mr. WHITECOTTON. It is; and the people there are 70 per cent Mormons.

The CHAIRMAN. What is the sentiment in regard to those who contracted plural marriages before 1890 and are now living with their wives and having new children by them up to this time?

Mr. WHITECOTTON. The sentiment is that it is an awful condition.

The CHAIRMAN. That it is a lawful condition?

Mr. WHITECOTTON. That it is an awful condition.

The CHAIRMAN. Oh.

Mr. WHITECOTTON. Leave off the "I." And we wish we were out of it. We do not know how to get out of it.

The CHAIRMAN. What is the sentiment with respect to that class of people—approval or disapproval?

Mr. WHITECOTTON. They have the disapproval of the people generally, but that does not go to the extent of causing a man to shoulder the responsibility of setting the law in motion against that man.

The CHAIRMAN. So that that class of men are left without interference?

Mr. WHITECOTTON. They are left practically without interference. They have our regrets, but we do not know how to get at them.

Senator FORAKER. You have said that that is largely because of the regard the people have for the condition in which the plural wives and children would be left in case of a successful prosecution.

Mr. WHITECOTTON. Yes, sir; I think that is the chief cause of withholding the hand of prosecution. Those women are human, and so

are their children, and they are not much to blame either, especially the children.

Mr. VAN COTT. When, to your knowledge, did Reed Smoot first take an active part in politics in Utah?

Mr. WHITCOTTON. He was in it when I got to the Territory.

Mr. VAN COTT. For the Republican party?

Mr. WHITCOTTON. No; not for the Republican party, because there was not any Republican party there.

Mr. VAN COTT. But for the People's Party?

Mr. WHITCOTTON. For the People's Party.

Mr. VAN COTT. Now, when the division came, was he active in politics?

Mr. WHITCOTTON. Yes, sir; he was one of the very first men. He was known to be for protection. He had some Republican heresies in his head when I went there. He was the manager of a woolen mill, and he was always talking protection for that woolen mill.

Mr. VAN COTT. He was a Republican then; I assume, if he was talking protection?

Mr. WHITCOTTON. Oh, yes; he was a Republican.

Mr. VAN COTT. Was he active in the Republican party?

Mr. WHITCOTTON. He was, as soon as there was a party to be active in.

Senator FORAKER. What are some of the other heresies he had?

Mr. WHITCOTTON. That is the chief one; and he always voted the Republican ticket. It is a kind of an unpleasant thing for us Democrats to have too many fellows do that. But they do it.

Mr. VAN COTT. Speaking of the other heresies that Mr. Smoot had, what was the general understanding in the community in Provo about any heresy that Mr. Smoot had as being opposed to the practice of polygamy in those early days?

Mr. WHITCOTTON. He was a heretic on that, too.

Mr. VAN COTT. He was opposed to polygamy?

Mr. WHITCOTTON. He was opposed to polygamy; he was understood so to be. He was looked upon as one of the young men in Utah who were to redeem Israel.

Mr. VAN COTT. Going along with the politics, did Mr. Smoot gain prominence in the Republican party in Utah?

Mr. WHITCOTTON. Yes; he was always prominent in the party.

Mr. VAN COTT. Was he at that time talked of for governor of the State of Utah?

Mr. WHITCOTTON. Yes. That, I think, was four years ago last fall.

Mr. VAN COTT. Was he also talked of for Senator?

Mr. WHITCOTTON. He was talked of for Senator from that time on. The general understanding was that when he dropped out of the gubernatorial race it was with his eye on the other office.

Mr. VAN COTT. Before Mr. Smoot became an apostle in the Mormon Church I will ask you who was the logical and most prominent candidate in the State of Utah in the Republican party for United States Senator?

Mr. TAYLOR. Is Mr. Whitcotton an expert on that subject?

Mr. VAN COTT. I think he is.

Mr. WORTHINGTON. I think he is as much of an expert as Judge

Hiles, who testified that Mr. Smoot never would have been thought of for United States Senator if the church had not backed him.

Mr. TAYLER. That is the truth. I was only referring to party politics. I gathered from what Mr. Whitecotton said that he is a Democrat.

Mr. WORTHINGTON. Judge Hiles is a Democrat.

Mr. VAN COTT. We want to show whether it is the truth or not.

The CHAIRMAN. Let the witness answer. Do you understand the question?

Mr. WHITECOTTON. I think I understand the question. It is easier to understand the question than it is to answer it.

When you come to talk about who was the logical candidate, there were so many people who thought they were the logical candidates that we differ.

Mr. VAN COTT. Answer it the best you can.

The CHAIRMAN. In your judgment.

Mr. WHITECOTTON. In my judgment he was the inevitable candidate. I can scarcely say the logical, but from the discussion that was had about this matter Governor Wells, who was one——

The CHAIRMAN. Do you want him to go into that?

Mr. VAN COTT. I am satisfied for the present with the result. That is the result, in your opinion?

Mr. WHITECOTTON. Yes; it was understood among the Republicans.

Mr. VAN COTT. Is it correct, in your judgment, to say that before Mr. Smoot became an apostle he had never been heard of or mentioned in the State of Utah for the position of United States Senator?

Mr. WHITECOTTON. Oh, no; that is not true.

Mr. VAN COTT. When Mr. Smoot became an apostle there was a campaign waged.

Mr. WHITECOTTON. On the apostleship?

Mr. VAN COTT. Oh, no. After he became an apostle and the campaign came up to elect a United State Senator and other officers, there was a campaign waged in the State of Utah on that issue.

Mr. WHITECOTTON. That was in 1902.

Mr. VAN COTT. What was the most prominent part of that issue?

Mr. WHITECOTTON. The issue really before the people, aside from being a Republican or Democrat, was, Smoot or not Smoot for Senator.

Mr. VAN COTT. In your judgment, did the fact that Reed Smoot was then an apostle in the Mormon Church assist him or hurt him in the election in Utah as a candidate for United States Senator?

Mr. WHITECOTTON. Really, I do not know as to that. There were a great many people who opposed Smoot for the Senate——

Mr. VAN COTT. In your opinion——

Mr. WHITECOTTON. Because he was an apostle, but there were probably others——there seemed to have been many—who did not care anything about it; and there may have been some who supported him because he was an apostle. I do not know anything about that. I know there were very many bitterly opposed to him because he was an apostle——Mormons.

Mr. WORTHINGTON. Mormons, you say?

Mr. WHITECOTTON. Yes.

Mr. VAN COTT. Were legislators nominated in Gentile counties

and conventions who were pledged to support Reed Smoot for United States Senator?

Mr. WHITECOTTON. Yes; that was done in Salt Lake County.

Mr. VAN COTT. In a Gentile convention and in a Gentile county?

Mr. WHITECOTTON. Gentile. They were not divided on Gentile and Mormon, but the Gentiles have controlled Salt Lake City ever since 1890 when there has been any division on such lines as that.

Mr. VAN COTT. For instance, did Gentiles go out on the stump when it was known that Reed Smoot would be the Senator if the Republican party won?

Mr. WHITECOTTON. Everybody knew it but them. I suppose they must have known it.

Mr. VAN COTT. Did some of those same men move, for instance, to make unanimous the nomination of legislators who were pledged to support Mr. Smoot?

Mr. WHITECOTTON. It was reported in the newspapers that Mr. Critchlow moved to make the nomination of the Salt Lake County delegation unanimous after the convention had closed. Of course the fight was made before the convention. It was Smoot or not Smoot, and the Smoot people won, and when they won, Mr. Critchlow, being of the opposite faction, it was reported, moved to make the nomination of those candidates for the legislature unanimous.

Mr. VAN COTT. Do you know whether Mr. Critchlow went out on the stump, too?

Mr. WHITECOTTON. I do not know personally, but I know that a big meeting was appointed at Springville, which is 6 miles south of Provo, for the night before the election. Mr. Critchlow was billed to be there, and the newspapers reported he was there, but I do not know anything further than that.

Mr. VAN COTT. Did Mr. C. E. Allen speak on the stump for the Republican ticket?

Mr. WHITECOTTON. In 1902?

Mr. VAN COTT. In that same campaign.

Mr. WHITECOTTON. I do not remember whether he did or not.

Senator OVERMAN. Was any other Mormon a candidate for the Senate except Senator Smoot?

Mr. WHITECOTTON. For Senator?

Senator OVERMAN. Yes.

Mr. WHITECOTTON. I think not, to any considerable extent. Governor Wells was reckoned as a candidate, but he was laboring under the disability that our constitution provides that no person can become a candidate for the United States Senate during the term for which he was elected governor. Governor Wells, I believe, had a few votes. He was considered a candidate.

Senator OVERMAN. Was it understood that Senator Smoot was the candidate of the church?

Mr. WHITECOTTON. Of the church?

Senator OVERMAN. Yes.

Mr. WHITECOTTON. No; I never heard tell of that until I heard it from down here.

Senator OVERMAN. Was it understood that he had the permission of the church to run; that he had obtained the permission of the church to run before he made the fight?

Mr. WHITECOTTON. I think it was understood from the affairs of 1895 and 1896 that he must have the consent or he might get into trouble with the church, because he was an apostle.

Senator OVERMAN. It was understood that he did have the consent?

Mr. WHITECOTTON. I do not know anything about that, and I never heard that discussed until I saw it discussed in some of the testimony here.

Mr. WORTHINGTON. The president testified that he gave him consent.

Mr. VAN COTT. In Utah is this consent understood as a leave of absence or understood as an indorsement?

Mr. WHITECOTTON. It is leave of absence from duty, as I understand it.

Mr. VAN COTT. Is that the general opinion there among the people of the State?

Mr. WHITECOTTON. It is the opinion of a great many people, and there are other people who have sought to construe that as an indorsement. But that is chiefly from the American party, as I understand it. They construe it in that way.

Senator OVERMAN. I did not understand that. How does the American party construe it?

Mr. WHITECOTTON. The American party construes it, or says it does, as an indorsement—that is, as I understand it. They claim for an apostle to have consent is simply to put upon him the seal of approbation; that it goes beyond leave of absence. The people do not so understand it, however, I think.

Mr. VAN COTT. Has Utah regular political parties, with chairmen, and all the machinery of other States in the country?

Mr. WHITECOTTON. Yes; they have too much machinery, I think; some of them.

Mr. VAN COTT. And the Australian ballot system?

Mr. WHITECOTTON. Yes, sir.

Mr. VAN COTT. What is your opinion as to the independence of the younger Mormons in Utah in regard to politics?

Mr. WHITECOTTON. I do not think there is any doubt in the world about the independence of the young Mormons in respect of politics.

Mr. VAN COTT. State their sentiment whenever it is said or rumored that the leaders of the Mormon Church are interfering in politics—that is, whether they approve of it or resent it.

Mr. WHITECOTTON. I have never heard one of them approve of it. I have heard many young men speak in terms of the very strongest condemnation of anybody seeking to interfere, and I never have heard one admit that he was interfered with. They all say that if anybody has been interfered with it was somebody else—that they have never felt that pressure.

Mr. VAN COTT. Outside of a few men who may be in the American party, I will ask you what is the general opinion among Gentiles as to whether Reed Smoot, or men like Reed Smoot, who are prominent in the Mormon Church, prominent in politics, who are opposed to polygamy and in favor of the enforcement of the law, should be encouraged or not?

Mr. WHITECOTTON. I do not know that I can answer the question. [To the reporter.] I wish you would read it.

The reporter read as follows:

"Mr. VAN COTT. Outside of a few men who may be in the American party, I will ask you what is the general opinion among Gentiles as to whether Reed Smoot, or men like Reed Smoot, who are prominent in the Mormon Church, prominent in politics, who are opposed to polygamy and in favor of the enforcement of the law, should be encouraged or not?"

Mr. WHITECOTTON. I should say the best answer I could give to that question would be Mr. Smoot's election. I do not know how better to express it.

Senator OVERMAN. What political positions had Senator Smoot occupied before he was elected Senator, if any?

Mr. WHITECOTTON. What political positions?

Senator OVERMAN. Yes; in the State.

Mr. WHITECOTTON. He never had held any that I know of.

Senator OVERMAN. He had held no State office at all?

Mr. WHITECOTTON. No; he had never held a State office.

Senator OVERMAN. Had he ever canvassed the State?

Mr. WHITECOTTON. Yes.

Senator OVERMAN. Had he made a thorough canvass of the whole State?

Mr. WHITECOTTON. I would not say that he had, and yet he may have done so.

Senator OVERMAN. He had never been in the legislature?

Mr. WHITECOTTON. No, sir; he had never held an office that I know of, and I think I should know it if he had.

Senator OVERMAN. Was he known generally by the people of the State?

Mr. WHITECOTTON. Oh, yes; there was no man, or scarcely a man in the State better known generally than he was. That State is a wool-growing State. Mr. Smoot had been superintendent of the Provo Woolen Mills, and he goes into every hamlet in that State, buying wool and looking after those interests. He has done that for many years. Scarcely a man is better known in the State than Mr. Smoot.

Senator OVERMAN. He is known as a manufacturer rather than as a public man?

Mr. WHITECOTTON. As the manager of that corporation at Provo. He has been prominent in mining circles since 1895-96, when the Grand Central began to be developed. He became prominent in mining circles in the State, and Mr. Smoot has always been a stockholder in a number of the greater corporations of the State. He is interested in the Desert National Bank and in some loan and trust company at Ogden.

Senator OVERMAN. Were those Mormon institutions, or institutions where the Mormon Church holds the balance of power or a majority of the stock?

Mr. WHITECOTTON. I beg pardon.

Senator OVERMAN. Are those institutions in which the Mormon Church holds a majority of the stock?

Mr. WHITECOTTON. I do not know who holds the majority of the stock.

Senator OVERMAN. Or are they controlled by the church?

Mr. WHITECOTTON. I do not know that either.

Senator OVERMAN. By reputation you do not know?

Mr. WHITECOTTON. I do not know that. I have heard it stated that some of these institutions are controlled by the church, and it may be they hold a majority of the stock, but I do not know anything about it. I never examined into that question. I have never seen their books. I have heard that disputed. There will be a man here who will know about that.

Mr. VAN COTT. Calling your attention now to the political rule that has been referred to, I will ask you if when the rule was first promulgated in writing by the Mormon Church it received the hearty indorsement of the Gentile papers of Utah?

Mr. WHITECOTTON. Yes. When Moses Thatcher seems to have misunderstood the intent of the church and went out with a new declaration of independence, as it were, the Salt Lake Tribune, which was the chief Republican paper in the State, condemned Thatcher and contended that the church had a perfect right to control its employees; that they were hired men, and that they had a right to object to a man in their employ going off and engaging in other collateral employment that took him away from their work.

Mr. VAN COTT. When Reed Smoot was elected United States Senator, what position did that same paper take in regard to Moses Thatcher and that same rule?

Mr. WHITECOTTON. When Smoot was elected Senator?

Mr. VAN COTT. Yes.

Mr. WHITECOTTON. I do not know whether they referred to Thatcher or not, but I know they condemned Smoot.

Mr. VAN COTT. But the rule is what I am after particularly.

Mr. WHITECOTTON. I do not know anything about it.

Mr. WORTHINGTON. What is the population of your town, Provo?

Mr. WHITECOTTON. We place it at 7,000. I think it lacked 31 of being 7,000 in 1900.

Mr. WORTHINGTON. Is it well known what Mormons are living in polygamous cohabitation there?

Mr. WHITECOTTON. It is pretty well understood.

Mr. WORTHINGTON. How many of them are there in your town?

Mr. WHITECOTTON. I know of three.

Mr. WORTHINGTON. Do you think if there were any others you would know of them?

Mr. WHITECOTTON. If there was very much said about it I probably would. It is a small town and I am pretty well known, and I am acquainted with almost everybody.

Mr. WORTHINGTON. How does that compare with the situation in that regard, say, ten or fifteen years ago?

Mr. WHITECOTTON. Of course the number is very much smaller. I know three or four men there who were living in polygamy in 1890 who are reputed now to be entirely out of it. If you want particulars, S. S. Jones, who had three wives—

Mr. WORTHINGTON. I do not care about the details. Your statement is sufficient for me.

Now, as to the men who are reputed to be living in polygamy; is that done openly; do they go around with their several wives?

Mr. WHITECOTTON. I have never seen any of them with their plural wives.

Mr. WORTHINGTON. Did you ever see a Mormon with two of his wives together?

Mr. WHITCOTTON. No; I never did.

Mr. WORTHINGTON. Did you ever hear of their being out together?

Mr. WHITCOTTON. I do not know that I have ever heard of their being out two at a time.

Mr. WORTHINGTON. That is what I mean.

Mr. WHITCOTTON. I do not remember that.

Mr. WORTHINGTON. A man does not go around and exhibit himself in a public place, or a social gathering with two wives?

Mr. WHITCOTTON. No, sir; that has not been done since I have been in Utah, to my knowledge at least.

Mr. WORTHINGTON. You said, in reply to a question from a member of the committee, that Smoot was known as a manufacturer. Do you know whether, before his candidacy for the Senate, he had stumped a large portion of the State as a speaker?

Mr. WHITCOTTON. I understand that in 1902—that was the year he was a candidate—he went pretty generally over the State. I do not know whether he had been elected an apostle. I guess he had. —I believe that was in April, 1902.

Mr. WORTHINGTON. He was elected an apostle before he stumped the State as a candidate for Senator. But my question is whether he had stumped the State before his campaign for the Senatorship began?

Mr. WHITCOTTON. I do not know to what extent he stumped the State in 1900. I know he was active in politics.

Mr. WORTHINGTON. About that statement in the Deseret News relating to the salaries of the officers who are Mormons and non-Mormons, does it not show on its face that it was prepared by Mr. Hiram Booth?

Mr. WHITCOTTON. I do not know that it does. I have not looked at it.

Mr. WORTHINGTON. You think it does not show?

Mr. WHITCOTTON (examining paper). Yes; "Booth arraigns the 'Americans.'" That is the title under which it goes. That is Mr. H. E. Booth, the gentleman sitting behind Mr. Van Cott. He is a Gentile. He will speak for himself on that subject presently.

Mr. WORTHINGTON. I think that is all.

Senator FORAKER. What is the standing of Mr. Smoot, if you know it, among the people of Utah, Gentiles and Mormons alike, as being a man of moral, upright character?

Mr. WHITCOTTON. There is not a man in the State who stands better, Senator, or out of it.

Senator FORAKER. Has he ever been charged with any violations of the law or any offense of any kind against good morals?

Mr. WHITCOTTON. Never that I heard of.

Senator FORAKER. How long have you lived there?

Mr. WHITCOTTON. I have lived there a little more than fifteen years. I have been intimately associated with Mr. Smoot in business since the 1st of July, 1891. I have known him intimately ever since I went to Provo.

Senator FORAKER. In what business are you associated with him?

Mr. WHITCOTTON. I am counsel for the bank of which he is presi-

dent, and I have had some matters of personal business for him, looking after his legal affairs.

Senator FORAKER. Does he have this good standing and reputation you speak of with the Gentiles as well as with the Mormons?

Mr. WHITCOTTON. Among the Gentiles?

Senator FORAKER. Yes.

Mr. WHITCOTTON. Yes, sir. I have never heard a man in the world question Mr. Smoot's clean life or integrity or anything else in the world, except one affidavit that was published, or said to have been published, by one Leilich, charging him with polygamy, and I think that has been exploded. I do not think anybody believes that.

The CHAIRMAN. I want to ask you a question. You say within your own knowledge you know of three persons living in polygamy in your own town?

Mr. WHITCOTTON. No; I did not say I know of my own knowledge. I say it is a matter of common repute, and I have no doubt it is true.

The CHAIRMAN. Will you mention the families?

Mr. WHITCOTTON. I can mention them.

The CHAIRMAN. I wish you would.

Mr. WHITCOTTON. One is John C. Graham.

The CHAIRMAN. How many wives has he?

Mr. WHITCOTTON. He is reputed to have two.

The CHAIRMAN. Next?

Mr. WHITCOTTON. The next man is William Bean.

The CHAIRMAN. How many wives is he reputed to have?

Mr. WHITCOTTON. He is reputed to have two wives.

The CHAIRMAN. And the next?

Mr. WHITCOTTON. The next man is not a resident there, but I understand that the wives are there. His name is Cluff—B. Cluff, jr. He was formerly in the school there.

The CHAIRMAN. Formerly in the school?

Mr. WHITCOTTON. Formerly in the school, but not now.

The CHAIRMAN. In the capacity of instructor?

Mr. WHITCOTTON. Yes; he was president, or principal.

The CHAIRMAN. How many wives is he reputed to have?

Mr. WHITCOTTON. He is reputed to have two wives there, and I have heard, but I do not know anything about whether that is authentic or not, that he has another wife somewhere in the southern part of the State; but I know nothing about that.

The CHAIRMAN. Do you know anything of his families and children?

Mr. WHITCOTTON. Yes, sir; I lived for five years, I think—

The CHAIRMAN. Do you know the number of children he had?

Mr. WHITCOTTON. No; I do not know the number of children. I am personally acquainted with the children of his first wife, and I have seen the children of one of his other wives; but I am not personally acquainted with them.

The CHAIRMAN. You know nothing of their ages?

Mr. WHITCOTTON. No; I do not know the ages of them, but there are some of those children that I am satisfied are less than 14 years of age of that plural wife.

The CHAIRMAN. Children born to the plural wife since the manifesto?

Mr. WHITECOTTON. Yes; there is no doubt about that.

The CHAIRMAN. How many of those are there?

Mr. WHITECOTTON. That I do not know, but I have seen two or three that I would think, anyhow two of them, would come since the manifesto. That would be my judgment about it.

The CHAIRMAN. You have not complained against him for violating the law?

Mr. WHITECOTTON. No, sir; I have not. His plural wife has not lived next to us, but his first wife, with the children; and his first wife and my wife have been great friends.

The CHAIRMAN. You have not made complaint? Suppose you should make complaint against him for violation of the law for living in polygamous cohabitation since the manifesto, would the complaint be recognized?

Mr. WHITECOTTON. Recognized? I have no doubt it would be.

The CHAIRMAN. And the officer would serve the process?

Mr. WHITECOTTON. I think he would.

The CHAIRMAN. Why then do you not make complaint?

Mr. WHITECOTTON. I am not in the business of prosecuting my neighbors.

The CHAIRMAN. That is all.

Mr. WHITECOTTON. If they will elect me prosecuting officer and somebody brings a complaint, I should entertain it without any hesitation.

The CHAIRMAN. That is all.

Senator FORAKER. Do you know what the attitude of Mr. Smoot has been toward plural marriages since they have been prohibited by law? And if so, will you tell us?

Mr. WHITECOTTON. I never heard Mr. Smoot expressly say what he thought of any particular case of plural marriage, but I have understood ever since I have known him that he has been very much opposed to polygamy, and as bearing upon that I have here an extract from a statement—it is in the official report—made by the Hon. John W. Judd, who was United States judge out there in Territorial days—

Mr. TAYLER. That is in the testimony in this case already.

Mr. WHITECOTTON. It is?

Mr. VAN COTT. I think not.

Mr. WORTHINGTON. I think not.

Mr. TAYLER. Then it is in your reply.

Mr. VAN COTT. It may be in the argument, or it may be in the record some place.

Mr. TAYLER. It is in some place. However, there is no objection to its going in now, except that it is in the record already.

Mr. WHITECOTTON. I did not know that. It is simply the statement of Judge Judd before the committee.

Mr. WORTHINGTON. Whereabouts is it found?

Mr. WHITECOTTON. It is found on page 41 of the pamphlet [handing Mr. Worthington pamphlet].

Mr. TAYLER. When did you ever interest yourself in the charge that Benjamin Cluff, jr., the president of the Brigham Young University, had taken a plural wife since 1890?

Mr. WHITECOTTON. No, sir; I have known nothing about that.

Mr. TAYLER. Do you mean to say you never heard of it?

Mr. WHITECOTTON. That he had taken one since the manifesto?

Mr. TAYLER. Yes.

Mr. WHITECOTTON. Yes, sir; I heard a rumor of that kind.

Mr. TAYLER. When?

Mr. WHITECOTTON. My best recollection would be that was four or five years ago.

Mr. TAYLER. That is when you heard it?

Mr. WHITECOTTON. When I heard of it?

Mr. TAYLER. You heard a rumor about it?

Mr. WHITECOTTON. Yes.

Mr. TAYLER. Do you mean it was talked about around, or told you?

Mr. WHITECOTTON. The manner in which I heard it was this. There was some kind of an expedition organized to go down to make some discoveries in Yucatan, or somewhere down in Central America, and it was reported, after some of the boys came back, that Mr. Cluff had picked up a wife down there somewhere, and they were displeased. They thought it was unfair treatment. They thought he was getting better treatment than they were.

Mr. TAYLER. They thought it was unfair that he should take another wife?

Mr. WHITECOTTON. They had left their wives at home, and they thought it unfair that he should take another one.

Mr. TAYLER. How long did he continue to act as the head of that institution after that?

Mr. WHITECOTTON. I do not know whether he ever acted as the head of that institution after that or not.

Mr. TAYLER. Is it not only a year since he went out of the office of president of Brigham Young University?

Mr. WHITECOTTON. Possibly nominally, but my best recollection is that for the last two years Mr. Cluff held nominally the principalship, but did not officiate, and Mr. Brimhall was acting.

Mr. TAYLER. Mr. Brimhall was another polygamist?

Mr. WHITECOTTON. Yes, sir; reputed to be.

Mr. TAYLER. Do you mean to say that Mr. Cluff was never back in Provo after this report that he had taken a plural wife?

Mr. WHITECOTTON. Yes, sir; I think he was back there.

Mr. TAYLER. He lived there after that?

Mr. WHITECOTTON. His family was there.

Mr. TAYLER. And he did?

Mr. WHITECOTTON. I am unable to say that he did. My best impression is he did not.

Mr. TAYLER. That he did not?

Mr. WHITECOTTON. That is my impression.

Mr. TAYLER. Do you mean to say that you have not seen him for four or five years?

Mr. WHITECOTTON. No; I have seen him, because he has been in Provo. But it has been some time since; he was employed by some rubber company, as I understand it, in Mexico.

Mr. TAYLER. Mr. Smoot is a trustee of that institution?

Mr. WHITECOTTON. I understand he is.

Mr. TAYLER. And one of the finance committee also?

Mr. WHITECOTTON. I do not know as to that, but I should think very likely. If you have information, or state it, I think it is true.

Mr. TAYLER. You know, as well as you know anything that is not

demonstrated to us by testimony in court, that Benjamin Cluff, jr., did take another plural wife four or five years ago, do you not?

Mr. WHITECOTTON. No; I could not say that.

Mr. TAYLER. You do not know?

Mr. WHITECOTTON. No, sir. I would not be willing—in fact, I am not convinced in my own mind from the reports I have heard that he did so.

Mr. TAYLER. Do you know who George Reynolds is?

Mr. WHITECOTTON. Only by reputation. I never met him.

Mr. TAYLER. He is a very high and respected official of the Mormon Church?

Mr. WHITECOTTON. I think so. I have understood so.

Mr. TAYLER. Do you know that George Reynolds swore that Cluff married his daughter three or four years ago as a plural wife?

Mr. WHITECOTTON. No; I do not know that.

Mr. WORTHINGTON. He does not say that.

Mr. WHITECOTTON. I know nothing about that. Will you permit me to make a modification of an answer I made in relation to Mr. Brimhall?

Mr. TAYLER. Certainly.

Mr. WHITECOTTON. You asked me whether he was a polygamist. He is reputed to be a polygamist, but I understand the fact to be that he has never lived with more than one wife; that for at least twenty years, as I understand it, his legal wife has been in the insane asylum; that he has only lived with one wife, as I understand the fact.

Mr. TAYLER. But he has been living with his plural wife?

Mr. WHITECOTTON. Yes, sir; so I understand.

The CHAIRMAN. While living with his plural wife his legal wife was in the asylum?

Mr. WHITECOTTON. Yes, sir.

Mr. TAYLER. Did you hear Mr. Smoot say anything about Cluff—

Mr. WHITECOTTON. I never did.

Mr. TAYLER. And his plural marriage?

Mr. WHITECOTTON. I never did.

Mr. TAYLER. Was it a matter that was whispered in the community with bated breath, that Benjamin Cluff, jr., was suspected of having taken another plural wife?

Mr. WHITECOTTON. I never heard it stated in any such way as that.

Mr. TAYLER. Have you any doubt that Senator Smoot heard the same talk that you heard?

Mr. WHITECOTTON. I have no information on that subject whatever.

Mr. TAYLER. I am only asking you for the same kind or degree of intelligence that you exhibited in your direct examination. Have you any doubt that Reed Smoot knew about it?

Mr. WHITECOTTON. I should think more than likely that Mr. Smoot heard about it. I should think it probable. I have no doubt that Mr. Smoot knew that Mr. Cluff had two wives; that is, knew it as I knew it, as everybody knows it, by reputation in the community.

Mr. TAYLER. I understand; the kind of knowledge we have of our neighbors generally without undertaking to pry into their affairs more than the necessities of the case require. Do you know a man named Harmer?

Mr. WHITECOTTON. I do.

Mr. TAYLER. What is his first name?

Mr. WHITCOTTON. I think Lorin.

Mr. TAYLER. Is he reputed to be a polygamist?

Mr. WHITCOTTON. I could scarcely say that. His repute in the community is not that of a polygamist; at least I have not so understood it until I saw this testimony here. He was understood to be an adulterer.

Mr. TAYLER. And continues to be one?

Mr. WHITCOTTON. I have heard since this trial that he has continued to live with that girl. I did not know it before.

Mr. TAYLER. And with two wives besides?

Mr. WHITCOTTON. I did not know that. I did not know that he had any other wife than his legal wife, but I understood that he was caught in adultery with this young girl and prosecuted and sent to the penitentiary for it.

Mr. TAYLER. And then came back and continued to live with her?

Mr. WHITCOTTON. I have learned that since this trial, but did not know it before. He lives in another town. He lives in Springville.

Mr. TAYLER. He lives near you?

Mr. WHITCOTTON. Six miles away.

Mr. TAYLER. In the same county?

Mr. WHITCOTTON. In the same county, only 6 miles and two lines of railway between us.

Mr. TAYLER. He is not a client of yours, is he?

Mr. WHITCOTTON. No, sir.

Mr. TAYLER. You say that Senator Smoot and generally those who were in high positions in the church were not permitted to become candidates on the theory that they were hired men? Do you understand that Senator Smoot is a mere hired man?

Mr. WHITCOTTON. I think so. I think that is all.

Mr. TAYLER. Who hired him?

Mr. WHITCOTTON. I suppose the majority of the quorum to which he belongs.

Mr. TAYLER. They hired him, and they are his superiors, are they, or is he of coordinate power with his associates?

Mr. WHITCOTTON. I think he has coordinate powers. But probably the majority rules. I am not a member, and I do not know.

Mr. TAYLER. Do you understand that he is chosen by revelation and inspiration?

Mr. WHITCOTTON. No, sir. I do not know anything about that.

Mr. TAYLER. Do you understand that he is a living oracle of God?

Mr. WHITCOTTON. No; he is not to me.

Mr. TAYLER. Oh, no, no, no. You are his counsel.

Mr. WHITCOTTON. Yes; he takes my advice sometimes.

Mr. WORTHINGTON. The witness is the oracle.

Mr. WHITCOTTON. I do not know anything about that. I do not know anything about the importance that the Mormons even attach to the choosing of an apostle. It would be hard for us in Provo, who know Mr. Smoot so intimately, to think of him as a man who got revelations. I can scarcely credit that.

Mr. TAYLER. Exactly. But you have no doubt at all that it is the view of the rank and file of the Mormon Church that an apostle is a prophet, seer, and revelator, have you?

Mr. **WHITECOTTON**. In matters pertaining to religion, I think that is accepted as a settled article of faith.

Mr. **TAYLER**. And you think they have never accepted any other idea?

Mr. **WHITECOTTON**. Do you mean—

Mr. **TAYLER**. That he had any other than a spiritual work to perform?

Mr. **WHITECOTTON**. The Mormons with whom I have talked upon that subject repudiate any such idea extending beyond spiritual affairs. They say—and I have heard many of them say it—that Reed Smoot, when he is in the church, is their guide, but in political matters they are as independent as he is and know as much about politics as he does.

The **CHAIRMAN**. Mr. Tayler, you will have to suspend, and the committee will now take a recess until half past 1 o'clock.

Thereupon (at 11 o'clock and 55 minutes a. m.) the committee took a recess until 1.30 o'clock p. m.

AFTER RECESS.

The committee reassembled at the expiration of the recess.

TESTIMONY OF J. W. N. WHITECOTTON—Continued.

J. W. N. **WHITECOTTON**, having been previously sworn, was examined and testified as follows:

The **CHAIRMAN**. Mr. Tayler, you may proceed.

Mr. **TAYLER**. Mr. **Whitecotton**, you said you knew something about the Lorin Harmer incident.

Mr. **WHITECOTTON**. As common knowledge in the community; yes, sir.

Mr. **TAYLER**. Did you know that he was a polygamist as well as having this adulterous relation?

Mr. **WHITECOTTON**. No, sir; I did not know that.

Mr. **TAYLER**. You knew that he was convicted at one time of adultery, did you not?

Mr. **WHITECOTTON**. Yes; I knew he was convicted of adultery in the court at our town.

Mr. **TAYLER**. And that after his return he continued to sustain the same relations to this woman that he had before?

Mr. **WHITECOTTON**. I have heard that since this inquiry began, but I did not know it before.

Mr. **TAYLER**. He so testified, that he had a child or children by this same wife since his return?

Mr. **WHITECOTTON**. Yes; I have heard that.

Mr. **WORTHINGTON**. The same wife?

Mr. **TAYLER**. Well, the same woman. According to the humane standards which you have followed out there, does this woman's status appeal as much to your commiseration as the others?

Mr. **WHITECOTTON**. No, sir; not to mine.

Mr. **TAYLER**. Not to yours?

Mr. **WHITECOTTON**. Not to mine. I never understood that she was a wife in any sense.

Mr. TAYLER. I understand; but the fact that she has lived with this man and has borne children to him in a public way in the community in which he lives does not make any appeal to you like the others?

Mr. WHITECOTTON. Not from the same standpoint; no, sir. Of course, she is to be pitied, but not from that standpoint.

Mr. TAYLER. You would feel as if a different sort of dealing should be conducted respecting the guilty person in that case where he had the plural wife?

Mr. WHITECOTTON. That would be my feeling; yes, sir.

Mr. TAYLER. You understand that the husband of a plural wife, who continues to live with that wife and to have children borne by her, does so upon the theory that he took upon himself that obligation of a husband to a plural wife with the approval of God?

Mr. WHITECOTTON. Before the manifesto; yes.

Mr. TAYLER. And that no law of the land has any right to dissolve or interfere with that relation?

Mr. WHITECOTTON. Well, I think that is his point of view, but I do not concur in it.

Mr. TAYLER. Oh, I am not saying that you take that view. Of course not. You can not. You are not a Mormon.

Mr. WHITECOTTON. I understand that is his point of view.

Mr. TAYLER. That the law then does not speak to him?

Mr. WHITECOTTON. No.

Mr. TAYLER. That a higher law controls that situation?

Mr. WHITECOTTON. No; I am not quite able to say that, Mr. Tayler. I believe that the Mormons who are now living in polygamy admit that they are doing it in violation of the law of God and of man.

Mr. TAYLER. Precisely. And then do they not turn around and say that they took upon themselves that relation and that obligation with the approval of God, and no law of the land can interfere with or dissolve that relation?

Mr. WHITECOTTON. I do not think they take that position. I have not so understood it.

Mr. TAYLER. And do you not know that President Joseph F. Smith proclaimed to the 10,000 of his people since he testified here that if he recognized the customs of the world in respect to the matter of living with more than one wife he would be eternally damned?

Mr. WHITECOTTON. I did not know he had made such a statement as that.

Mr. TAYLER. Would it surprise you?

Mr. WHITECOTTON. No; it would not.

Mr. TAYLER. If he did?

Mr. WHITECOTTON. No; because I think Joseph F. Smith is a thorough fanatic.

Mr. TAYLER. You have told us you are a lawyer, and, of course, during all these years you have been in Utah you have naturally come in contact with the legal phases of this situation, as well as all of the phases that one would naturally consider out in that atmosphere. I want to ask you, as a lawyer, how you would consider this question: Suppose a man took a wife, we will say in 1885, and in 1887 he took a plural wife and continued to live with both of those women, accord-

ing to the custom of polygamous Mormons prior to the manifesto, and a few years after the marriage to the plural wife the first legal wife dies, and then he continues for some time—a year or two, or three or four, no matter how long—to live with the plural wife—that is, she who was the plural wife when he married her—and then marries a third woman; would you call that a polygamous marriage? You understand the question, do you?

Mr. WHITCOTTON. I understand the question; yes, sir. I do not think, Mr. Tayler, that that would be legally a polygamous marriage; but I would think it would be an act for which that man should be prosecuted and punished to the extent of the law. I do not believe, in other words, that upon a thing of that kind he could be convicted of bigamy, because the woman who was the first plural wife had no legal status with him as a wife, since we have no common-law marriage in Utah. If he were prosecuted for bigamy they would fail in the prosecution because of their inability to prove a legal marriage to any woman subsisting at the time he married the woman to whom you refer.

Mr. TAYLER. Of course, the moral aspect of it is not improved at all, is it?

Mr. WHITCOTTON. I think not. I think that is the most contemptible kind of a man that we have, that will hold that legal wife still at arm's length and take advantage of his legal status to marry another legal wife. I think that man has no standing, morally, legally, socially, nor in any other way.

Mr. TAYLER. What would you think of an apostle of the church who would solemnize that kind of a marriage?

Mr. WHITCOTTON. I would think he was a bad man, if he did it knowingly. I think he ought to be prosecuted for doing it.

Mr. TAYLER. Did you know that an apostle of the church, himself the possessor of six or eight wives, married his own son to a woman exactly under those circumstances, as appears in the testimony in this case?

Mr. WHITCOTTON. I heard that from the testimony in this case. I never knew it before; and that act meets with my most hearty disapprobation. I think the whole outfit ought to be prosecuted.

Mr. TAYLER. You have not heard of anybody prosecuting anybody for it, have you?

Mr. WHITCOTTON. No; I have not.

Mr. TAYLER. Did you ever hear a report of the polygamous marriage of Apostle Abram Cannon after the manifesto?

Mr. WHITCOTTON. Yes; I heard of it.

Mr. TAYLER. It is generally understood in the community that he did marry a plural wife, is it not?

Mr. WHITCOTTON. Oh, yes; that is the general understanding in the community, that he married Lillian Hamlin.

Mr. TAYLER. And the controversy has rather waged around the question as to who performed the ceremony than over the question as to whether it was done at all?

Mr. WHITCOTTON. I never heard it questioned that it was done until I heard some question made about it in this trial. It is the common understanding that he married that woman in some way or other.

Mr. TAYLER. Did you hear the claim made that Apostle Teasdale had taken a plural wife since the manifesto?

Mr. WHITECOTTON. Yes; I have heard that claim made.

Mr. TAYLER. Well, the fact is that he did take a wife after the manifesto, while he had living a woman to whom he had been married some twenty or twenty-five years before, is it not?

Mr. WHITECOTTON. As to that I have no information except rumor. Mr. Teasdale lives 35 miles south of me and in a locality that I do not often visit. I left that out of the counties in which I am well acquainted. That rumor, however, has gained currency and has currency now in Utah.

Mr. WORTHINGTON. Might I ask there what has become of the record in that divorce case of Teasdale that we had here in executive session one day?

Mr. TAYLER. I have never seen it since.

Mr. VAN COTT. I think I have it.

Mr. TAYLER. You were speaking about this Evans bill. The Evans bill, as I recall, if it had become a law, would have made it impossible ever to prosecute for polygamous cohabitation, would it not?

Mr. WHITECOTTON. That may be, but I do not so understand it.

Mr. TAYLER. I will read it. It is very short. I do not mean I will read it all, but I will read that which relates to this subject, so as not to encumber the record or our minds:

"Every person who has reason to believe that a crime or public offense has been committed may make complaint against such a person before some magistrate having authority to make inquiry of the same, provided"—

Then I skip down to this part—

"No prosecution for unlawful cohabitation shall be commenced except on complaint of the wife or alleged plural wife of the accused."

Mr. WHITECOTTON. I do not think, Mr. Tayler, that the effect of that bill, if it had become a law, would have been to render it impossible—

Mr. TAYLER. Of course, a wife might do it.

Mr. WHITECOTTON. And so might a plural wife.

Mr. TAYLER. Yes, or a plural wife.

Mr. WHITECOTTON. But aside from that, of course, I understand it would make it impossible, so far as that particular offense was concerned.

Mr. TAYLER. That is the only provable offense in connection with polygamy nowadays, is it not?

Mr. WHITECOTTON. No, sir; I do not think so. There have been in the last few years a number of people convicted in Utah of adultery.

Mr. TAYLER. Who were living polygamously?

Mr. WHITECOTTON. Not that I know of.

Mr. TAYLER. That is what I am referring to. I am referring to those who live under color of a polygamous marriage. Unlawful cohabitation is the only crime which they are committing under the law, is it not?

Mr. WHITECOTTON. I do not think so.

Mr. TAYLER. What other crime is it?

Mr. WHITCOTTON. They may be, and probably are, if they are living in unlawful cohabitation, living also in adultery.

Mr. TAYLER. But you understand as a lawyer the different proof necessary in the one case from the other?

Mr. WHITCOTTON. Oh, yes; I understand that the difficulty of proving adultery was the real reason for enacting the unlawful cohabitation law.

Mr. TAYLER. Where did this idea originate of passing the Evans bill?

Mr. WHITCOTTON. My impression is that it originated, as I intimated this morning, from the fact that there was understood to be an effort made in the State to bring prosecutions against certain people by someone employed by outside interests.

Mr. TAYLER. Of course, I do not object to that, but I was asking you by whom and in what way?

Mr. WHITCOTTON. I misunderstood your question. So far as I know, it had its origin with Abel John Evans, a member of the senate from our county. I know nothing of it prior to his introducing the bill.

Mr. TAYLER. Is Evans a Mormon?

Mr. WHITCOTTON. Evans is a Mormon; yes, sir.

Mr. TAYLER. You say by a person who had just come into the State for the purpose of making a disturbance on that subject. Is that what you said?

Mr. WHITCOTTON. Making what?

Mr. TAYLER. A disturbance on this subject.

Mr. WHITCOTTON. Well, whether it was to make a disturbance—I would not want to say that that was the purpose that the person had, because I do not know; but as I understood, it was claimed somewhere that the laws were not being enforced, and that there were numerous cases of unlawful cohabitation that ought to be prosecuted.

Mr. TAYLER. Yes.

Mr. WHITCOTTON. But that the local interest did not take cognizance of it?

Mr. TAYLER. Yes.

Mr. WHITCOTTON. And somebody was employed by the outside to take that matter up, look up the evidence, and institute prosecutions.

Mr. TAYLER. That person to whom you refer was Mr. Owen?

Mr. WHITCOTTON. Yes.

Mr. TAYLER. Do you not know that Mr. Owen has been a citizen of Utah since before you went there?

Mr. WHITCOTTON. I do not know anything about it.

Mr. TAYLER. Since 1887?

Mr. WHITCOTTON. It may be that he has been, but I never knew him at all.

Mr. TAYLER. And do you not know that the charge was made and the challenge issued to produce proof of cases of unlawful cohabitation, and that he filed many affidavits in response to that challenge and could not secure action by the district attorney?

Mr. WHITCOTTON. I never understood that any challenge was ever issued to furnish proof of unlawful cohabitation. I did understand that the Deseret News challenged anybody to produce proof of any new plural marriages since the manifesto. That was my understanding of the challenge.

Mr. TAYLER. You have been living, Mr. Whitecotton, for these fifteen years or so, in a very strong Mormon community?

Mr. WHITECOTTON. Probably 70 per cent, I think, of the population are Mormons.

Mr. TAYLER. And you stated early in your examination, as indicating the freedom with which they associated in a business way with Gentiles, that, speaking for yourself, you had a larger proportion of business among Mormons than the Mormon population amounted to?

Mr. WHITECOTTON. I think I stated that the proportion of business that I had from the Mormons was fully as large as the Mormon majority was over the Gentiles.

Mr. TAYLER. That is as I understood it. Perhaps I put it a little too strong, but I caught the idea. You have, therefore, been familiar with them and know what they think about. You have undertaken to testify to some extent about the way they think.

Mr. WHITECOTTON. I know something about what they think, such matters as they have discussed in my hearing.

Mr. TAYLER. Do you not understand that when it comes to a matter involving the church and what it will do and what it stands for, every good Mormon understands that he is not bound to tell the truth?

Mr. WHITECOTTON. No, sir; I never had any such understanding.

Mr. TAYLER. You, of course, know about the polygamy revelation?

Mr. WHITECOTTON. You mean the original one?

Mr. TAYLER. Yes.

Mr. TAYLER. Yes; you are familiar with the history of it?

Mr. WHITECOTTON. Yes.

Mr. TAYLER. That it was received by Joseph Smith in 1843?

Mr. WHITECOTTON. 1843 or 1844; I am not sure which.

Mr. TAYLER. In July, 1843, and that it was known to but a few of his fellows at that time; is not that correct?

Mr. WHITECOTTON. I have so read the history of it.

Mr. TAYLER. I am asking for information and to refresh my memory. That is my understanding of it. Do you understand that it was known to the apostles at that time? I suppose it was.

Mr. WHITECOTTON. I have no understanding as to that—no information on the subject.

Mr. TAYLER. But it was known to a select few and not to the public generally?

Mr. WHITECOTTON. I so understand it.

Mr. TAYLER. And was promulgated in 1852 by Brigham Young in Utah? You know, as a matter of history, do you not, that a year or more after this revelation was received by Joseph Smith the heads of the church proclaimed in their official publications, and, in fact, that it was untrue that polygamy was or could be taught by the church; that they believed in it or that anybody practiced it? Do you recall that?

Mr. WHITECOTTON. No; I do not recall that, but I am not very familiar with that history.

Mr. TAYLER. Did you ever hear of the Times and Seasons?

Mr. WHITECOTTON. I have heard of it.

Mr. TAYLER. That is one of the earliest publications of the church, is it not?

Mr. WHITCOTTON. I have heard of it, but I have never read it.

Mr. TAYLER. Well, most of us are quite as unfortunate as you in that respect, doubtless—in which, in 1844, this appeared:

“NOTICE.

“As we have been lately credibly informed that an elder of the Church of Jesus Christ of Latter-Day Saints by the name of Hiram Brown has been preaching polygamy and other false and corrupt doctrines in the county of Lapeer, State of Michigan.

“This is to notify him and the church in general that he has been cut off from the church for his iniquity; and he is further notified to appear at the special conference on the 6th of April next to make answer to these charges.”

That is signed by Joseph Smith, who received the revelation, and Hyrum Smith, “presidents of said church.”

That is found in Times and Seasons, Volume V, page 423. Have you ever heard of that?

Mr. WHITCOTTON. I think I never heard of that before.

Mr. TAYLER. And that about the same time appears this in Times and Seasons, Volume V, page 474:

“NAUVOO, March 15, 1844.

“To the Brethren of the Church of Jesus Christ of Latter-Day

“Saints living on China Creek, in Hancock County, greeting:

“Whereas Brother Richard Hewitt has called on me to-day to know my views concerning some doctrines that are preached in your place, and stated to me that some of your elders say that a man having a certain priesthood may have as many wives as he pleases, and that that doctrine is taught here. I say unto you that that man teaches false doctrine, for there is no such doctrine taught here; neither is there any such thing practiced here. And any man that is found teaching privately or publicly any such doctrine is culpable and will stand a chance to be brought before the high council and lose his license and membership also; therefore he had better beware of what he is about.

“HYRUM SMITH.”

Did you ever hear of that?

Mr. WHITCOTTON. No, sir; I never heard it until now.

Senator KNOX. What is the date of that, Mr. Tayler?

Mr. TAYLER. March, 1844.

Mr. WORTHINGTON. What is the date of the publication of the book?

Mr. TAYLER. This is 1901.

Had you ever heard that Joseph Smith, after having received this revelation, denied over his signature that any such doctrine had been received by the church? Have you ever heard that?

Mr. WHITCOTTON. No, sir; I think I never heard that either.

Mr. TAYLER. And had you ever heard that in this paper which you have designated correctly as the organ of the Church of Jesus Christ of Latter-Day Saints, in the issue of May 20, 1886, it justified these falsehoods, saying that “Jesus enjoined his disciples on several occasions to keep to themselves the principles that he made known to

them; that the book of Doctrine and Covenants gave the same instructions, and that the elders, as the revelation was not yet promulgated, were justified in denying those imputations, and at the same time avoiding the avowal of such doctrines as were not yet intended for this world, and P. P. Pratt"—You know who he was?

Mr. WHITECOTTON. I know him by reputation. I have read one of his books.

Mr. TAYLER (reading):

"Flatly denied in England in 1846 that any such doctrine was known or practiced by the Saints, and John Taylor (afterwards head of the church), in a discussion in France in July, 1850, declared that 'These things are too outrageous to admit of belief?'"

Mr. WHITECOTTON. No; I did not know that. In 1886 I did not know that there was such a church organ or paper as the Deseret News. That was three years—

Mr. TAYLER. You know it now.

Mr. WHITECOTTON. I know what you have said; what you have read.

Mr. WORTHINGTON. What are you reading from? Give me the reference?

Mr. WHITECOTTON. I know the Deseret News is now the accepted church organ, and I have no doubt it was in 1886.

Mr. TAYLER. It was started really by the church fifty years or more ago, was it not?

Mr. WHITECOTTON. I so understand it.

Mr. TAYLER. It has been edited for many years by Charles W. Penrose, who has been a high official and is now an apostle?

Mr. WHITECOTTON. Yes; I think he has been the editor of the Deseret News ever since I have been in Utah.

Mr. WORTHINGTON. Give me the reference, Mr. Tayler.

Mr. TAYLER. This is a footnote in the "Story of the Mormons," by Linn; but I have sent for the Deseret News itself.

Mr. WORTHINGTON. What page?

Mr. TAYLER. Page 280.

Now, coming to a time within our memory, do you not recall that in 1890 and in 1891 the officials of the church protested most vigorously and earnestly that there had been no marriages for the three or four years immediately preceding that, and finally said they had learned of one, and then they had torn down the endowment house?

Mr. WHITECOTTON. Yes; I remember something of that kind, I should say, about 1891.

Mr. TAYLER. And do you not know it has developed since that there were quite a number of polygamous marriages in 1888, 1889, and early in 1890?

Mr. WHITECOTTON. I have heard that charge, Mr. Tayler. I do not know it to be a fact.

Mr. TAYLER. We know, for instance, do we not, of such a conspicuous case as Brigham H. Roberts, who married at least his third wife as late as the spring of 1890?

Mr. WORTHINGTON. Not in the endowment house, however.

Mr. TAYLER. I do not care whether it was in the endowment house or the top of a mountain.

Mr. WHITECOTTON. I understand the endowment house was taken down then.

Mr. TAYLER. And that he was married by one of the first counselors to the presidency?

Mr. WHITECOTTON. I have read that in his testimony here.

Mr. TAYLER. Speaking also as a lawyer, and one familiar with these circumstances, would you consider that you were any less married to a woman if you were married to her by a counselor to the first presidency in a private house than if you were married by some underling in a temple?

Mr. WHITECOTTON. No; I would not think I was any less married, one way or the other.

Mr. TAYLER. Do you think, Mr. Whitcotton, that the church would be keeping any more or better faith with the people and the country, if instead of the people going through plural marriages in the temple, they were married by apostles in the highway or in the byways or in a private house?

Mr. WHITECOTTON. That would depend on circumstances. I can conceive how a man might be married by an apostle on the highway or in a private house and still not voice the sentiments of the quorum to which he belonged, while he could scarcely be married in the temple without the cognizance of the organization.

Mr. TAYLER. So that if the various apostles separately, without the aid of the temple atmosphere or other apostles, would marry different people to each other you would feel that there was no ecclesiastical responsibility upon the church for that?

Mr. WHITECOTTON. I did not say that, if they all do it. A whole is equal to the sum of all its parts.

Mr. TAYLER. Mr. Smoot might not do that, but do you think it would help it much if Mr. Smoot did not do it and other apostles did so?

Mr. WHITECOTTON. I think it would effect very materially Mr. Smoot's status with reference to that crime, because I believe it to be a crime. I think that 11 apostles might perform such a ceremony in violation of the law and it would not necessarily involve in any moral culpability the apostle who did not do that.

Mr. TAYLER. Well, suppose we were not talking about moral culpability at all?

Mr. WHITECOTTON. Well, legal culpability.

Mr. TAYLER. Any sort of culpability.

Mr. WHITECOTTON. Any sort of culpability. I made no particular point about the morale of it.

Mr. TAYLER. Do you remember, coming to a little later date, when many, perhaps most, of the leading authorities of the church testified in relation to the escheat case? You recall that litigation?

Mr. WHITECOTTON. Yes.

Mr. TAYLER. In which the Federal Government had laid hands on the church property?

Mr. WHITECOTTON. Yes.

Mr. TAYLER. And the question was up as to the disposition to be made of it, whether it would be sequestered or turned back into the hands of the church? You recall that?

Mr. WHITECOTTON. Yes; I know the history of that legislation and that litigation in a general way.

Mr. TAYLER. Do you recall that leading members of the church testified in that case, when that question of the disposition of the prop-

erty was directly up, that they considered the manifesto covered unlawful cohabitation and that it as much their duty to obey the law respecting that as the law respecting the forming of new polygamous relations, and, in a word, as he put it, that it meant they were to obey the law? Do you remember that?

Mr. WHITCOTTON. I do not remember that specifically, but I do remember this, that a number of apostles had been reported as having testified (and I have no doubt they did) that they recognized they were violating the law when they lived in unlawful cohabitation.

Mr. TAYLER. But do you not recognize that they said that was what that command meant, and they were going to obey it? Is that right?

Mr. WHITCOTTON. I so understand it.

Mr. TAYLER. That Wilford Woodruff, who was the head of the church, that Lorenzo Snow, who succeeded Wilford Woodruff as the head of the church, that Joseph F. Smith, who succeeded Snow as the head of the church, all testified to that effect?

Mr. WHITCOTTON. I so understand it.

Mr. TAYLER. Now, they did not obey that, did they?

Mr. WHITCOTTON. Well, judging by the confessions they made here in the witness chair, I should say not.

Mr. WORTHINGTON. Woodruff and Snow did not testify here, because they were dead.

Mr. WHITCOTTON. Snow did not testify, but nobody questioned—it is not necessary to speak of the dead; the dead will take care of themselves.

Mr. TAYLER. There is no question about Woodruff and Snow, is there, up to the time of their death?

Mr. WHITCOTTON. I think not. I do not know of any.

Mr. TAYLER. You know what the popular repute was about it?

Mr. WHITCOTTON. I know the popular repute was they were both polygamists; yes.

Mr. TAYLER. And that they continued to live in polygamy up to the time of their death?

Mr. WHITCOTTON. Yes; I so understood the fact.

Mr. TAYLER. And that one or both of them—I do not now recall which; perhaps it was both—had children born to them after they testified?

Mr. WHITCOTTON. I could not state as to that. I have an impression that a child was born to Mr. Snow after 1891, but I could not say positively about it.

Mr. TAYLER. You recall very well, do you not, the plea for amnesty?

Mr. WHITCOTTON. Yes.

Mr. TAYLER. And that that was predicated upon the promise made by practically all of the apostles—one or two were absent from the country—that they would obey the law thereafter respecting polygamous cohabitation as well as in other respects?

Mr. WHITCOTTON. I so understood that to be the foundation upon which amnesty was granted.

Mr. TAYLER. Precisely, because the suffering Mormons—and there were many of them—were not suffering from prosecutions for polygamy, were they?

Mr. WHITCOTTON. Not eo nomine; no.

Mr. TAYLER. I mean for the crime of contracting a polygamous marriage?

Mr. WHITCOTTON. No; I think not.

Mr. TAYLER. But practically all of them—there were one or two prosecutions, perhaps, for polygamy, but I do not know that there were any convictions at that time—practically all of them, several hundred of them, had been prosecuted and were being punished or were in hiding, so as to escape conviction and punishment for unlawful cohabitation.

Mr. WHITCOTTON. That is a fact.

Mr. TAYLER. And it was to relieve the people who were subject to that prosecution from the consequences of it that this plea for amnesty was made?

Mr. WHITCOTTON. Yes; it was a surrender unconditionally, as I understood it.

Mr. TAYLER. And on the faith of that amnesty was granted, was it not?

Mr. WHITCOTTON. I so understand the facts.

Mr. TAYLER. I think that is all.

Mr. WORTHINGTON. You understand that amnesty was granted on the condition that it should only apply to those who would comply with their promises?

Mr. WHITCOTTON. Why, certainly; I do not suppose anybody was bound by an agreement that did not enter into it.

Mr. WORTHINGTON. And as to those who did enter into it, the amnesty was granted on the condition that they should continue to live correct lives in this respect?

Mr. WHITCOTTON. I suppose that was a part of the compact.

Mr. WORTHINGTON. So if they violated it, the amnesty went for nothing?

Mr. WHITCOTTON. It ought to have.

Mr. WORTHINGTON. Are you clear that the general reputation was that President Woodruff continued to live in polygamous relations after the manifesto?

Mr. WHITCOTTON. Well, that is the impression that I have, Mr. Worthington. There have been so many of those things that it is hard to be very definite about any particular one. That is the impression I have. I have, however, heard that disputed. I probably ought to say that, in justice, that I have heard it disputed that Wilford Woodruff continued to live in polygamy; that he kept the manifesto from the time it was issued; that he never violated its terms.

Mr. TAYLER. I think likely that is true. I think that either Woodruff or Snow was true to his promise.

Mr. WHITCOTTON. Yes; I am inclined to think, on reflection, that that is correct.

Mr. TAYLER. Yes; it was Wilford Woodruff.

Mr. WHITCOTTON. I know it was disputed that he was in polygamy.

Mr. WORTHINGTON. Was it not also reported to be true of George Q. Cannon?

Mr. WHITCOTTON. Yes; I understood George Q. Cannon lived the manifesto.

Mr. WORTHINGTON. When Mr. Van Cott was examining you we passed over for the time being this statement that was made before

the Committee on Territories of the Senate, on page 41—the statement by J. W. Judd—and I will read it now into the record and ask you whether it agrees with your understanding of the situation at that time, which was in February, 1892:

“And I know whereof I affirm when I say before this committee that when the Mormon Church made its declaration of the abandonment of polygamy it was done as much from a force within as from a force without.

“Moreover, that I think that when they made that announcement they simply announced what was a foregone fact, that it accomplished nothing. The thing was already accomplished, and I do not believe to-day, sir, that you could any more, by the consent of the people of the Territory of Utah, reestablish polygamy there than you could reestablish slavery in Georgia or Tennessee.”

Mr. WHITECOTTON. It is pretty hard to measure the effect of different forces that are operating. I know, of course, that the prosecution of polygamists had a very great deal to do with this manifesto to bring it about, but I am satisfied that if they had not had that manifesto they would have had a revolt, and I think if there were an attempt by the Mormon Church—if they should bring another revelation out announcing that polygamy was to be resumed—I do not believe a man that stands in the apostolate to-day could be what they call sustained at a conference. I do not believe a man of them would get a corporal's guard to support him. I think they would be hissed out of the church. They ought to be, and I believe they would be.

Mr. WORTHINGTON. Did you ever hear, until Mr. B. H. Roberts himself so testified before this committee, about his having been married early in 1890 to a plural wife?

Mr. WHITECOTTON. No; I did not know anything about the time. I knew he was a good deal married, but I did not know when. I would have supposed it was a good deal prior to that time if I had not heard the testimony that it was at that time.

Mr. WORTHINGTON. That is all, Mr. Tayler.

Mr. TAYLER. Do you not know, Mr. Whitecotton, that Mr. Roberts never, so far as anybody knows but himself and his wife, was known to be married to his third wife until 1896 or 1897—that his two wives did not know it for years afterwards?

Mr. WHITECOTTON. I learned that, Mr. Tayler, from reading his testimony.

Mr. TAYLER. Then why do you say you supposed this third marriage must have occurred or that you thought it had occurred long prior to 1890?

Mr. WHITECOTTON. I did not suppose he was married to Mrs. Maggie Shipp at the time.

Mr. TAYLER. That is the one I am speaking of.

Mr. WHITECOTTON. I say I did not know anything about that. I know that he was numerously married, according to common repute, but I did not know that he had married anybody within that time. I supposed all his marrying had been done before, until I learned it about the time his case was down here. In fact, I did not know that Mrs. Shipp was his wife at all until the investigation of his case arose.

Mr. TAYLER. I think likely that was the general state of mind on that subject. You, of course, were not in Utah when the Reynolds case was decided?

Mr. WHITCOTTON. No, sir; that was before my day.

Mr. TAYLER. Did you ever hear that the Mormons refused to accept the decision in the Reynolds case as law?

Mr. WHITCOTTON. No; I never understood that they refused to accept that as law. There were a great many questions involved in that case, and the matter of determining that this was polygamy was only one of the questions. There were a number of questions of procedure.

Mr. TAYLER. I know; but after all there was only one main question, was there not, and that was whether, in the guise of religion, practices could be carried on in violation of the law of the land?

Mr. WHITCOTTON. That was the great question in the case.

Mr. TAYLER. And was not that question absolutely, unequivocally answered?

Mr. WHITCOTTON. As a lawyer, I would say yes.

Mr. TAYLER. Do you think a layman would have any doubt about it?

Mr. WHITCOTTON. It seems that they were not satisfied with it. I do not know whether they doubt it or not. I could not say whether they doubt it. I would not doubt upon reading the decision.

Mr. TAYLER. In the first place, we find this—

Mr. WORTHINGTON. Is it worth while to take up time with the decision of the Supreme Court, which has been read in half a dozen times and that we can all refer to when we please?

Mr. TAYLER. Yes; it is. This is a very intelligent expert witness on the state of the public mind out there. That is what I am getting at.

Did you hear it questioned out there that the Supreme Court, forever and unmistakably, established the proposition that the taking of another wife under the guise of religious propriety or command could not be justified?

Mr. WHITCOTTON. I never heard that questioned, but I will say this. I know as a part of the judicial history of the Territory that the constitutionality of the Edmunds law, and, I believe, later of the Edmunds-Tucker law—but I am not so certain about that—had been contested by the church, and those decisions, as I remember, had been rendered before I went there.

Mr. TAYLER. I understand that, but after all, Mr. Whitcotton, was not the great question not whether anybody might be prosecuted for unlawful cohabitation and what kind of proof would suffice for the successful prosecution of it, but the great underlying question, Can the law of the land interfere with a practice which is engaged in because a man's religion, or, according to his view, his God, tells him he may do it?

Mr. WHITCOTTON. My judgment is that the opinion of Chief Justice Waite in that Reynolds case settled the substantive law beyond peradventure or question by an intelligent lawyer.

Mr. TAYLER. Do you know whether the Supreme Court ever was called on again to pass upon that law?

Mr. WHITCOTTON. If it ever was, I do not know it.

Mr. TAYLER. Now, do you not know that practically every polyg-

amist in Utah to-day took a plural wife or wives after the Supreme Court of the United States had settled that fundamental law?

Mr. WHITCOTTON. What is the date of that decision?

Mr. TAYLER. 1878.

Mr. WHITCOTTON. Well, I would not be able quite to subscribe to that statement, because there are some pretty old people in Utah who have very old plural wives, and I think possibly some of them, quite a number of them, were taken before that time.

Mr. TAYLER. Undoubtedly. Now, is it the sentiment of you Gentlemen out there in Utah that the fact that a man took a plural wife after 1878 puts him in any better case than any other violator of the law?

Mr. WHITCOTTON. It does not put him in any better case; no. We have no regard for the man who is in polygamy because he is in polygamy.

Mr. TAYLER. And it is your judgment that the violations of the law which occurred after 1878 by marrying plural wives ought to be condoned and permitted to go on?

Mr. WHITCOTTON. I did not say that; no, sir. That is not my opinion at all. I have no such opinion, and I have not expressed any such opinion.

Mr. TAYLER. That is all.

Mr. WHITCOTTON. I see no reason for condoning any crime.

Mr. WORTHINGTON. That is all.

The CHAIRMAN. Who is your next witness?

Mr. WORTHINGTON. Mr. Booth.

TESTIMONY OF HIRAM E. BOOTH.

HIRAM E. BOOTH, being duly sworn, was examined, and testified as follows:

Mr. WORTHINGTON. Mr. Booth, your full name, please.

Mr. BOOTH. Hiram E. Booth—H-i-r-a-m. The reason I spell it is because it is spelled somewhat differently in Utah.

Mr. WORTHINGTON. What is your age?

Mr. BOOTH. I am 44 years of age.

Mr. WORTHINGTON. And your business or occupation?

Mr. BOOTH. Attorney at law.

Mr. WORTHINGTON. Where do you live?

Mr. BOOTH. In Salt Lake City, Utah.

Mr. WORTHINGTON. How long have you lived there?

Mr. BOOTH. Sixteen years.

Mr. WORTHINGTON. You were what age when you went there?

Mr. BOOTH. Twenty-eight years of age.

Mr. WORTHINGTON. Have you been practicing law there ever since?

Mr. BOOTH. Yes, sir.

Mr. WORTHINGTON. Where did you reside before that?

Mr. BOOTH. In the State of Iowa.

Mr. WORTHINGTON. How long had you lived there?

Mr. BOOTH. I was born near Postville, Iowa, and resided in Iowa continuously up to the time I went to Utah.

Mr. WORTHINGTON. Had you begun the practice of law in Iowa before you went to Utah?

Mr. BOOTH. Yes. I was educated in the public schools of Iowa, and studied law there, and was admitted to practice in the supreme court of Iowa in September, 1885. I continued to practice law in Iowa—at Carson, Iowa—until December, 1888, when I went to Utah. I have been a resident of Utah and of Salt Lake City ever since that time down to the present.

Mr. WORTHINGTON. I will have to ask you the question which we ask the witnesses here—whether you are a Mormon?

Mr. BOOTH. I am a non-Mormon. I never have been a Mormon, and none of my people have ever been Mormons.

Mr. WORTHINGTON. Are you in any way affiliated with the church—connected with it in any way?

Mr. BOOTH. I am not.

Mr. WORTHINGTON. So that you have not any bias in its favor?

Mr. BOOTH. I have not. My wife is a member of the Congregational Church. I was brought up a Methodist, although I am not a member of any church.

Mr. WORTHINGTON. Have you had anything to do with the political affairs of the church since you went there to live?

Mr. BOOTH. Yes; I have been somewhat active in politics ever since I became a resident of Utah.

Mr. WORTHINGTON. Just in a general way—in what manner have you participated in political affairs there?

Mr. BOOTH. When I went there I joined the Liberal or non-Mormon party and took an active part in that party up to 1894, when the party was disbanded—or rather the fall of 1893. I then joined the Republican party and have been a Republican ever since. I was elected to the council of the Territorial legislature in 1893, as a non-Mormon or Liberal.

Mr. WORTHINGTON. You served how long?

Mr. BOOTH. Just two years at that time; and again in 1895 I was elected to the State senate of Utah as a Republican, serving at that time until 1897. There was another legislature in 1897, since which time I have not held any public office.

Mr. WORTHINGTON. Have you been at any other time a candidate for office?

Mr. BOOTH. I was a candidate in the fall previous to Senator Smoot's election for renomination for the legislature at the county convention. I was a United States commissioner, I think, in 1891 and 1892. I was a member of the Republican State executive committee in the campaign of 1904.

Mr. WORTHINGTON. Have you had occasion at all to go over the other parts of the State except the county in which you reside?

Mr. BOOTH. Yes; I have visited many parts of Utah, down as far south as Ritchfield and as far north as the Idaho line.

Mr. WORTHINGTON. You are acquainted, then, in a general way at least, with the people of your State?

Mr. BOOTH. Yes; I am acquainted in a general way with the people of Utah.

Mr. WORTHINGTON. And well acquainted, no doubt, in Salt Lake County?

Mr. BOOTH. Yes, sir; better acquainted in Salt Lake County, Weber County, Tooele County, and Utah County than in other por-

tions of the State. I am very well acquainted, however, in Cache County. That is in the northern part of the State.

Mr. WORTHINGTON. Does your acquaintance include Mormons as well as non-Mormons?

Mr. BOOTH. Yes, sir.

Mr. WORTHINGTON. There was read in evidence here by Mr. Whitecotton this morning a table from the Deseret News of November 4 last, I think, purporting to give the Mormon and non-Mormon State officers and their respective salaries. Did you prepare that?

Mr. BOOTH. I did.

Mr. WORTHINGTON. Is it correct?

Mr. BOOTH. It is correct. It was correct at that time.

Mr. WORTHINGTON. As of November?

Mr. BOOTH. As of November, 1904.

Mr. WORTHINGTON. New State officers came in, I believe, this present month?

Mr. BOOTH. Yes. That was a part of the last campaign in Utah. There is one correction in that table that should be made. I have it here. I do not mean a correction in the State offices, but in the county offices.

Mr. WORTHINGTON. What is the correction?

Mr. BOOTH. It applies to county offices. That table was not read by Mr. Whitecotton.

Mr. WORTHINGTON. That table related to State offices?

Mr. BOOTH. It related to State offices entirely.

Mr. WORTHINGTON. You have one in regard to the Salt Lake County offices too, have you?

Mr. BOOTH. Yes, sir.

Mr. WORTHINGTON. Please read that as it should stand, then.

Mr. BOOTH. It was contended during the campaign of 1904 by the American party that the Gentiles, or non-Mormons, were not receiving their due proportion of the offices of the State and county, and that is the reason for the preparation of these tables. The county officers, Gentiles, were as follows: One county commissioner, \$1,500 per year; county recorder, \$2,000 per year; auditor, \$1,800 per year; county attorney, \$2,800 per year; treasurer, \$2,500 per year; surveyor, \$1,200 per year; and added to that are the county physicians, first and assistant, who receive an aggregate salary of \$3,000 per year, making \$14,500.

Mr. WORTHINGTON. Gentiles?

Mr. BOOTH. Those were elected as Gentiles. However, the county attorney resigned his position and a Mormon was appointed in his place. But as that stood it would amount to \$14,500 received by Gentile county officers; and the Mormons were as follows:

Two commissioners, \$3,000; clerk, \$2,400; assessor, \$1,800; sheriff, \$3,000; superintendent of county infirmary, \$1,320; making a total of \$11,520, which would be in favor of the Gentiles to the extent of \$3,000; but since the appointment of a Mormon to the office of county attorney—that is, he was appointed prior to that time—it would make it about even. However, the office of county attorney since the election, since the first day of January, is again held by a Gentile, so the preponderance is in favor of the Gentiles.

Mr. WORTHINGTON. According to that statement the offices are about equally divided between the Gentiles and Mormons?

Mr. BOOTH. Yes, sir; in that county.

Mr. WORTHINGTON. Just as the State offices were?

Mr. BOOTH. Yes, sir; and during the campaign I went over the different assistants in the county offices appointed by the heads of the departments and it resulted in about the same figures.

Mr. WORTHINGTON. In the State, do you mean, or in the county?

Mr. BOOTH. In the county.

Mr. WORTHINGTON. Now I want to ask you, Mr. Booth, from your long acquaintance with political affairs there, whether or not it is your judgment, from what you have observed and the general reputation there, that the Mormon Church does or does not interfere and govern in political results there?

Mr. BOOTH. The Mormon Church, as a church, in my opinion, does not interfere in political affairs.

Mr. WORTHINGTON. Do you mean by that to qualify it? You say "as a church."

Mr. BOOTH. I mean as a church action. There are individual members, of course, of the church that take active part in politics—from elders to apostles.

Mr. WORTHINGTON. They exercise their rights as American citizens, the same as non-Mormons do, do you mean?

Mr. BOOTH. Yes.

Mr. WORTHINGTON. Do you mean anything more than that?

Mr. BOOTH. I mean nothing more than that. I mean to say, further than that, that the church is divided. The apostles, the bishops, the councilors and presidents of stakes, and elders are divided like other people as to who shall be nominated for office, where they belong to the same political party, and do not act as a unit or as a church.

Mr. WORTHINGTON. What would you say as to the constancy with which the Mormons adhere to their political parties and convictions as compared with the non-Mormons in your State?

Mr. BOOTH. It is my opinion that the Mormon people are as true to their political convictions as any people in any State. I can give instances and illustrations, if you desire it.

Mr. WORTHINGTON. Give us one or two leading illustrations.

Mr. BOOTH. For instance, in Wasatch County, which is a Mormon county, I should say 90 per cent of the inhabitants are Mormons. A man by the name of Thomas S. Watson, who is a non-Mormon, an ex-Liberal, and a Mason, was nominated for the office of county clerk and county recorder, two offices held by one man, either two or four years ago, I think it was. He ran against a high church official, John T. Giles, and was elected by a handsome majority over the Mormon official. He was renominated and reelected again this last election over the same individual.

In another instance, Judge McCarthy, of the supreme bench, ran against Richard W. Young, a very popular Mormon, a gentleman who took an active part as an officer in the late Spanish war, a man I consider of great ability, a good lawyer, a graduate of West Point, and a grandson of Brigham Young. Many of us thought perhaps Judge McCarthy would run behind his ticket, because if there was a man in the Mormon Church whom the Mormon people liked and would vote for—and leave their parties to cast a vote for—it would be Richard W. Young.

Mr. WORTHINGTON. On the other hand, how had Judge McCarthy acted toward the Mormon element?

Mr. BOOTH. Judge McCarthy had been an active prosecutor, as a public official, when he was assistant United States attorney, of violators of the Edmunds-Tucker Act, and had been a Liberal. He had said many unkind things—many things against the Mormon people. I will not say unkind things, perhaps true things. But he had been an active opponent of the Mormon people for many years, and yet my recollection is that Judge McCarthy ran with his ticket. There were very few votes either way.

Mr. WORTHINGTON. You give these simply as some of the illustrations? You could give more?

Mr. BOOTH. Just some. There are many illustrations of that kind.

Mr. WORTHINGTON. A good deal has been said here in the testimony on behalf of the protestants about the result of the last election in your city of Salt Lake for mayor—the election held in 1903, I believe.

Mr. BOOTH. Yes.

Mr. WORTHINGTON. When Mr. Knox was defeated by Mr. R. P. Morris; and it is charged here that that was because Morris was a Mormon, and the church backed him up. Can you tell us anything about that?

Mr. BOOTH. It has been my opinion that that was not the cause of Mr. Knox's defeat. Morris is a very liberal-minded Mormon, a man of excellent reputation in Salt Lake City, both among Mormons and Gentiles. Mr. Knox is a man of great ability as a financier, and is well liked in Salt Lake City—a man of splendid reputation.

Mr. WORTHINGTON. Morris ran as the Democratic candidate, I believe?

Mr. BOOTH. Morris ran as the Democratic candidate, and Mr. Knox ran as the Republican candidate.

Mr. WORTHINGTON. Mr. Booth, I do not care to go into the details of that. You have expressed your conclusion that the church had nothing to do with the result.

Mr. BOOTH. Yes. I would like to explain just a little on that point, to make myself clear.

The CHAIRMAN. Make it as brief as you can, Mr. Booth.

Mr. BOOTH. Yes.

Many of the prominent Republican Gentiles of Salt Lake City refused to support Mr. Knox, not because they had anything against Mr. Knox, but as a protest against the manner in which he had been nominated. It was openly charged that unfair methods had been pursued to secure his nomination for mayor, and as a protest against that they worked and voted against Mr. Knox. It was that feeling that defeated Mr. Knox for mayor, and not because he was a Gentle, and not because Richard P. Morris was a Mormon.

Mr. WORTHINGTON. Or because the church interfered?

Mr. BOOTH. Nor because the church interfered. I do not think the church did interfere.

Mr. WORTHINGTON. Can you give us the names of some of the leading Republican Gentiles in Salt Lake City who opposed Knox and supported Morris?

Mr. BOOTH. Yes; Judge Charles S. Zane——

Mr. WORTHINGTON. Of the supreme court?

Mr. BOOTH. Formerly judge of the supreme court of Utah. One of the most prominent Gentiles——

The CHAIRMAN. He asks you for the names, without giving the character of the men.

Mr. WORTHINGTON. I would like to have them sufficiently identified that we may know who they are.

Mr. BOOTH. One of the most prominent Gentiles in Utah, O. J. Salisbury, formerly a national committeeman of the Republican party; Grant H. Smith, a prominent attorney of Salt Lake City; and numerous names that I could give if the committee desires it.

Mr. WORTHINGTON. Have you any doubt, from living there, and being in political affairs, that the defeat of Knox was the result of the revolt of the Republican Gentiles against him, and not of any interference by the church?

Mr. BOOTH. I think Mr. Knox feels that way himself about it. I am very intimately acquainted with Mr. Knox and supported him.

The CHAIRMAN. Well, that is your opinion.

Mr. BOOTH. That is my opinion, Senator.

Mr. WORTHINGTON. Something has been said here in reference to the election of Frank J. Cannon. He was elected Representative or Delegate in 1894 was he not?

Mr. BOOTH. Yes.

Mr. WORTHINGTON. It has been said that that was the result of interference of the church. Can you tell us something about that?

Mr. BOOTH. Yes; Frank J. Cannon ran against Joseph Rawlins, I think in 1892, and was defeated by Mr. Rawlins. He was again a candidate in 1894. In 1890 or 1891 the Republican party came into existence, but many of the old Liberals refused to disband that party and join the Democratic and Republican parties. I was one who refused to do that. I continued as a Liberal. I was reluctant to accept the manifesto, and decided to remain with the Liberal party until I was thoroughly convinced that the church authorities intended to live up to the manifesto. Becoming convinced in 1893, with others, the Liberal party was disbanded, and we joined the Republican party. Now, that party was made up principally of Republicans.

Mr. WORTHINGTON. The Liberal party was?

Mr. BOOTH. Yes. Eighty per cent, I should say, of the Liberal party were Republicans, and they went over in a body to the Republican party. Two years previously, if my memory serves me, Joseph Rawlins had received a little over 15,000 votes, Mr. Cannon 12,000 and something, and Mr. Allen had received 6,000 and some odd votes. Eighty per cent of that vote going over to Mr. Cannon secured his election to Congress in 1894. It was not by reason of any church influence or interference.

Mr. WORTHINGTON. Was that swing from 1892 to 1894, in your judgment, the result of the Republican Liberals in 1894 going over to the support of the Republican candidate whom they had not supported in 1892?

Mr. BOOTH. That is my opinion. The great mass of the Gentiles supported Mr. Cannon.

Mr. WORTHINGTON. It has been said here that Moses Thatcher was

defeated as a candidate for the Senate from Utah by Mr. Rawlins, and that that was the result of church interference. What can you tell us about that?

Mr. BOOTH. My opinion has always been, since I have studied that question, that the church was right in the rule adopted, that none of the apostles or high church officers should engage in politics without the consent of the church. That was the position first taken, I believe, by Judge C. C. Goodwin, a prominent non-Mormon writer.

Mr. WORTHINGTON. And one of the protestants here?

Mr. BOOTH. I believe he is one of the protestants here. That was the position, and I have never seen any reason to change my opinion in regard to that. As I understand it, the rule is simply this, that a man—

Mr. TAYLER. It is in the record here. This is consuming lots of valuable time.

The CHAIRMAN. The rule is in.

Mr. WORTHINGTON. And every witness on the stand from Idaho in reference to politics has been asked about his understanding of the rule, notwithstanding it was in; and Mr. Critchlow, and Judge Hiles, and Mr. Powers went over it at great length about their understanding of it. It is in the record, and I would like to have the understanding of this witness in regard to it.

The CHAIRMAN. Go ahead. Give your understanding of the rule.

Mr. BOOTH. The rule is simply this, that an apostle having accepted the duties as such, owed something to the church, as I understand he receives a salary; that before he can leave his duties to engage in something else which would call him away he had to obtain the consent of the church.

The CHAIRMAN. How much is the salary of an apostle?

Mr. BOOTH. That I do not know. I understand they do receive a salary. Some have said it is \$1,500 and some \$2,400. I never have heard definitely what it amounts to.

The CHAIRMAN. Very well.

Mr. BOOTH. And I have never understood it to be an indorsement of his candidacy, but simply a permission that he might engage in political affairs, or, in other words, a leave of absence from his church duty. I have approved of that, as a Gentile. I think it is right.

Mr. WORTHINGTON. That bears upon the question which I asked you, but it does not fully answer it. I asked you what information you can give us as to whether Thatcher, when he ran for the Senate, was defeated by Rawlins by reason of the interference of the church or by some other causes?

Mr. BOOTH. I believe it was by other causes. I believe, though, that at that time many of the high church authorities disapproved, and did use some influence to defeat Moses Thatcher, for the reason that they believed that he was violating a rule of the church—not because they had any objection to his being a candidate for United States Senator. Personally I was glad of it, because Moses Thatcher was a polygamist, and I have always been opposed to polygamists holding office of any kind.

Mr. WORTHINGTON. Do you know Mr. E. W. Wilson, who is one of the protestants here?

Mr. BOOTH. I do; intimately.

Mr. WORTHINGTON. Was he a member of the legislature when Thatcher and Rawlins were candidates for the Senate?

Mr. BOOTH. I believe so.

Mr. WORTHINGTON. Do you know which of them he voted for?

Mr. BOOTH. No; I never have looked that up. I do not remember. It is reputed he voted for Mr. Rawlins.

Mr. WORTHINGTON. We will prove that by somebody else.

Mr. BOOTH. I do not know it definitely.

Mr. WORTHINGTON. Mr. Owen here—whom you know, possibly—

Mr. BOOTH. Yes; I know Mr. Owen.

Mr. WORTHINGTON. Has testified that leading Gentiles in Utah bow to the church and do whatever it wants them to do, and it is impossible to get anything done that the church does not want done, and whatever the church wants done is done for that reason. What is your judgment, first, on that general subject?

Mr. BOOTH. My judgment is that that is incorrect.

Mr. WORTHINGTON. He says, for instance, that Mr. Putnam, who was the county attorney, I think, there in Salt Lake County, is a weak-kneed Gentile?

Mr. BOOTH. Well, I know Mr. Putnam very well, and I consider him a man of intelligence and a man of considerable backbone. I do not believe he would be dictated to by the Mormon Church or any other church.

Mr. WORTHINGTON. He also spoke of Judge Baskin as being a man who bent the pregnant knee to the church. What do you think about that?

Mr. BOOTH. That is simply ridiculous. Everybody who knows Judge Baskin knows that he is a man of decided character and could not be swayed by anybody. His whole life is a contradiction of that statement.

Mr. WORTHINGTON. Do you know Judge Powers, who was a witness in this case on behalf of the protestants?

Mr. BOOTH. Yes; very well.

Mr. WORTHINGTON. And who gave strong testimony here against the Mormon Church?

Mr. BOOTH. I know him very well, indeed.

Mr. WORTHINGTON. Has he run for an office since he gave that testimony?

Mr. BOOTH. Yes, sir; he was nominated for Congress from Utah in 1904, this last campaign.

Mr. WORTHINGTON. I suppose he was defeated along with the rest of the ticket?

Mr. BOOTH. He was defeated along with the rest of the ticket.

Mr. WORTHINGTON. How well did he run?

Mr. BOOTH. I believe he ran ahead of his ticket.

Mr. WORTHINGTON. On this matter of church interference—

Mr. BOOTH. I want to explain just a moment on that point. That was not by Gentile votes either. The American party nominated Judge Hiles, and Judge Hiles received the full strength of the American party vote. Judge Powers expected to get many American party votes, but failed to do so, and for that reason I say he was not cut by the Mormons.

Mr. WORTHINGTON. In reference to this matter of church inter-

ference in politics, have the other churches taken a hand in that subject in your State?

Mr. BOOTH. Why, more or less they have; yes, sir.

Mr. WORTHINGTON. Do you remember the case, for instance, of Jacob Moritz?

Mr. BOOTH. I remember the case of Jacob Moritz. I know Mr. Moritz very well. He is a man of good character, a good citizen, but he is engaged in brewing beer. That is his business.

Mr. WORTHINGTON. Where does he live?

Mr. BOOTH. He lives in Salt Lake City, and he was nominated for the State senate; and because of that fact many members of churches other than the Mormon Church took an active part in trying to secure his defeat, and did defeat him.

Mr. WORTHINGTON. Did they interfere as a church?

Mr. BOOTH. No; not any more—that is, I do not understand they did as a body. Perhaps the ministerial association did. I mean that no individual church took any church action, but I believe the ministerial association did interfere.

Mr. WORTHINGTON. To bring this matter to a close, as far as I am concerned, what do you say as to whether or not now, since President Joseph F. Smith became the president of the church, he has honestly kept the church out of politics?

Mr. BOOTH. That is my belief.

Mr. WORTHINGTON. And have you seen anything to lead you to any contrary conclusion?

Mr. BOOTH. I have not.

Mr. WORTHINGTON. It is also said here by somebody that the Mormon Church controls financial and corporate institutions there. What do you say about that?

Mr. BOOTH. Well, I do not know of any corporation that they absolutely control, unless perhaps it is the Zion Savings Bank and Trust Company. I am not certain even about that. I am quite confident the church does not control the Deseret National Bank, but they possibly do control the savings bank. I am not so certain about that. It is generally understood as largely controlled by the Mormon Church.

Mr. WORTHINGTON. How many other banks and trust companies have you there?

Mr. BOOTH. Oh, a large number.

Mr. WORTHINGTON. The others, you understand, are all controlled by Gentiles?

Mr. BOOTH. Oh, no; the Utah State Bank is controlled by Mormons. The Utah National Bank is controlled by members of the Mormon Church; but we have many Gentile banks and many Gentile institutions.

Mr. WORTHINGTON. By Mormons as individuals, you mean?

Mr. BOOTH. As individuals; not as a church.

Mr. WORTHINGTON. I do not know that there is any law against their holding bank stock, if they want to.

Mr. BOOTH. Yes; the president of the church, I believe, holds some stock in different institutions, and is president of several.

Mr. WORTHINGTON. That is all I care to ask you on this political question—the matter of the interference of the church in politics. I

want now to ask you a few questions on this matter of polygamy. I want to ask you in the first place just the general question whether from what you have observed there and your acquaintance with the Mormon people, particularly from 1888 down, what you think of the future of polygamy in that State, without any reference to this case or its results.

Mr. BOOTH. I believe polygamy is as dead as slavery.

Mr. WORTHINGTON. Why?

Mr. BOOTH. There are several reasons for it. The first is that 98 per cent of the Mormon people are against polygamy. It is inevitable that it must cease to exist. For several years the sentiment of the younger members of the church has been against polygamy, and since the manifesto it has been rapidly dying out.

Mr. WORTHINGTON. In what part of the city of Salt Lake have you lived, Mr. Booth?

Mr. BOOTH. I live in what is known as the third precinct. I live at 128 North, West Temple street.

Mr. WORTHINGTON. How long have you lived there?

Mr. BOOTH. I have lived in the third precinct almost continuously since 1890, except two years I lived up in the eastern part of the city.

Mr. WORTHINGTON. Do any of these leading Mormon Church officials who are said to be living in polygamy reside near you?

Mr. BOOTH. Yes; many of them live right near. Apostle Lund—or rather he is not an apostle; he is one of the first presidents of the church—lives—

Mr. WORTHINGTON. He is not a polygamist, I believe?

Mr. BOOTH. He lives just across the street from me. Apostle M. F. Cowley lives just across the street—directly across the street. Mrs. Bathsheba Smith, president of the Woman's Relief Society, is my next-door neighbor. Apostle John Henry Smith lives a block up the street from me. Apostle George A. Smith lives in that same neighborhood. Bishop Preston, the presiding bishop of the church, lives on the corner about 10 rods from where I live; and there are a number of other prominent church officials in the neighborhood.

Mr. WORTHINGTON. You mentioned Apostle Lund. He is not a polygamist?

Mr. BOOTH. No; he is not a polygamist, as I understand it.

Mr. WORTHINGTON. Do you mean to say all the others of whom you have spoken are recognized as polygamists?

Mr. BOOTH. No; I have spoken of them simply as prominent church officials.

Mr. WORTHINGTON. I asked you in reference to those said to be living in polygamy.

Mr. BOOTH. I did not understand that to be your question.

Mr. WORTHINGTON. While you speak of it, Bathsheba Smith is an old lady. How old is she?

Mr. BOOTH. She is past 80 years of age.

Mr. WORTHINGTON. Do you know about her physical condition?

Mr. BOOTH. Yes; her physical and mental condition is good. In my opinion she is a most excellent woman—a grand old woman. My family thinks a great deal of her.

Mr. WORTHINGTON. Now, I want to ask you, Mr. Booth, to explain why it is that if the people of Utah, and the Mormon people included,

a large part of them, are so opposed to polygamy, how you account for what is the acknowledged fact here, that a good many of them are living in polygamous relations and are not interfered with.

Mr. BOOTH. Well, my explanation of that is that the principal fight of the Gentiles has been to do away with polygamous marriages. While, during many years, there were numerous prosecutions for unlawful cohabitation, it was not for the purpose of punishing, so much, those people who lived in unlawful cohabitation, as it was to bring about a cessation of polygamous marriages. That was the principle for which we strived, to stop people from marrying in polygamy. This was finally brought about in 1890 by the manifesto of the president of the church, which was affirmed or sustained as they call it, by the conference on October 6, 1890, and again in 1891. We did not accept that in good faith at that time. That is, we were somewhat skeptical about it; but later he did. Now, there has been since that time a disinclination to prosecute men and women who live in unlawful cohabitation. One of my own reasons—the way I looked at it—was this: My sympathy was with the plural wife and her children. By these prosecutions she suffered more really than the husband did. In nearly all of the cases I may say the plural wife is a pure-minded woman, a woman who believed that it was right according to the law of God for her to accept that relation, and that she can not be released from her obligations, when they are once entered upon.

Mr. WORTHINGTON. You mean by the rule of her church?

Mr. BOOTH. By the rule of her church, not by law. I am looking at it, from her standpoint now—that when once that relation is entered upon there is no way of divorcing her from it.

Mr. TAYLER. Not by the church even?

Mr. BOOTH. The church can, but I mean in no legal way. There is no legal way out of it. So that to enforce rigorously the law against unlawful cohabitation would mean in her case a divorcement from her husband without the right of remarrying again. She would be isolated, cut off without any husband, without any benefit of the right to social conversations with the man that she had married in good faith, and so forth. It would work a great hardship upon her and her children. And, again, if her husband is punished, she is brought to light and suffers the ignominy of the prosecution.

For that reason I have been disinclined to prosecute those cases, and many Gentiles, for like reasons, have felt that way; that it ought to be allowed to die out, as it will in time, and for the further reason, as I have stated here, that the principal thing we were fighting was the polygamous marriages and not unlawful cohabitation. We knew that if we could accomplish the destruction of the right to marry in polygamy the thing in time would cease, but so long as it went on, no matter how much you might prosecute people for unlawful cohabitation, it would continue.

Mr. WORTHINGTON. Mr. Booth, you say that is the way you felt about it, and the way many other Gentiles felt. What do you say as to the proportion of the people of your State who feel that way on that subject?

Mr. BOOTH. I should say, with Judge Powers and Mr. Critchlow, that the general sentiment among the Gentile people in Utah is a disinclination to prosecute those cases.

Mr. WORTHINGTON. What would you say as to whether the 19 protestants, whose names are familiar, do or do not represent the public opinion of the State of Utah in presenting this matter in the way they have here?

Mr. BOOTH. I do not believe they do. That is my opinion.

Mr. WORTHINGTON. On that subject let me ask you, as you live where many of these people are in your neighborhood, just how this matter of the relation of the husband to the plural wives is carried on? Do the plural wives in any instance live in the same household, so far as you know or hear of?

Mr. BOOTH. Not at all. I never heard of a case of that kind in recent years.

Mr. WORTHINGTON. I am speaking of recent times, since the State was admitted into the Union, say.

Mr. BOOTH. Yes; in recent years. For instance, for a long time my children attend the Union School, which is in the third precinct. Many of the children of Joseph Smith went to that school. The children mingled together at that school, and many of the children of John Henry Smith attended the Union School, and the children of other prominent church officials. I never heard that there had been any children born to the plural wives of Joseph F. Smith until I read the testimony of Joseph F. Smith in this case, and I live right there within a block and a half or two blocks of these people. My family had never heard of them. We were all surprised.

Mr. WORTHINGTON. Do these husbands who have plural wives go around in public places or on the streets with two or more wives?

Mr. BOOTH. No.

Mr. WORTHINGTON. Have you ever known or heard of such a thing?

Mr. BOOTH. No; I never heard of that.

Mr. WORTHINGTON. Is it not a fact that the man ordinarily lives with his legal wife?

Mr. BOOTH. Ordinarily the man lives with his legal wife, and occasionally visits his plural wife. How often I can't say, as I have never watched them.

Mr. WORTHINGTON. You understand the law, of course, to be as laid down by the supreme court, that if the man holds out the woman as his wife, it is not necessary to cohabit with him as her husband to be guilty of the crime of polygamous cohabitation.

Mr. BOOTH. He would be guilty of the crime if he visited the house and even wound the clock, according to that interpretation.

Mr. WORTHINGTON. In regard to this subject of nonprosecutions for polygamous cohabitation, who have been the prosecuting officers in your county since the State was admitted? Have they been Mormons or Gentiles?

Mr. BOOTH. Gentiles.

Mr. WORTHINGTON. All of them?

Mr. BOOTH. All of them, I believe. Mr. Van Cott was prosecuting county attorney there for a long time. Then there was Mr. Putnam; and later we had as district attorney Mr. Eichnor, a pronounced Gentile, and one of the leaders of the Liberal party.

Mr. WORTHINGTON. Do you remember the case of Peter Droubey?

Mr. BOOTH. I have that from what I consider to be very reliable information from a prominent resident of Tooele County. The story as I understand it is this: Peter Droubey took a plural wife. He claimed he had the authority to do so from some one of the apostles, John W. Taylor, I believe. This was not recognized by the church authorities in Tooele County, and he was brought before the high council of that county for living in adultery with this woman. I think I have her name here. It was the widow Bramett. He was tried, found guilty of adultery, and excommunicated by the church, and has not been a member of the church since, as I understand it.

Mr. WORTHINGTON. When did this happen?

Mr. BOOTH. Along between 1896 and 1900. I do not remember the exact date.

Mr. WORTHINGTON. What has been your observation as to whether there have been two plural marriages since the manifesto?

Mr. BOOTH. My observation has been that there have been no plural marriages with the sanction of the church since the manifesto, unless possibly in the case of Abraham H. Cannon. I am not clear about that. I have not a settled conviction as to his marriage with Lillian Hamlin.

Senator DUBOIS. What do you mean by the sanction of the church?

Mr. WORTHINGTON. I was about to ask that question.

Mr. BOOTH. I mean married by the authorities of the church, or married in the temple.

Mr. WORTHINGTON. What is your observation as to plural marriages, without regard to whether they were with the sanction of the church or not?

Mr. BOOTH. I believe there have been some sporadic cases.

Mr. WORTHINGTON. On that subject would you agree, for instance, with what Mr. Critchlow testified on page 885? He was asked by Senator McComas:

"Have there been many polygamous marriages lately?"

And he said:

"If there are any polygamous marriages at the present time, my opinion is they are sporadic cases."

Mr. BOOTH. Yes; I agree with Mr. Critchlow, and I agree with what Mr. Powers said on that same subject later on.

I wish to say in that connection that I have among my acquaintances many prominent young Mormons, politicians and others, about my age and younger, and I have heard many of them say, with great emphasis, that if they believed the church sanctioned any plural marriages since the manifesto, they would leave the church immediately; that they would not continue as members of the church if the manifesto should be violated by the officers of the church. I believe them to be just as sincere as men can be sincere.

Mr. WORTHINGTON. Do you believe that to be the general sentiment of the younger Mormon people?

Mr. BOOTH. I believe that to be the general sentiment of the younger members of the Mormon Church.

Mr. WORTHINGTON. What, in your judgment, would be the effect if the present president of the church should undertake to bring forward and have sustained a new revelation restoring polygamy and requiring it to be practiced?

Mr. BOOTH. There would be an immediate revolution in the church.

Mr. WORTHINGTON. You think, then, it is dead without reference to the law?

Mr. BOOTH. I think it is.

Mr. WORTHINGTON. Now, on the question of recent plural marriages. I might ask this question: What is your observation as to whether the number of men who are living in polygamous relations is increasing or decreasing?

Mr. BOOTH. Decreasing very rapidly. In my judgment there are not more than one-fifth as many polygamists in Utah now as when I went to the State in 1888.

Mr. WORTHINGTON. As to those who are polygamists, as a general thing, what would you say as to whether they are old or young people?

Mr. BOOTH. Mostly old men; some in middle age.

Mr. WORTHINGTON. Certainly, if they were married in 1889, they might not be very old now.

Mr. BOOTH. Yes. I wish to say in that connection that I am acquainted with a number of polygamous families, and the members of those families are generally, without exception, against polygamy. There is something about the polygamous family relation that makes many of the Mormon children dislike and be against polygamy. For that reason it was doomed.

The CHAIRMAN. Have you anything further?

Mr. WORTHINGTON. Oh, yes; I have several questions to ask him on this subject.

The Evans bill has been referred to here. Of course, you know as well as we do what that means?

Mr. BOOTH. Yes; I understand what that means.

Mr. WORTHINGTON. Evidence in relation to that bill has been introduced here as tending to show that the church wanted to give its sanction to polygamous cohabitation by preventing the punishment of it. Can you tell us from your knowledge of the history of the times there anything about that?

Mr. BOOTH. Well, I was not a member of the legislature at that time. I know Mr. Evans very well. He was a member of the legislature in 1896, and a very ardent Mormon. His intentions undoubtedly were good, and he intended in that way to save the plural wives from unnecessary prosecution—that is, from the results of the prosecution. I think it was wrong. I was heartily against it, and approved of the act of Heber M. Wells, the governor of the State, when he vetoed it.

Mr. WORTHINGTON. Can you give us any information on the subject of alleged failure to arrest Heber J. Grant when he was about to leave the country?

Mr. BOOTH. Yes; I investigated that subject. Last fall it was charged against the sheriff, Mr. C. Frank Emory, who is a Mormon, that after the warrant was issued he permitted Heber J. Grant to leave the State without any attempt whatever to arrest him. That was charged by the American party to secure Mr. Emory's defeat. I was a supporter of Mr. Emory, so I investigated the truth of that assertion. I found the facts to be about as follows—

Mr. TAYLER. Of course this out herods—

Mr. WORTHINGTON. This is the history of the times. I will read

your arguments and the decision of this tribunal in favor of this kind of evidence, if you object to it.

Mr. TAYLER. Oh, no.

Mr. WORTHINGTON. Then keep quiet, and let us go on.

The CHAIRMAN. Witness, be as concise as you can.

Mr. BOOTH. I am trying to be as concise, Mr. Chairman, as I can. The county attorney, Mr. George Westerfelt, was a well-known Gentile. Further than that, he was what is known as a man having decided opinions against the Mormon people. Mr. Steel was a deputy in the criminal department of the sheriff's office and is a Gentile, a non-Mormon. The warrant was issued and delivered to Mr. Steel, as chief deputy, about 5 o'clock in the afternoon. Mr. Steel at once made an investigation, and made an affidavit to the effect that he learned that at the time this warrant was delivered to him, Heber J. Grant had departed from the State of Utah. In other words, the warrant was delivered to him at 5 o'clock in the afternoon, and Heber J. Grant had left on the train at 3 o'clock in the afternoon, and was at that time in the State of Wyoming or near the line, so he could not be apprehended. That is, as I understand the fact to be in reference to that.

Mr. WORTHINGTON. Do you know Senator Smoot?

Mr. BOOTH. I know Senator Smoot; yes, sir.

Mr. WORTHINGTON. How long have you known him?

Mr. BOOTH. For ten years, I should say--longer than that by reputation, but ten years personally.

Mr. WORTHINGTON. I was about to ask you if you have been familiar with his reputation and standing in that community of Utah for ten or twelve years?

Mr. BOOTH. I have, since 1890. That is about fourteen years, more or less.

Mr. WORTHINGTON. I will ask you to tell us what information you can give us, if any, in reply to what Judge Hiles testified here. He said this, in substance, reading from page 692, and consolidating what he says:

"Smoot would not have been elected to the United States Senate if he had not been approved by the authorities of the Mormon Church. He would never have been elected United States Senator unless he had been an apostle and had received their consent and their indorsement. When Mr. Smoot's candidacy was announced, and it was known that he had the consent of the church, it was then known that he would become Senator of the United States. He had been before that a perfunctory candidate. He was not seriously considered until he became an apostle, and after his candidacy, subsequent to his apostolate, he had no standing as a candidate for the United States Senate, and when it was known he was a candidate, then everybody said: 'That is the end of it; that settles it.'"

And more to the same effect.

Mr. BOOTH. I should say that statement is incorrect, and does Senator Smoot a grave injustice.

Mr. WORTHINGTON. What are the facts, as you understand them?

Mr. BOOTH. The facts, as I understand them to be, are that he has been a prominent Republican ever since the Mormons and Gentiles divided on party lines, I think before the Liberal party disbanded, from 1891 down to the present time. He made speeches throughout

the southern counties of Utah, and traveled more or less throughout the entire State of Utah. As testified to by Mr. Whitecotton, he was a prominent manufacturer and a buyer of wool and had spread the Republican gospel generally throughout Utah for many years prior to that time.

Mr. WORTHINGTON. As a stump speaker?

Mr. BOOTH. As a stump speaker in the southern part of the State, in the southern counties, and generally as a talker for the Republican party throughout other portions of the State. He was so prominent that in my judgment he could have been nominated for an office from 1896 down to the time he was elected United States Senator. I do not know that he ever aspired to hold any State office, but he was generally regarded as a man high in the councils of the Republican party.

Mr. WORTHINGTON. Did it cause you any surprise when you heard he was talked of for Senator?

Mr. BOOTH. No; I was opposed to him. I favored George Sutherland, and went into the convention in Salt Lake County and did all I could to defeat his candidates for the legislature, with Mr. Critchlow and George Sutherland and others. I was a candidate myself, an anti-Smoot candidate, for nomination for the legislature at that time, but through the votes of a number of prominent Gentiles Senator Smoot's candidates for the legislature received the nomination.

Mr. WORTHINGTON. It was the Gentiles who threw the balance to him, then?

Mr. BOOTH. The Gentiles threw the balance. Mr. Joseph Lipman, now the manager of the Tribune, turned all of his forces in favor of Senator Smoot's candidates.

Senator OVERMAN. Were the candidates Mormons? Were those who were nominated Mormons or Gentiles?

Mr. BOOTH. Both Mormons and Gentiles.

Mr. WORTHINGTON. As a man who was right in that fight, what evidence did you see of church interference in that election?

Mr. BOOTH. There was no church interference at all. We would have defeated Senator Smoot's candidates if it had not been for Mr. Lipman, who was then the political manager of the senior Senator from Utah. If it had not been for his influence and the influence of the senior Senator from Utah we could have defeated Senator Smoot's candidates in Salt Lake County.

Mr. WORTHINGTON. Were there Mormons in that legislature that elected Senator Smoot?

Mr. BOOTH. Oh, I think so; yes; many Mormons.

Mr. WORTHINGTON. Did they go solidly one way or the other, or did they divide?

Mr. BOOTH. I do not remember the exact vote as it was taken in the legislature.

Mr. WORTHINGTON. It is in evidence here.

Mr. BOOTH. But it was generally understood, after his candidates had been nominated during the campaign, that he would be the candidate for United States Senator, and was so accepted. After we were defeated we accepted that. We accepted our defeat as such, and went in and helped elect these men, knowing they would vote for Senator Smoot.

Mr. WORTHINGTON. It was known that he had obtained the consent, under this rule you have spoken of, to run?

Mr. BOOTH. It was known he had obtained that consent.

Mr. WORTHINGTON. Was it accepted, as soon as that was known, that that was the end of it, or did you fight him?

Mr. BOOTH. We did not fight him at all. We supported our ticket.

Mr. WORTHINGTON. You mean after he was nominated.

Mr. BOOTH. After his candidates were nominated for the legislature we supported all of those candidates.

Mr. WORTHINGTON. You were speaking before of the primaries?

Mr. BOOTH. No; I am speaking of the election, after the nomination.

Senator DUBOIS. When was it known that he had received the consent to the authorities to become a candidate for the Senate? Before your primaries?

Mr. BOOTH. It was known that he could not run unless he had obtained that consent. The Thatcher rule and the Roberts rule was well known at that time, that it was necessary for him to obtain that consent before he could be a candidate. Everybody understood that.

The CHAIRMAN. Let me ask you, right there, what effect it would have had if he had not obtained the consent of the church and had attempted to be a candidate?

Mr. BOOTH. I can not undertake to say what the church would have done to him.

The CHAIRMAN. What is your best judgment?

Mr. BOOTH. My judgment is he would have been nominated whether the church consented to it or not.

The CHAIRMAN. How about the election?

Mr. BOOTH. And would have been elected whether the church consented to it or not, for this reason: Senator Smoot had a political influence separate and apart from his apostolic influence. His political influence was such that it would have obtained for him the nomination whether the church consented to it or not. He had that power, and I think the church recognized that as the reason they gave their consent.

Senator DUBOIS. Would it interrupt you if I ask a question or two here, right in line?

Mr. WORTHINGTON. Not at all.

The CHAIRMAN. You say you think the church recognized that fact, and that is the reason they consented?

Mr. BOOTH. I think they recognized the demand of the people generally.

The CHAIRMAN. I thought you said a little while ago that they gave the consent because he was in the employ of the church and had no right to run without the consent.

Mr. BOOTH. No; what I said a while ago was this, that I recognized the right of the church to make a rule that no one holding high church positions shall be a candidate without their consent. That is what I meant to say, at least.

The CHAIRMAN. All right; go ahead.

Senator DUBOIS. Moses Thatcher and Mr. Roberts ran, respectively, for the United States Senate and for Congress before this rule was promulgated, did they not? They were candidates, and during their candidacy the rule was promulgated.

Mr. BOOTH. Now, I do not remember the exact date of that rule.

Senator DUBOIS. They ran the first time without having the consent of the church?

Mr. BOOTH. I know that Mr. Roberts did. He ran without the consent of the church, or without the consent of many of the people of Utah.

Senator DUBOIS. He was beaten at that time, was he not?

Mr. BOOTH. He was beaten at that time.

Senator DUBOIS. Mr. Roberts received the consent of the church to become a candidate at the next election, did he not?

Mr. BOOTH. I believe he received the consent of the church to become a candidate under that rule.

Senator DUBOIS. He was a Democrat, was he not?

Mr. BOOTH. He was a Democrat.

Senator DUBOIS. He was elected?

Mr. BOOTH. He was elected because of the popular wave that went over that country at that time.

Senator DUBOIS. I understand. Did any other man receive the consent of the church to run against Mr. Roberts?

Mr. BOOTH. Any other man would have been elected on the Democratic ticket at that time.

Senator DUBOIS. That is not my question. I ask you did any other one than Mr. Roberts receive the consent of the church to run for Congress at the time when Mr. Roberts ran and was elected?

Mr. BOOTH. I am not informed as to that, Senator.

Mr. WORTHINGTON. Did any other man ask its consent?

Mr. BOOTH. That I do not know. I have not heard so.

Senator DUBOIS. And you do not know that any other received the consent?

Mr. BOOTH. No; I do not know that any other asked for the consent.

Senator DUBOIS. Did any other one receive the consent to run for the United States Senate when Mr. Smoot was elected besides Mr. Smoot?

Mr. BOOTH. I do not know that any other person asked for that consent.

Senator DUBOIS. Did you ever know of a high official of the Mormon Church running for an office without having the consent of the church against a high official who had that consent?

Mr. BOOTH. No; I do not remember it now. I do not remember such an instance. If you call it to my mind, perhaps I would, but I do not remember now.

Senator DUBOIS. I do not remember any.

Mr. WORTHINGTON. Do you remember of any case in which any high officer of the Mormon Church, since the adoption of that rule, has asked for its consent and it has not been given?

Mr. BOOTH. I do not. I will say this, that my general observation has been that, generally speaking, the Mormon apostles have but very little political influence outside of a very few persons.

Mr. WORTHINGTON. I understood you to say that when Roberts was elected anybody could have been elected on the ticket then?

Mr. BOOTH. Yes; it was a popular wave that swept over the country and put him in office, in favor of the Democratic party. I worked

against him as hard as I could, because he was a polygamist and because I was a member of the Republican party.

Mr. WORTHINGTON. Now, about Senator Smoot. Was there anything in this situation in relation to polygamy and polygamous cohabitation in that State, in effect, or known to the people, when he was elected United States Senator, that was not exactly the same situation when the State was admitted to the Union.

Mr. BOOTH. No; there was no difference. I would like to explain that a little.

In 1890 the manifesto was issued. It was sustained by the church conference, and the legislature met in 1892, composed principally of Mormons. At that time the legislature reenacted—that is, they passed—a law in substance the same as the Congressional law against polygamy, unlawful cohabitation, and adultery. That law was passed by a legislature that was composed principally of Mormons, in 1892. That is a part of the law of the State of Utah at the present time. It was carried over from the Territory, and became a part of the State law of Utah, that same law, and that is practically the same as the Edmunds-Tucker Act.

Mr. WORTHINGTON. If I understand you, when Senator Smoot was a candidate for Senator, and when he became an apostle, which was in April, 1900, things had settled down in Utah by the general acquiescence of the people, that if there would be no new polygamous marriages the people who had entered into that relation before the manifesto should not be disturbed?

Mr. BOOTH. Should not be disturbed; no, sir.

Mr. WORTHINGTON. And that was the state of opinion there when he became an apostle?

Mr. BOOTH. That was the state of opinion when he became an apostle.

Mr. WORTHINGTON. And if he had gone against that state of opinion, he would have been going against the public sentiment of the State, would he not?

Mr. BOOTH. Yes.

Mr. WORTHINGTON. Gentiles and Mormons?

Mr. BOOTH. Gentiles and Mormons. I would say in that respect that where polygamous relations were carried on in such a way as to outrage public sentiment, in those cases, of course, a prosecution would have been demanded.

Mr. WORTHINGTON. Another subject I wish to ask you about. We have had some testimony here about the schools of Utah. Have you had any particular occasion to investigate the question in your county?

Mr. BOOTH. I have during the last campaign.

Mr. WORTHINGTON. What was the object of the investigation in the first place?

Mr. BOOTH. It was charged by the American party organ at first—stated rather—that the reason for the organization of the American party was to rescue the public schools from Mormon domination. A few of my Gentile friends stated to me that they intended to vote the American party ticket because they believed that the Mormon Church was dominating the public schools in Salt Lake City. Well, that was a matter which I thought ought to be investigated, because if any

church should dominate the public schools it ought to be remedied as quickly as possible.

I found the condition to be about as follows: That the board of education in Salt Lake City was composed of 5 Mormons and 5 Gentiles. The teachers of the high schools are 2 Mormons and 35 Gentiles. In the East Side High School there are 10 Gentile teachers, no Mormons. The total number of teachers in the Salt Lake public schools is, approximately, 74 Mormons and 290 Gentiles. Nearly 80 per cent of the total number of teachers are Gentiles, and it was estimated at that time that at least there were about 2,500 more Mormon children in the public schools of the city than children of Gentile parentage.

It was further estimated that about one-half of the population of Salt Lake City is Mormon. Now, the city superintendent of schools at that time was a Mormon. I do not know what the new board has done. I am speaking now of the conditions that existed prior to the election in November. His secretary was a Gentile. The secretary of the board of education was a Gentile. The assistant secretary of the board of education was a Gentile. The examining board for teachers was composed of 3 Gentiles and 1 Mormon. The supervisors of the teachers are 3 Gentiles and 1 Mormon. The principals of the public schools are 8 Mormons and 17 Gentiles. The total amount paid to teachers of the public schools of Salt Lake City annually was estimated at that time to be about \$222,000, and it was estimated that of this amount \$175,000 was paid to Gentile teachers and \$47,000 to Mormons. Later on, on ascertaining the exact salaries paid to these persons, that was modified so as to be \$170,000 to Gentiles and \$52,000 to Mormons. I say that is approximately correct. Of course it is impossible to obtain exactly the number of Gentile teachers and the number of Mormon teachers, but from the best information we could obtain that is approximately correct, and was not seriously denied, either during that election or during the recent school election in Salt Lake City.

MR. WORTHINGTON. In conclusion, Mr. Booth, I want to call your attention to something that was said here by Mr. Powers—

MR. BOOTH. Before I leave that subject I want to add this, that at the recent election in Salt Lake City—I have the figures here—there was a part of a new board elected, and it has been generally charged in the East that the Mormons controlled the election. In that respect I want to say that I was there at the time it was agreed between the Republicans and Democrats—Mormons and non-Mormons—that they should elect a nonpartisan school board, and they joined together, and the result was that one member of the American party was elected, but it leaves the school board one-half Gentile and one-half Mormon, as I understand it. So that it is not changed. Therefore there can not be any radical change in the conduct of the public schools.

It was charged while I was in the East, by the Philadelphia Inquirer, a very prominent paper of Philadelphia, that the Mormons had obtained the control of the schools in Salt Lake City and intended to displace the Gentile teachers, if I remember correctly, and intended to teach the Mormon doctrine in the public schools. Of course this would be absolutely impossible.

Mr. WORTHINGTON. As a matter of fact, has there or has there not been any such change in your public schools?

Mr. BOOTH. Not in a Gentile country.

Mr. WORTHINGTON. As teaching Mormon doctrine, or polygamy, or anything of that kind?

Mr. BOOTH. That is as unheard of as it would be to teach it in Washington or any other city in the East.

Mr. WORTHINGTON. Mr. Powers, when he was here, told us—it is on page 897 of the record—that there has been a great change in Utah in respect of the manner in which Mormons and Gentiles get along together. I would like you to tell us, in conclusion, what you have to say on that subject, and the progress your State is making in doing away with these evils, without outside interference.

Mr. BOOTH. When I first went to Utah, in 1888, I found a great deal of bitterness existing between the Gentiles and the Mormons. Mormons refused to trade at Gentile stores, Gentiles at Mormon stores. The Gentiles charged the Mormon people with many things, and the Mormon people charged the Gentiles with being carpetbaggers and unsettled, and all that sort of thing. That has all passed away. To my mind the change in Utah in the last fourteen years has been something marvelous. The change in the sentiment of the Mormon people generally has been something simply wonderful, and if allowed to go on as it is now, in a few years we will not hear anything about the Mormon question at all.

Mr. WORTHINGTON. There was a Judge Tanner in Salt Lake City, who is charged with being a polygamist. Do you know what was done about that?

Mr. BOOTH. Yes; it was charged by the Salt Lake Tribune. I do not remember the date now.

Mr. WORTHINGTON. It was charged that he had taken a plural wife since the manifesto?

Mr. BOOTH. That he had taken a plural wife or two plural wives since the manifesto. That interested me very much, because, if true, I would lose my faith in the good intentions of the church, and I helped to investigate that a great deal. I was determined if anything of that kind had occurred to press the inquiry and make an example of him.

Mr. TAYLER. Just give the fact, if you can, that is all.

Mr. BOOTH. I want to give my relation to it, Mr. Tayler, first, and then give the fact.

A grand jury was called and he was investigated. That grand jury, I believe, was composed of about half Gentiles and half Mormons, and he was exonerated by the grand jury. He was at that time one of the city judges of Salt Lake City. At the last judicial convention, held in 1904, he was a candidate for district judge, and during the convention came in direct conflict for the nomination with my former law partner, Judge Ritchie, who is now one of the judges of the third judicial district; and on account of the mere suspicion that he had taken these wives, although, as I understand it, there was no direct proof produced, many of the Mormon people in that convention voted against him, voted for Mr. Ritchie, who was a Gentile, and nominated Mr. Ritchie over Judge Tanner. If it had not been for that suspicion there is no question but that he would have re-

ceived the nomination by a good majority. The mere suspicion and the story that had been circulating about him defeated his nomination. I voted against him myself, as a member of that convention, and other delegates of that judicial convention from the third precinct, many Mormons that I knew, voted against him.

Mr. WORTHINGTON. Do you know something of a similar transaction in regard to a Mr. Ridout?

Mr. BOOTH. Mr. D. O. Ridout, jr., was a candidate for State senator at the last Republican convention held in Salt Lake City. He had the unanimous support of the county delegates outside of Salt Lake City, but on account of the fact that he had at one time been a polygamist, although his plural wife had left him and had married another man, he was defeated. Otherwise he was a very popular man, a splendid speaker, an orator of ability. He had been in the legislature before, but the mere fact that he had once been a polygamist defeated his nomination for State senator. •

Mr. WORTHINGTON. And he was not charged with having taken a plural wife after the manifesto?

Mr. BOOTH. No. He had given up his plural wife also; and in his place was nominated Mr. George Lawrence, who was a man who had worked against Senator Smoot, who had been a member of the State senate at the time Senator Smoot was elected to the United States Senate and had worked against him; but Mr. Lawrence received the nomination in place of Mr. Ridout, who was a friend of Mr. Smoot.

Mr. WORTHINGTON. Mr. Lawrence was a Gentile?

Mr. BOOTH. George Lawrence is a strong Gentile. He is one of that class.

Mr. TAYLER. So that a mere suspicion that a man had been tainted with polygamy was enough to destroy him politically?

Mr. BOOTH. Enough to destroy him politically, with the stories that had been circulated with reference to him, although there was no direct proof produced.

Mr. TAYLER. The story in regard to Brigham Roberts, who was known to have three, did not affect him? There was not a suspicion attaching to him?

Mr. BOOTH. The Brigham Roberts case was different, I think, Mr. Tayler.

Mr. TAYLER. Oh!

Mr. BOOTH. Many of the Mormon people were bitterly opposed to Mr. Roberts.

Mr. TAYLER. Do not let us discuss it. He was elected notwithstanding that.

Mr. WORTHINGTON. I insist that the witness be allowed to explain that.

Mr. TAYLER. Go on. I would rather not interrupt.

Mr. WORTHINGTON. Do not ask questions if you do not want them answered.

Mr. TAYLER. Go on and answer it.

Mr. BOOTH. Mr. Brigham Roberts belonged to the Democratic party and not to the Republican party. He could not have been nominated in the Republican party for anything political.

The CHAIRMAN. What else, Mr. Tayler?

Mr. TAYLER. Do you know Thomas H. Merrill?

Mr. BOOTH. I know him by reputation only.

Mr. TAYLER. Do you know he testified here?

Mr. BOOTH. I have heard he did.

Mr. TAYLER. He is the son of an apostle?

Mr. BOOTH. The son of an apostle.

Mr. TAYLER. He had several wives?

Mr. BOOTH. That I do not know, except——

Mr. TAYLER. He is a Republican?

Mr. BOOTH. Wait. That I do not know except by what I heard.

Mr. TAYLER. You told us lots of things you have merely heard, Mr. Booth. Do you not understand he is a Republican?

Mr. BOOTH. I understand he is a Republican; yes.

Mr. TAYLER. Was he not elected a few weeks ago to the legislature?

Mr. BOOTH. I understand he was, up in Cache County; in one of those remote precincts.

Mr. TAYLER. Up where?

Mr. BOOTH. In one of the remote precincts of the State.

Mr. TAYLER. Yes; in a remote precinct.

Mr. BOOTH. He could not have been elected in Salt Lake County.

Mr. TAYLER. The suspicion of polygamy will defeat a man, but a certainty of his polygamous life will elect him. That is about the logic, is it not?

Mr. BOOTH. I will say to you right now, Mr. Tayler, that 90 per cent of the Republicans of the State deprecate the fact that Mr. Merrill was elected, and had they known it, they would have insisted on his withdrawal.

Mr. TAYLER. That is general. Let us descend to particulars a moment. You told us with great emphasis, and the certainty of conviction, that Mr. Ridout was positively defeated because there was a suspicion or a rumor that he——

Mr. WORTHINGTON. Is this a question, Mr. Tayler, or a stump speech?

Mr. BOOTH. Not Mr. Ridout. It was Mr. Tanner.

Mr. TAYLER. Was it Mr. Ridout or somebody else?

Mr. BOOTH. It was Mr. Tanner. H. S. Tanner was defeated on account of there being a suspicion. Mr. Ridout was defeated because he had been a polygamist.

Mr. TAYLER. But had quit it?

Mr. BOOTH. But had quit it.

Mr. TAYLER. Was he defeated because he had quit it?

Mr. BOOTH. He was defeated because he had been a polygamist. We did not want them on the ticket.

Mr. TAYLER. You say the grand jury exonerated Tanner.

Mr. BOOTH. Well, they did not indict him.

Mr. TAYLER. Oh!

Mr. BOOTH. I mean to say this, that there was not sufficient proof in the minds of the members of the grand jury to indict him. I do not mean to say an exoneration, in the sense in which you imply it.

Mr. TAYLER. They did not find, if the facts existed, that it occurred in Salt Lake County. Is not that it?

Mr. BOOTH. I do not remember the exact report.

Mr. TAYLER. The suspicion, that really amounted to something more than a suspicion, still remains, does it not?

Mr. BOOTH. I think it does; yes. I think there are many people who have some belief upon that subject, but the suspicion that I speak of was in the minds of these Mormon people who voted against him.

Mr. TAYLER. Undoubtedly. You live in a part of the city where you are well buttressed ecclesiastically?

Mr. BOOTH. Yes.

Mr. TAYLER. The hierarchy is all about you?

Mr. BOOTH. What do you mean by the hierarchy?

Mr. TAYLER. I mean apostles and the first presidents. They are in your neighborhood, many of them?

Mr. BOOTH. In my neighborhood; yes, sir.

Mr. TAYLER. Joseph F. Smith lives a block or so from you?

Mr. BOOTH. His wives do. He lives in the official residence now, at the Bee Hive House, which is three blocks from where I live.

Mr. TAYLER. And Anthon H. Lund lives across the street from you?

Mr. BOOTH. Apostle Lund lives just across the street.

Mr. WORTHINGTON. He is not an apostle now. He is a councilor.

Mr. BOOTH. He is councilor to the president—one of the first presidents, as they call them there.

Mr. TAYLER. M. F. Cowley, you say, lives where?

Mr. BOOTH. Right across the street—right beside Apostle Lund.

Mr. TAYLER. And what other apostle?

Mr. BOOTH. John Henry Smith lives just a block toward town.

Mr. TAYLER. Does he not also live just a block from town, too?

Mr. BOOTH. Yes; I live two blocks from the town, and he lives between me and the city.

Mr. TAYLER. Has he not a house on each side of you?

Mr. BOOTH. Yes; the house where one of his wives lives, at the end of West Temple street, on the north end there, on First North street; but his wife that he lives with—his residence—is known as across from the temple grounds, besides his son, George A. Smith.

Mr. TAYLER. Apart from the varying views that people might take of this plural marriage entered into and followed by polygamous cohabitation, these are all reputable, respected people?

Mr. BOOTH. They are.

Mr. TAYLER. Do you not think, Mr. Booth, considering your surroundings there, and the relations with these people as neighbors and otherwise, it is one of those things that "seen too oft, familiar with her face, we first endure, then pity, then embrace?"

Mr. BOOTH. No; I do not. You will find that I have been a consistent opponent of polygamy all my life—that is, ever since I went to Utah.

Mr. TAYLER. I understand.

Mr. BOOTH. And have never ceased to strike a blow against it where I could do so.

Mr. TAYLER. Exactly. Against the case of a man taking a new plural wife?

Mr. BOOTH. Yes.

Mr. TAYLER. But what odds is it how many plural wives may be taken, so far as the public sense is outraged, if the public does not know that polygamous cohabitation is going on?

Mr. BOOTH. The root of the evil is the taking of the wives.

Mr. TAYLER. Exactly. But when the root has once shot down, then your proposition is let it go on until it dies?

Mr. BOOTH. No; I have stated, as Mr. Critchlow did, as Judge Powers did, that there was a disinclination to prosecute these old cases prior to the manifesto.

Mr. TAYLER. Now, of course there is a disinclination to prosecute merely for the unlawful cohabitation, such as the Supreme Court defined, of having a wife or, as you say, going to wind up the clock; but there is also a disinclination to prosecute the man who has five or six wives in your neighborhood, and whose progeny in broods periodically appear and reappear. Do you mean that does not shock your sense of propriety sufficiently to think that something ought to be done about it?

Mr. BOOTH. It does shock our sense of propriety that such a thing should occur, and we have sought—that is, I have—for sixteen years for a remedy for it, and I would be glad if anyone could point out to me the light on that subject.

Mr. TAYLER. What would have happened, Mr. Booth, if the statehood had not occurred?

Mr. BOOTH. I do not think it would have been any different.

Mr. TAYLER. You do not?

Mr. BOOTH. No; I do not.

Mr. TAYLER. You do not think the policeman's club that the Federal Government held there would have had any effect?

Mr. BOOTH. I believe the general disinclination to prosecute these people is such, public sentiment is such, that even the Federal officers would not have been so vigilant in prosecuting them as they were in the old days.

Mr. TAYLER. The understanding, the expectation, and the promise of these people was that there would not be unlawful cohabitation in the sense of living with these plural wives, was it not? That was the pledge and the promise?

Mr. BOOTH. It was so stated in their petition for amnesty.

Mr. TAYLER. Was it not so stated in their testimony?

Mr. BOOTH. And we believed that that would be true, and we hoped it would be true. It is impossible, Mr. Tayler, for a man who has polygamous wives to visit those wives and look after them and look after the families without this thing occurring. It is an absolute impossibility. They are controlled by the laws of human nature the same as you or I or any other person. It would be an impossibility to do it.

Mr. TAYLER. But the inception of the relation was absolutely and inexcusably unlawful, was it not?

Mr. BOOTH. It was, and should never have been undertaken; but once undertaken, the problem what to do with it has confronted us night and day ever since that time.

Mr. TAYLER. The right thing to do, then, is to let it alone, whatever it may be or whatever form it may take? Of course I understand you protest against the thought that a polygamous husband with his five wives or more and his forty-odd children should on holidays parade the city with banners and placards announcing what they are.

Mr. BOOTH. I do not believe you quite understand the situation, Mr. Tayler. That is carried on so quietly that I say although we live

ple generally—nonpolygamists, I mean, with the younger element of the church—we go to their social gatherings, they come to my house, it was unknown to me that this had occurred, until this testimony by the president of the church here. It was unknown to my wife, unknown to my family.

Mr. TAYLER. Are you in the habit of being ignorant of the fact that children come to your neighbors, if they are neighbors and known to you?

Mr. BOOTH. In the city. If it was in a country town it would be known, but in a city like Salt Lake City it is not known.

Mr. TAYLER. Does not that rather argue that your acquaintance is limited?

Mr. BOOTH. It may be that my acquaintance is limited.

Mr. TAYLER. You do not mean to say that Joseph F. Smith deliberately sought to conceal the fact that he had children, that he kept them housed up, or that he deceived people by saying there were none, do you?

Mr. BOOTH. What I mean to say by that is——

Mr. TAYLER. Answer the question.

Mr. BOOTH. The fact was not paraded. It was not known to Gentiles, generally speaking, in that community.

Mr. TAYLER. He dealt with those children exactly as any other man would deal with the children he had, without undertaking to——

Mr. BOOTH. Mind you, now, we have no social relations with Joseph F. Smith and his family. Joseph F. Smith would not know me or recognize me if he met me on the street. I never met him in my life. I never shook hands with him. I never was introduced to him. I never said anything to him in my life.

Mr. TAYLER. You say you investigated this Heber J. Grant?

Mr. BOOTH. Yes; I did.

Mr. TAYLER. Do you not know that Heber J. Grant left Provo at midnight of that night?

Mr. BOOTH. Well, he left Salt Lake City prior to the time when this warrant was delivered.

Mr. TAYLER. I know. Did you not testify though that he had left the State?

Mr. BOOTH. Yes; I said that was the affidavit of Mr. Steel—his belief—that he had left the State.

Mr. TAYLER. Was he not in the State and within a few miles for ten hours after the opportunity to arrest him presented itself?

Mr. BOOTH. That I do not know. I was simply repeating the affidavit made by Mr. Steel to that effect as I remember it. Of course personally I know nothing about this.

Mr. TAYLER. You say Apostle Cowley lives across the street from you?

Mr. BOOTH. He does, directly.

Mr. TAYLER. Does he live there with any regularity?

Mr. BOOTH. Well, I would not know Apostle Cowley. I might know him if I should meet him. I have seen him once or twice, but I see him going and coming occasionally from the house. I never met him. I never was introduced to him, and I only know him by what I have supposed to be Apostle Cowley when going to his home there.

Mr. TAYLER. You have interested yourself so much in this subject, Mr. Booth, and evidently intelligently undertaken to prepare yourself to testify. Have you ever heard it charged that Apostle Cowley has taken an extra wife or two since 1890?

Mr. BOOTH. Yes. I do not know that I have since 1890.

Mr. TAYLER. Yes; since 1890?

Mr. BOOTH. I have not heard that charge, except as it appeared in this investigation.

Mr. TAYLER. Have you heard that Apostle Taylor has taken two wives since 1890?

Mr. BOOTH. I have heard that charge, yes, sir; and I would be in favor of prosecuting him to the full extent of the law for it.

Mr. WORTHINGTON. That is, if it is true?

Mr. BOOTH. That is, if it is true; yes.

Mr. TAYLER. Have you heard any reason given why Apostle Cowley and Apostle Taylor can not be secured to testify in this case?

Mr. BOOTH. No; I have not.

Mr. TAYLER. What proportion of the taxes of Salt Lake City are paid by Gentiles?

Mr. BOOTH. Now, that would be a mere guess. I should say more than half.

Mr. TAYLER. You have no definite or accurate knowledge about it?

Mr. BOOTH. No; I have no definite information as to that. I do not believe any person has. That would be an impossible thing, almost, to secure; but I should say that in Salt Lake City the Gentiles own more than half of the property and would pay more than half the taxes. In the county I should think it would be evenly divided. Now, that is a mere judgment on my part—a guess, I mean. I do not know.

Mr. TAYLER. That is all.

Senator DUBOIS. I want to ask a question, if you please. What is the status, Mr. Booth, of these children who are now being born in the polygamous relation; legally, let us say?

Mr. BOOTH. I believe, Senator, that they have been legitimized by every legislature since statehood.

Senator DUBOIS. Each legislature that comes along legitimizes the new polygamous children?

Mr. BOOTH. It is generally recognized that it is not the fault of these children, and that the punishment should not be visited upon them.

The CHAIRMAN. The question was whether the legislature does that.

Mr. BOOTH. That is my understanding. I do not remember about the last legislatures, but I know in 1896 I voted to legitimize the polygamous children at that time, for the reasons I have stated.

Mr. TAYLER. That would not discourage, then, the polygamous cohabitation of men with women, would it?

Mr. BOOTH. Perhaps not.

Mr. TAYLER. If they felt sure the children were going to be legitimized?

Mr. BOOTH. Perhaps not.

Mr. TAYLER. You did not vote to legitimize the poor devils that were, without their consent, born in some other relation, did you?

Mr. BOOTH. I perhaps would if it had been brought about in the manner in which these children had been born.

Senator DUBOIS. Mr. Booth, do you not understand that these children who are now being born into the world in this polygamous relation come into the world contrary to the laws of God and man?

Mr. BOOTH. Well, they do contrary to the laws of man. The other law is not so well defined and definitely settled as to enable me to testify concerning it.

Senator DUBOIS. Would you take the authority of Joseph Smith, the president of the church, on that point, as to whether it is contrary to the law of God?

Mr. BOOTH. I do know this, Senator—

Senator DUBOIS. Would you take his authority? If you are not clear on that yourself, would Joseph F. Smith's authority be good?

Mr. BOOTH. I do know this—that the women who have gone into polygamy have done so from pure motives, believing it to be the law of God, and these children are born under those conditions.

Senator DUBOIS. If you are not clear as to whether they come into the world contrary to the law of God, would you take Joseph F. Smith's testimony, and Francis M. Lyman's testimony, the present president, and the next president, if he outlives Smith, of the church?

Mr. WORTHINGTON. Mr. Booth is not a Mormon.

Mr. BOOTH. I am not a Mormon. I am not subject to their control in any way.

Senator DUBOIS. I ask that question. Have you any sympathy for these children, who are now being born into the world in this relation?

Mr. BOOTH. I certainly have.

Senator DUBOIS. You have for the children?

Mr. BOOTH. I have for the children and I have for the women.

Mr. TAYLER. Is your sympathy for the children, who are in nowise responsible, equal to your sympathy for the plural wives?

Mr. BOOTH. Well, that would be a matter of separation that I could not make.

Mr. TAYLER. You could not make that?

Mr. BOOTH. I do not think so. My sympathies are for both.

Mr. TAYLER. You would not undertake to stop it at all? Your sympathy for the children is not so great that you would undertake to stop their being brought into the world contrary to the laws of God and man?

Mr. BOOTH. Yes; I would if I knew any way to do it without visiting the penalties and hardships upon these women. I have thought of that for years; and if you can point out a way to do that I would be glad to accept it and carry it out as far as I can.

Mr. TAYLER. Do you think that the Gentiles of Utah generally have more sympathy with these plural wives than they have for these poor children?

Mr. BOOTH. I could not say as to that. The Gentile population are somewhat divided, as you know, concerning these matters. I am speaking from my point of view, from a long study of this question, embracing years, and I want to do the right thing when I act. A vigorous prosecution of unlawful cohabitation would mean the isolation of these Mormon women.

Mr. TAYLER. It would stop, however, the bringing into the world of these children, would it not?

Mr. BOOTH. Yes; it would do that, but that would cease anyway in a short time. It is only a matter of a few years when that will pass by.

Mr. TAYLER. It is such a little thing that it is hardly worth paying attention to.

Mr. BOOTH. No, Mr. Taylor; it is not a little thing. It affects us deeply, and has all these years.

Mr. TAYLER. I do not wish to misinterpret what you say, but I so interpret your remark.

Mr. BOOTH. No; I do not mean that at all.

Mr. TAYLER. That it will be by so soon that we might as well do nothing?

Mr. BOOTH. No; I do not mean that at all. I mean that you can not approach this question from a narrow-minded point of view. You have got to approach it from a liberal-minded point of view. You have got to look at all sides before you determine what to do in this respect.

Mr. TAYLER. Does it ever occur to you, who are there in the atmosphere, that this is very much more a question of government than of morals?

Mr. BOOTH. As a question of government—

Mr. TAYLER. I do not object to your discussing it, but if you can answer it yes or no I wish you would do so.

Mr. BOOTH. Will you read the question?

The question was read, as follows:

“Mr. TAYLER. Does it ever occur to you, who are there in the atmosphere, that this is very much more a question of government than of morals?”

Mr. BOOTH. I think prior to the manifesto it was.

Mr. TAYLER. Do you not think it is a vital question when men live with plural wives, and justify it, not upon the ground of humanity, although that is one influence that operates, but of unimportance relatively, but who chiefly, almost entirely, justify it upon the ground that the relation was entered into with the approval and sanction of God, and that on law has any right or can interfere with it or dissolve it? Is not that a defiance of law, Mr. Booth? Is not that pleading a higher law and saying that they will not obey the law of the land?

Mr. WORTHINGTON. You mean assuming what you say to be true?

Mr. BOOTH. For many years, Mr. Taylor, that was my belief. Up to the time when the church issued the manifesto and convinced me that it was in good faith I took that view of it, but now I do not so understand that they live in that relation for that reason. As I understand Doctor Buckley's testimony—I heard Doctor Buckley testify; I was here in December when he testified as to the sermon preached by President Smith in the tabernacle—they live in that relation because President Smith believed that to abandon these women would subject him to severe condemnation and possibly to punishment, if such a thing exists in the future world. I certainly would despise a man who would abandon these women.

Mr. TAYLER. Do not let us confuse abandonment with polygamous cohabitation and rearing children,

Mr. BOOTH. Well, upon that point I will say this, that you can not separate them.

Mr. TAYLER. Then we understand your status.

Mr. BOOTH. It is either abandonment or it amounts to the other thing. You can not draw that line.

Mr. TAYLER. I was not quoting Joseph F. Smith at all. I was quoting John Henry Smith.

Mr. BOOTH. I do not remember what he testified to. I have not read his testimony.

Mr. TAYLER. He testified, as I have stated, that this obligation was taken with the approval of God.

Mr. BOOTH. He believed so, I believe.

Mr. TAYLER. Yes, undoubtedly; and that having been taken with the approval of God, no matter what law of the land might be enacted prohibiting the continuance of the relation which he thus took he recognized and obeyed a higher law; that the law of the land—this is the way he put it—could not dissolve or interfere with that relation.

Mr. BOOTH. I know that that is the view entertained by John Henry Smith and by some others.

Mr. TAYLER. Is not that the universal view, Mr. Booth?

Mr. BOOTH. No; I do not think it is. I think that is a view which is taken by what we term the fanatical members of the Mormon Church.

Mr. TAYLER. That is Joseph F. Smith's view, is it not?

Mr. BOOTH. Not from what Mr. Buckley has said.

Mr. TAYLER. Is it not?

Mr. BOOTH. I did not understand him to so testify.

Mr. TAYLER. If Joseph F. Smith said that any man who would obey the customs of the world, who would not remain true to his wives, which meant all that that term implies, he would be forever damned—

Mr. BOOTH. Yes; I believe he believes that.

Mr. TAYLER. How is that to be distinguished from John Henry Smith's statement?

Mr. BOOTH. In this way: He does not put it upon the ground that God had commanded him to live with these women.

Mr. TAYLER. If he is going to be damned, what kind of just God would it be that would damn him for doing a thing that he had been commanded to do?

Mr. BOOTH. That would be an act of free moral agency upon his part. He would be damned because he had violated the obligations which he had taken.

Mr. TAYLER. That God had laid upon him?

Mr. BOOTH. Yes; that God had laid upon him, from that point of view.

Mr. TAYLER. John Henry Smith and Joseph F. Smith are both very able men, are they not?

Mr. BOOTH. They are so far as church work is concerned, at least.

Mr. TAYLER. Would you think John Henry Smith's chief work is spiritual, ecclesiastical work?

Mr. BOOTH. It is spiritual, ecclesiastical work.

Mr. TAYLER. Is that the reason why John Henry Smith is such a politician?

Mr. BOOTH. I do not understand that John Henry Smith is any great politician.

Mr. TAYLER. Do you not?

Mr. BOOTH. I would not give a farthing for his support politically in any matter.

Mr. TAYLER. That may be your view of his value, but do you not know that he is a very active politician, that he stumps—

Mr. BOOTH. He has been in a way.

Mr. TAYLER. Do you not know that perhaps his field of political endeavor is not so much Salt Lake as it is Idaho and Wyoming?

Mr. BOOTH. I do not know what his political influence in Idaho and Wyoming is, but—

Mr. TAYLER. I am not talking about his influence at all. I know you do not know anything about that. You say he has none, but he is an active politician, is he not?

Mr. BOOTH. I say so far as his political influence is concerned in Salt Lake County, or in Utah, it is not great. It does not amount to much.

Mr. WORTHINGTON. The testimony is that wherever he spoke in Idaho his party got licked.

Mr. BOOTH. I pride myself upon the fact that I have more political influence in my precinct among the Mormons than he has. I think I could defeat him on any political matter if we were opposed.

Mr. TAYLER. Well, you are like John Henry. Each of you has a good opinion of himself.

Mr. BOOTH. That is my opinion. There are a great many Mormons in that precinct who are not high church officials who have a great deal more political influence than John Henry Smith has.

Mr. TAYLER. I do not doubt that. I know fellows in my ward at home who can beat me to a frazzle any day.

Mr. BOOTH. I am afraid of those fellows, but I am not afraid of John Henry's influence.

Mr. TAYLER. I do not take any discredit to myself because they can do that, either. That is all, Mr. Booth.

The CHAIRMAN. Mr. Booth I should judge from your statement that you rather approve and justify the continuous polygamous cohabitation and the rearing of new children.

Mr. BOOTH. I do not say that, Senator.

The CHAIRMAN. Well, what do you say?

Mr. BOOTH. I simply say that we have been unable to find a way to stop it.

The CHAIRMAN. Stop what?

Mr. BOOTH. The unlawful cohabitation.

The CHAIRMAN. Would an amendment to the Constitution of the United States prohibiting unlawful cohabitation accomplish it?

Mr. BOOTH. Mr. Chairman, I believe it would have a good effect. However, I am not prepared at this time to give a settled opinion upon that question. I have thought about it a great deal.

The CHAIRMAN. What would be your judgment?

Mr. BOOTH. The only objection to it would be that it would not be necessary. This condition is passing away so rapidly that it would not be necessary to have a constitutional amendment.

The CHAIRMAN. How rapidly is it passing away with the president of the church?

Mr. BOOTH. It certainly can not continue much longer. Age puts a limit on nearly everyone.

The CHAIRMAN. It will pass away with his death probably.

Mr. BOOTH. Well, probably before that.

The CHAIRMAN. But now you justify that, do you? The president of the church——

Mr. BOOTH. I do not justify it.

The CHAIRMAN. Living in polygamous cohabitation and having children.

Mr. BOOTH. I do not justify it.

The CHAIRMAN. You do not know how to meet it?

Mr. BOOTH. I do not know how to meet it. I would like to find a remedy for it that would be just alike to the Gentiles and the Mormons.

The CHAIRMAN. How did President Woodruff meet it—the author of the manifesto?

Mr. BOOTH. President Woodruff was a man at that time close upon 90 years of age, and it was easy for him to meet it.

The CHAIRMAN. He did meet it, then?

Mr. BOOTH. He did meet it.

The CHAIRMAN. He did not cohabit with a lot of women, did he?

Mr. BOOTH. I understand he did not. He lived up to the manifesto.

The CHAIRMAN. How about George Q. Cannon?

Mr. BOOTH. I understand the same thing is true of George Q. Cannon.

The CHAIRMAN. Then it is possible, I suppose, is it not?

Mr. BOOTH. It is possible.

The CHAIRMAN. You talk about abandoning the wives and children. Could not the president of the church live with one woman and take care of the others just the same, as well as the children?

Mr. BOOTH. Well, yes; but still——

The CHAIRMAN. Still what?

Mr. BOOTH. There is something more than that, taking care of them.

The CHAIRMAN. What is it? They have got to cohabit, have they?

Mr. BOOTH. If they go there, if they visit the home, this other thing is bound to occur.

The CHAIRMAN. With the head of the church, a man standing high as a religious teacher?

Mr. BOOTH. I am speaking generally now. I am not speaking of the head of the church.

The CHAIRMAN. You think a constitutional amendment prohibiting polygamous cohabitation would be apt to end that, do you not?

Mr. BOOTH. I think it would.

The CHAIRMAN. The authority of the National Government would be quite potential, would it not, in that direction?

Mr. BOOTH. I should think it would; yes.

The CHAIRMAN. From your testimony I should judge that the State of Utah is powerless to correct that evil.

Mr. BOOTH. Well, as I say, there is that sentiment there,

The CHAIRMAN. Taking the sentiment, and the condition of things, the State of Utah to-day is powerless to stop that business?

Mr. BOOTH. It is not powerless to do it; no. There is simply a sentiment there not to prosecute these people.

The CHAIRMAN. In view of that sentiment, it is powerless, is it not?

Mr. BOOTH. If there was a general demand among the Gentiles for the prosecution of these cases, the public officers would prosecute them.

The CHAIRMAN. But there is no such demand?

Mr. BOOTH. I do not know of any up to the present time.

The CHAIRMAN. Do I understand you to say that the heads of the church, the teachers, are not teaching polygamy now?

Mr. BOOTH. I so understand it.

The CHAIRMAN. Do you think the fact that the head of the church is living in polygamy with five women, he being a great religious teacher, has any influence, not only in Utah, but in the United States and the world?

Mr. BOOTH. Not as to taking new wives.

The CHAIRMAN. I am not talking about that.

Mr. BOOTH. I think it is a deplorable condition—a very deplorable condition.

The CHAIRMAN. I so understood you.

Mr. BOOTH. And I am always chagrined for my State that there is such a condition there.

The CHAIRMAN. Well, if the head of the church should be arrested and imprisoned, how would that hurt his wives and children?

Mr. BOOTH. The disgrace.

The CHAIRMAN. Oh, the disgrace!

Mr. BOOTH. The disgrace. I have no sympathy for the polygamist himself at all. It is the disgrace, the odium that comes from that.

The CHAIRMAN. The disgrace of being imprisoned for a great crime would be more horrible than the committing of the crime itself?

Mr. BOOTH. Well, it would bring it to public view more, and would ostracise these people more.

The CHAIRMAN. I was asking how it would affect the members of his family, his wives and children. Could they not be provided for?

Mr. BOOTH. They could be provided for, but I say it would bring a disgrace upon them. There is already that public sentiment which this investigation has brought about, but the general prosecution of it would be more detrimental, I think, to the wives and children than to the man himself.

The CHAIRMAN. Then a constitutional amendment enforced would be detrimental, in your judgment?

Mr. BOOTH. It would be detrimental, but still if there was such a constitutional amendment it would be enforced if enacted, I think, in Utah. The Federal officers would enforce it, whoever they might be.

The CHAIRMAN. I understood you to say you voted against several persons because they were polygamists?

Mr. BOOTH. I have always done so.

The CHAIRMAN. What would you think of a person voting for a man who was a notorious polygamist?

Mr. BOOTH. Well, I would think it was wrong.

The CHAIRMAN. You would not approve of that?

Mr. BOOTH. I would not, and I would vote and work against any man who came up for office in the Republican party in Utah who was a polygamist, State or county.

The CHAIRMAN. You have been a candidate for elective office at different times?

Mr. BOOTH. I have, twice; yes, sir.

The CHAIRMAN. What were those offices?

Mr. BOOTH. The upper houses of the legislature, the old council—the last Territorial legislature called the council the upper house—and the first State senate of Utah.

The CHAIRMAN. You took no means as a candidate for office to ascertain how the church would stand toward your candidacy?

Mr. BOOTH. I never did.

The CHAIRMAN. You never made any inquiry or had anybody to do so for you?

Mr. BOOTH. I never crossed the threshold of the first presidency of the church on a political matter in my life.

The CHAIRMAN. I did not ask you that.

Mr. BOOTH. I thought that was the answer.

The CHAIRMAN. I asked you if you made any inquiry or had any solicitude as to how the church would stand toward your candidacy?

Mr. BOOTH. I never have, Mr. Chairman, in any way.

The CHAIRMAN. How about parties in Utah generally—both parties? Are they at all solicitous as to how the Mormon people will regard them?

Mr. BOOTH. I will tell you. We have some Gentiles in Utah, unfortunately, who sometimes go to these leaders to get political influence. I condemn those people in the strongest terms. I never did in my life ask any high church official for support in a political matter, either for myself or for my friends, and I condemn the action of two classes of citizens that we have—one, the Gentile who runs to the church or the head officials, trying to get church influence for himself, and some Mormons who say: "You ought to do so because the people up the street (pointing over their shoulder) want it done that way." That is the way they do it there sometimes, and we condemn Mormons and Gentiles for such action.

The CHAIRMAN. You can answer my question directly, whether the parties in Utah—I am not speaking of any particular party—are solicitous about the standing of the church toward their organization?

Mr. BOOTH. I should say not. That is, of course, a party would not want the church to——

The CHAIRMAN. It is a matter of indifference?

Mr. BOOTH. Would not want the church as a church, possibly, to condemn their party.

The CHAIRMAN. Well, the leaders of the church.

Mr. BOOTH. The leaders of the church are divided. Some are Democrats and some are Republicans.

The CHAIRMAN. My question is whether the parties have any solicitude as to how they stand.

Mr. BOOTH. Not as a party.

The CHAIRMAN. Not as a party, but the individuals as individuals do?

Mr. BOOTH. They sometimes have; yes.

The CHAIRMAN. I want to ask with regard to Grant. What was the offense with which he was charged? Do you know?

Mr. BOOTH. Unlawful cohabitation, I believe, if my memory serves me right.

The CHAIRMAN. Do you know where he is now?

Mr. BOOTH. In Europe, I understand.

The CHAIRMAN. Has he been back since the attempt was made to serve the warrant?

Mr. BOOTH. He has not, as I understand it.

The CHAIRMAN. That is all.

Mr. TAYLER. Mr. Booth, you stated to the Chairman that it was the disgrace that would fall upon the innocent members of Joseph F. Smith's family that would deter, or ought to deter, from prosecuting him.

Mr. BOOTH. I say there is a general disinclination for prosecuting on that ground.

Mr. TAYLER. Is the family of George Q. Cannon in disgrace because of the punishment inflicted upon him?

Mr. BOOTH. They were at the time; that is, they suffered more or less from that during the time of the prosecution.

Mr. TAYLER. Of course they suffered. We all suffer; but do you think there is any permanent disgrace or stain attached to the Cannon family because George Q. Cannon was prosecuted? On the contrary, is it not a badge of honor rather than otherwise, that he suffered?

Mr. BOOTH. Well——

Mr. TAYLER. Is it not, Mr. Booth? Answer yes or no.

Mr. BOOTH. Well, there is a difference in sentiment regarding that, there.

Mr. TAYLER. Let it go at that.

Mr. BOOTH. Some of the Mormons regard it as a badge of honor. Others that I know, prominent Mormons, too, regard it as a deep disgrace.

Mr. TAYLER. Apostle Lyman is highly respected in the community and in the church, is he not?

Mr. BOOTH. I am not very well acquainted with Apostle Lyman.

Mr. TAYLER. He was imprisoned, was he not?

Mr. BOOTH. Yes.

Mr. TAYLER. Do you think his family feel that he was disgraced?

Mr. BOOTH. I do not think they do.

Mr. TAYLER. Do you not rather think that if they think at all about it now—this was some years ago—they rather think that that was an honor; that that is stored up for him in Heaven as one of his titles to future reward; that he suffered for his church?

Mr. BOOTH. They look upon it that he was persecuted on account of his religion.

Mr. TAYLER. That he was persecuted?

Mr. BOOTH. Yes; at that time.

Mr. TAYLER. He has not suffered in his ecclesiastical standing, has he?

Mr. BOOTH. No.

Mr. TAYLER. He is an apostle to-day?

Mr. BOOTH. He is.

Mr. TAYLER. Do you understand that Brigham H. Roberts has lost caste because he was imprisoned?

Mr. BOOTH. No; I do not understand that he has.

Mr. TAYLER. Do you suppose his two interesting families down at Centerville are suffering any disgrace either in the minds of the community or in their own view of it because of that fact?

Mr. BOOTH. I understand one of them has.

Mr. TAYLER. One of them has?

Mr. BOOTH. And feels it very keenly.

Mr. TAYLER. One of his what?

Mr. BOOTH. One of his wives. That is what I have understood. That is from rumor only.

Mr. TAYLER. He has since been honored in the church, has he not?

Mr. BOOTH. Yes; I believe he has. He is a very able man; a brilliant man in his way.

Mr. TAYLER. And the fact that he was imprisoned has not impeded his progress in the church?

Mr. BOOTH. No; I should say not; and yet there are many Mormons—I mean now among the rank and file——

Mr. TAYLER. Yes.

Mr. BOOTH. Hundreds of them who do not look upon it in that way.

Mr. TAYLER. But, after all, the punishment connected with the disgrace that might follow from the prosecution of Joseph Smith is hardly a sufficient reason for not doing anything about it, is it?

Mr. BOOTH. I do not say that it is, Mr. Tayler. I do not say so. I am simply telling you why the Gentiles of Utah so far have been disinclined to do it.

Mr. TAYLER. Do you not think that those who went to jail are regarded more highly by the church than those who fled—I mean so far as that particular circumstance is concerned?

Mr. BOOTH. In some instances, yes; in others, no. I know some men who agreed to live up to the law and who have done so ever since, who are highly regarded.

Mr. TAYLER. That is all.

Mr. WORTHINGTON. Mr. Booth, in reference to what would happen if these men were prosecuted, I understood you to say that their families would not be injured by loss of support; that they would be supported. Would it not in many cases result that the wives and children would be left without proper support?

Mr. BOOTH. Yes; not in the case of the first presidency, because I believe he is able to support them.

Mr. WORTHINGTON. I understand.

Mr. BOOTH. But in other cases, yes; I should say they would be left without proper support in some cases.

Mr. WORTHINGTON. The conviction of Mr. Lyman was before the manifesto, was it not?

Mr. BOOTH. I do not remember now. I think so. I do not remember of his being prosecuted since that time. I know that Angus M. Cannon was arrested and fined since the manifesto for unlawful cohabitation. He was the president of the Salt Lake stake.

Mr. WORTHINGTON. There has been some unhappy reference in this record to the effect that you have houses of ill fame in Salt Lake City. Is that so?

Mr. BOOTH. I only know of it by repute.

Mr. WORTHINGTON. Is it against the law?

Mr. BOOTH. It is.

Mr. WORTHINGTON. Has an attempt been made to suppress them?

Mr. BOOTH. Not that I know of.

Mr. WORTHINGTON. Do you think it would be a good thing to have a constitutional amendment, and have the United States interfere?

Mr. BOOTH. Well, if it could be prohibited throughout the United States, I think it would be a good thing to have a constitutional amendment on that subject. I believe the Mormon people would generally hail that, and support it.

Mr. TAYLER. You have a Mormon mayor in Salt Lake, have you not?

Mr. BOOTH. We have had two Mormon mayors in Salt Lake since 1890.

Mr. TAYLER. But now, now?

Mr. BOOTH. Well, he is classed as a Mormon.

Mr. TAYLER. Only classed as a Mormon?

Mr. BOOTH. He is very liberal minded. I do not know whether he is a good church member or not, but he is classed as a Mormon. He is a very liberal-minded man. He belongs to that class. Prior to that we had a Gentile mayor, who is now a member of the American party.

The CHAIRMAN. Do you class this action of the head of the church in living in polygamous cohabitation with five wives the same as houses of prostitution?

Mr. BOOTH. I certainly do not.

The CHAIRMAN. I thought, from the question that counsel put—

Mr. WORTHINGTON. No; I think the houses of prostitution are a great deal worse.

Mr. BOOTH. I think the houses of ill fame are a thousand times worse, only they are permitted to exist, or at least they exist, so I am informed.

The CHAIRMAN. I thought you did not want to be misunderstood.

Mr. BOOTH. It is one of the social problems we do not know how to get rid of. I wish there was a way to get rid of them. I think there are many more chances of bringing young men into evil associations in those houses, from the fact that they exist, than in all the unlawful cohabitation since it has existed.

Mr. TAYLER. Do they have inscribed over their doors: "This is done with the sanction of Almighty God, and no law has any right to interfere with it?"

Mr. BOOTH. I have never seen that over their doors.

Mr. TAYLER. That is the best answer you can give?

Mr. BOOTH. I never have noticed that.

Mr. TAYLER. Then we will assume that you do not know whether there is any such thing as that.

Mr. WORTHINGTON. Mr. Tayler, when he is in difficulty, always falls back on the Almighty.

Mr. BOOTH. I have told you that the women, so far as they are concerned, went into this relation believing it was the law of God and that they are generally as pure-minded women—

Mr. TAYLER. I am not talking about the women.

Mr. BOOTH. As pure-minded women as exist on the face of the earth anywhere; and so true is that that in sixteen years residence in Salt Lake City I can now recall a case of infidelity on the part of a plural wife to her husband. It is practically unknown in Utah.

Mr. TAYLER. You think it would be a good thing if polygamous cohabitation in Utah could be stopped?

Mr. BOOTH. I do.

The CHAIRMAN. And if a constitutional amendment would accomplish that, you would think it wise?

Mr. BOOTH. I would think it wise if it could solve the problem. Any legislation that will solve the problem will be hailed with joy by the people of Utah generally, Mormons and Gentiles.

The CHAIRMAN. As a citizen of Utah, you do not know how to solve the problem in that State?

Mr. BOOTH. At the present time.

The CHAIRMAN. Only by death?

Mr. BOOTH. Only by death, and the ceasing of this relation by mutual consent.

The CHAIRMAN. Yes; I understand. Have you anything further to ask this witness?

Mr. WORTHINGTON. I think not.

The CHAIRMAN. Who is your next witness?

Mr. VAN COTT. Mr. Pratt.

TESTIMONY OF ARTHUR PRATT.

ARTHUR PRATT, being duly sworn, was examined and testified as follows:

Mr. VAN COTT. What is your name, Mr. Pratt?

Mr. PRATT. Arthur Pratt.

Mr. VAN COTT. What is your age?

Mr. PRATT. Pretty near 52.

Mr. VAN COTT. Where do you live?

Mr. PRATT. In Salt Lake City.

Mr. VAN COTT. Where were you born.

Mr. PRATT. In Salt Lake City.

Mr. VAN COTT. You have practically always lived there?

Mr. PRATT. I have always lived there.

Mr. VAN COTT. What is the name of your father, please.

Mr. PRATT. Orson Pratt.

Mr. VAN COTT. Is that the Orson Pratt who has been mentioned in the course of the proceedings here?

Mr. PRATT. He is.

Mr. VAN COTT. He was a member of the Mormon Church?

Mr. PRATT. He was.

Mr. VAN COTT. Were you ever a member of the Mormon church?

Mr. PRATT. I was not.

Mr. VAN COTT. Have you ever been?

Mr. PRATT. I never have been.

Mr. VAN COTT. Commencing in your early manhood, were you ever connected in any way with the prosecution of polygamists or of persons engaged in unlawful cohabitation?

Mr. PRATT. Yes, sir.

Mr. VAN COTT. In what way?

Mr. PRATT. As deputy United States marshal.

Mr. VAN COTT. Under whom, first?

Mr. PRATT. Under Gen. George R. Maxwell, in 1874.

Mr. VAN COTT. Have you occupied similar positions since then?

Mr. PRATT. I have.

Mr. VAN COTT. Under what marshals, for instance?

Mr. PRATT. Under General Maxwell, first; under Colonel Nelson, second; under Colonel Shaunnessy, third; under Frank H. Dyer, fourth; under E. H. Parsons, fifth, for about twenty years.

Mr. VAN COTT. And from what year to what year?

Mr. PRATT. From the fall of 1874 to about 1882, and commencing again in either 1885 or 1886, up to 1890.

Mr. VAN COTT. In what way has the discharge of your duties called you to different parts of Utah?

Mr. PRATT. I was under Marshal Dyer during the prosecutions for polygamous cohabitation. I was the chief deputy in charge of the criminal business of the State, and I had to visit every district, and did so.

Mr. VAN COTT. Are you generally acquainted with the Mormon people?

Mr. PRATT. I am.

Mr. VAN COTT. Without too much detail, give the committee a general idea of the number of polygamists, the number of men you have arrested for unlawful cohabitation, to show your familiarity with the practice in the different parts of the State?

Mr. PRATT. Well, that would be impossible, to tell the number. I have for years followed that business and arrested, I should say, more than any other one officer in the State of Utah; but how many I could not say, commencing as early as 1875, when I arrested George Reynolds.

Mr. VAN COTT. And continuing down to a late date?

Mr. PRATT. Continuing down to 1890.

Mr. VAN COTT. Did you arrest Brigham H. Roberts?

Mr. PRATT. I did.

Mr. VAN COTT. In a general way, just before the manifesto, what was the feeling between Gentiles and Mormons?

Mr. PRATT. Do you mean just before or doing the prosecutions?

Mr. VAN COTT. During the prosecutions.

Mr. PRATT. During the prosecutions the feeling was very intense and very bitter as between Mormons and Gentiles, the Mormon people, of course, claiming that they were being persecuted, and the Gentile people insisting on the enforcement of the law.

Mr. VAN COTT. And at that time did you have general knowledge as to whether polygamists were living openly with their wives in Utah or whether they were in the penitentiary or in hiding?

Mr. PRATT. I did.

Mr. VAN COTT. What is the fact of it?

Mr. PRATT. The fact of it is that they were not living during those days openly with their wives. They were living with them. A great many hundreds of them were sent to the Utah penitentiary, which then was a Government prison, and a great many were what we termed on the underground—that is, they were in hiding.

Mr. VAN COTT. As a preface to other questions, I wish you would state what was the practical result of your prosecutions on polyg-

amous families—that is, polygamous wives and their children, young and old.

Mr. PRATT. It entailed a great deal of suffering throughout the State of Utah. It did not cause so much suffering, or any particularly among the better class or wealthy ones, but among the people as a whole it caused a great deal of suffering and anxiety and poverty among the Mormon people. The women and the children were the ones who got the worst of that prosecution. They suffered from it.

Mr. VAN COTT. What is the sentiment in Utah among Gentiles regarding the prosecution of men who are living in polygamy who were married before the manifesto, and why, in your opinion, does that sentiment exist?

Mr. PRATT. The sentiment, to be brief, is just the same as has been expressed here by two or three former witnesses in regard to the Gentile people. They have explained it very fully.

Mr. VAN COTT. And the reason is the same?

Mr. PRATT. And the reason is the same.

Mr. VAN COTT. Is it out of any pity or sympathy for the men?

Mr. PRATT. It is not. It is simply out of sympathy and out of the suffering that would be entailed on the women and the children.

Mr. VAN COTT. Do you, as a Gentile out there, concur in that sentiment?

Mr. PRATT. I have; yes.

Mr. VAN COTT. What would you say about the decrease of polygamy in Utah since 1890?

Mr. PRATT. Why, there is no doubt about it. Since 1890?

Mr. VAN COTT. Yes.

Mr. PRATT. There is no question about it, as far as we can have any knowledge, and I guess there is no one who can swear to it as knowing it personally. It is only from repute, what we hear, and information we can gain as officers. There is no question about the decrease. It has been all that could be expected, I think, since 1890.

Mr. VAN COTT. About what is the population of the State?

Mr. PRATT. The population of the State in 1900 was 276,000 and some odd.

Mr. VAN COTT. Did you hold any office in reference to it?

Mr. PRATT. I was supervisor of the census.

Mr. VAN COTT. About what percentage would you say were Mormons?

Mr. PRATT. About 70 per cent is as near an estimate as we could make. About 70 per cent of the population of Utah, I think, are Mormons.

Mr. VAN COTT. Assuming that there were as many as twenty polygamous marriages since 1890, some being celebrated in Mexico and some probably in Utah, taking into consideration the Mormon population and the fourteen years, and assuming always that the Mormon Church is not encouraging that practice, what would you consider the progress that has been made in that regard?

Mr. PRATT. I should consider the progress was as much as we could have expected, at least. I think it is marvelous.

Mr. VAN COTT. Calling attention now back to the time of the manifesto, were there any politics in Utah at that time as they are understood nationally?

Mr. PRATT. No, sir.

Mr. VAN COTT. It was simply Mormon and Gentile.

Mr. PRATT. Mormon and Gentile, known as the People's Party and the Liberal Party.

Mr. VAN COTT. Now there are political parties?

Mr. PRATT. Now there are political parties.

Mr. VAN COTT. Taking the net result as a whole in Utah, politically, socially, and in every other way, how do you regard the progress from the time of the manifesto up to the present time?

Mr. PRATT. That there has been great progress there is no question about it. The conditions are not the same.

Mr. VAN COTT. What in your opinion is the sentiment among the Mormon people there with regard to the contracting of polygamous marriages since the manifesto?

Mr. PRATT. I think among the mass of the Mormon people they are opposed to it.

Mr. VAN COTT. Do you know whether Wilford Woodruff and George Q. Cannon obeyed the manifesto so far as unlawful cohabitation is concerned?

Mr. PRATT. Only from general rumor and report at that time. I believe they both did.

Mr. VAN COTT. What position do you hold now?

Mr. PRATT. I am warden of the State prison of Utah.

Mr. VAN COTT. How long have you held that position?

Mr. PRATT. Only about ten months—that is, at this time.

Mr. VAN COTT. Have you held any other political office in Utah?

Mr. PRATT. I have.

Mr. VAN COTT. What?

Mr. PRATT. I was chief of police of Salt Lake City for six years.

Mr. VAN COTT. During what years were you chief of police?

Mr. PRATT. I was chief of police of Salt Lake City—elected in the fall of 1893.

Mr. WORTHINGTON. From 1893 to 1899, then.

Mr. PRATT. Yes, sir.

Mr. VAN COTT. Have you held any other political office?

Mr. PRATT. I have.

Mr. VAN COTT. What?

Mr. PRATT. I was auditor of public accounts—

Mr. VAN COTT. I mean since the manifesto.

Mr. PRATT. Oh, since the manifesto? I was elected about 1891 as a member of the school board of Salt Lake City.

Mr. VAN COTT. Now, taking that into consideration, and also your activity, if any, in politics, what is your opinion as to the constancy of the Mormon people in adhering to party lines and voting their tickets?

Mr. PRATT. My experience has been—I speak from having been a member of the State committee for a great many elections in Utah—that they are more constant, if anything, than what we call the Gentile population. I base it on somewhat different figures from what some of the former witnesses have used.

Mr. VAN COTT. But that is the result?

Mr. PRATT. That was the result.

Mr. VAN COTT. Take the great body of the Mormon people. What is your opinion as to their independence in politics and in political action?

Mr. PRATT. I think they are just as independent, and have been, as any other.

Mr. VAN COTT. Do you know Reed Smoot?

Mr. PRATT. I do.

Mr. VAN COTT. How long have you known him?

Mr. PRATT. For a good many years, fourteen or fifteen, maybe twenty. I don't know exactly.

Mr. VAN COTT. Did you know him in politics in Utah?

Mr. PRATT. I did.

Mr. VAN COTT. As what?

Mr. PRATT. As a Republican.

Mr. VAN COTT. Before he became an apostle, was he prominent in Republican politics?

Mr. PRATT. He was.

Mr. VAN COTT. And was it anything surprising, from what existed out there, that he should be a candidate for the United States Senate, even although not an apostle?

Mr. PRATT. Not at all.

Mr. VAN COTT. In your opinion, was he unknown and unthought of before he became an apostle and a candidate for the position of United States Senator?

Mr. PRATT. He was very well known and very well thought-of for some high office.

Mr. VAN COTT. With Gentiles in Utah is it as Mr. Critchlow said, that Gentiles care nothing about, comparatively speaking, new polygamous marriages, but it is unlawful cohabitation they care about?

Mr. PRATT. He is very much mistaken.

Mr. VAN COTT. What is the fact?

Mr. PRATT. Well, the fact of it is that they are very much opposed to any new polygamous marriages.

Mr. TAYLER. Where was it Mr. Critchlow said that?

Mr. VAN COTT. He made the statement here in the record. I will find it for you if you want to look at it.

Mr. TAYLER. Never mind.

Mr. PRATT. The unlawful cohabitation is a result of those polygamous marriages, but the main fight has been against polygamous marriages.

Mr. VAN COTT. Take the last city election in Salt Lake City. In your opinion, was the result there in any way influenced by the Mormon Church?

Mr. PRATT. No, sir; I know that it was not.

Mr. VAN COTT. It was due to other causes, in your opinion?

Mr. PRATT. It was due entirely to other causes.

Mr. VAN COTT. What has been the practical result of statehood in regard to a fair division of State officers, considering the importance of the offices and in regard to salaries and things of that kind?

Mr. TAYLER. Is it necessary to prove that over again?

Mr. VAN COTT. Unless you admit it.

The CHAIRMAN. Let the witness state it.

Mr. PRATT. I was simply going to state that it was just as the former two witnesses have stated.

Mr. VAN COTT. Excluding the question of polygamy and unlawful cohabitation, what has been your knowledge and experience in Utah with regard to the Mormon people being law-abiding?

Mr. PRATT. There is no question about that; the records of the courts will prove that, that they are a very law-abiding people. I have followed the business of a criminal officer for a great many years, and of course I feel that I can speak authoritatively on that; also, being warden of the State prison at the present time, I know what the population is.

Mr. VAN COTT. Have you worked down close among the voters?

Mr. PRATT. I have.

Mr. VAN COTT. Have you done so in what is overwhelmingly a Mormon district or county?

Mr. PRATT. Yes, sir.

Mr. VAN COTT. What county, for instance?

Mr. PRATT. Cache County.

Mr. VAN COTT. And in what year?

Mr. PRATT. In 1900. It was in the second election of President McKinley.

Mr. VAN COTT. At whose instance?

Mr. PRATT. At the instance of the National committeeman.

Mr. VAN COTT. Of the Republican party?

Mr. PRATT. Of the Republican party.

Mr. VAN COTT. Did you, in a general way, make headway in Cache County among the Mormons?

Mr. PRATT. We did, very much so.

Mr. VAN COTT. Do you know Angus M. Cannon, jr.?

Mr. PRATT. I do.

Mr. VAN COTT. How long have you known him?

Mr. PRATT. Over twenty years.

Mr. VAN COTT. Where does he live?

Mr. PRATT. He lives in Salt Lake City.

Mr. VAN COTT. Do you know his general reputation for veracity?

Mr. PRATT. I do.

Mr. VAN COTT. Is it good or bad?

Mr. PRATT. Bad.

Mr. VAN COTT. Would you believe him under oath?

Mr. PRATT. I would not.

Mr. VAN COTT. How long has it been bad?

Mr. PRATT. As long as I can remember him.

Mr. VAN COTT. Is Angus M. Cannon, jr., a man who is generally known of in Salt Lake City?

Mr. PRATT. He is. He has been quite a notorious character.

Mr. TAYLER. What principle of propriety or morals justifies you in—

Mr. VAN COTT. Because Mr. Critchlow sent this man down here.

Mr. WORTHINGTON. Knowing his reputation.

Mr. TAYLER. I see. That is an attack on Mr. Critchlow.

Mr. VAN COTT. Well, that is the fact.

Mr. WORTHINGTON. And Mr. Critchlow is on this protest.

Mr. TAYLER. All right.

Mr. VAN COTT. Is Joseph L. Rawlins a Gentile?

Mr. PRATT. He is.

Mr. VAN COTT. Has he always been known as such?

Mr. PRATT. He has always been known as such.

Mr. VAN COTT. What is your opinion as to the sincerity of Joseph

F. Smith to keep the church out of politics, and his resolution to accomplish it?

Mr. PRATT. I think it has been his intention from the first, from the time that he assumed the reins of government—that is, his position as president of the church.

Mr. VAN COTT. Yes.

Mr. PRATT. That it has been his intention, and that he has directly followed it, to keep the church out of politics.

Mr. VAN COTT. Do you know E. W. Wilson?

Mr. PRATT. I do.

Mr. VAN COTT. Do you know whether he voted for Mr. Rawlins as against Mr. Thatcher?

Mr. PRATT. I am quite certain that he did. It is my best recollection.

Mr. VAN COTT. Would Mr. Thatcher have been elected, taking the votes that he had, if Mr. Wilson and Mr. E. E. Shepherd, another Gentile, had voted for Mr. Thatcher?

Mr. PRATT. He would have been elected United States Senator.

Mr. VAN COTT. Those two Gentiles elected Mr. Rawlins?

Mr. PRATT. They did. That is, as to Mr. Shepherd I am not quite positive, but that is my recollection on both of them.

Mr. VAN COTT. What is your opinion as to whether the rank and file of the Mormon people resent any rumors or talk about the leaders of the Mormon Church trying to influence them in politics?

Mr. PRATT. They always resent it.

Mr. VAN COTT. How is it with Gentiles who run either on a city ticket or a county ticket or a State ticket, as compared with Mormons, in the votes that are received?

Mr. PRATT. They run just the same—just about the same.

Mr. VAN COTT. What is your opinion as to whether Reed Smoot was handicapped or not by the fact that he was an apostle when he ran for United States Senator?

Mr. PRATT. I do not think he was handicapped, but I do not think it assisted him. I believe Senator Smoot would have been elected to a high office two years before that if he had not been nominated for an apostle.

Mr. VAN COTT. But did it handicap him with the Gentiles?

Mr. PRATT. I think it did. There is no question about that.

Mr. VAN COTT. You may take the witness.

Mr. TAYLER. You are a particular friend of Senator Smoot?

Mr. PRATT. I have known him for about fifteen years.

Mr. TAYLER. Answer the question and let us get along. You are a particular friend of his?

Mr. PRATT. Yes, sir; I am a particular friend of his.

Mr. TAYLER. You told us you have known him a long time.

Mr. PRATT. Yes, sir.

Mr. TAYLER. And he has been a leading Republican in the State for years?

Mr. PRATT. He has, sir.

Mr. VAN COTT. There is one question I omitted that I would like to give you the benefit of before you start to cross-examine, Mr. Tayler. I omitted it.

Mr. TAYLER. Don't distress yourself about ministering to my joy, but ask the question.

Mr. VAN COTT. If it is offensive——

Mr. TAYLER. Not at all. I did not mean to be offensive, either, by my remark. I only meant that you need not do it on my account, merely.

Mr. VAN COTT. Were you present in the Gardo House on the dissolution of the People's Party?

Mr. PRATT. No, sir; I was there prior to the time.

Mr. VAN COTT. Did you attend the conference?

Mr. PRATT. I attended a conference. There were three Republicans went to the Gardo House and held this meeting, which I think Mr. Critchlow referred to. I was one of those Republicans.

Mr. VAN COTT. Who were the Gentiles?

Mr. PRATT. They were Colonel Shaunnessy, W. S. McCormick, a banker there, and myself.

Mr. VAN COTT. Who were the Mormons?

Mr. PRATT. There was Wilford Woodruff, who was the president of the Church; Joseph F. Smith, John Henry Smith, M. F. Lyman, and my best recollection is that George Q. Cannon was there.

Mr. VAN COTT. That was when the matter was being mooted of doing away with the Mormon and anti-Mormon parties?

Mr. PRATT. No; it had not been mooted at that time.

Mr. VAN COTT. That was the purpose of it?

Mr. PRATT. That was the purpose of it. We went there to make a proposition to them.

Mr. VAN COTT. In this consultation, was there anything said toward setting apart certain people or certain sections of the country to become Republicans and certain sections to become Democrats?

Mr. PRATT. Oh, certainly not.

Mr. VAN COTT. Nothing of the kind?

Mr. PRATT. No, sir.

Mr. VAN COTT. Or of holding some out of politics?

Mr. PRATT. Not at all.

Mr. VAN COTT. To keep the balance of power, or anything of that kind?

Mr. PRATT. Not at all.

Mr. TAYLER. But these people who were there in that conference on the Mormon side were all apostles or the First Presidency?

Mr. PRATT. Yes, I think they were.

Mr. TAYLER. They were leading politicians in the——

Mr. PRATT. The People's Party; yes, sir.

Mr. TAYLER. They were the hierarchy?

Mr. PRATT. The People's Party was the Church party.

Mr. TAYLER. Along while these prosecutions were going on, you said the feeling was very bitter?

Mr. PRATT. Yes, sir.

Mr. TAYLER. Since statehood the feeling has been very pleasant, has it not?

Mr. PRATT. It has.

Mr. TAYLER. There have been no prosecutions, have there?

Mr. PRATT. Only a few.

Mr. TAYLER. The peace that you now have there is the peace of complacency and not the peace of justice, is it not?

Mr. PRATT. No; I do not think so.

Mr. TAYLER. Lawbreakers, if we have a right to assume these men to be lawbreakers, are not being prosecuted, are they?

Mr. PRATT. No; but there is a difference.

Mr. TAYLER. And so long as they are not being prosecuted——

Mr. PRATT. But there is a difference between the days now since 1890, and along prior to that time, when they were being prosecuted.

Mr. TAYLER. How?

Mr. PRATT. There are not nearly as many polygamists. It is something you do not see, as you used to see in former years, flaunted in public.

Mr. TAYLER. Was it flaunted in public more in those days than it is now?

Mr. PRATT. Yes; it was at one time, prior to the Edmunds Act.

Mr. TAYLER. You do not think it is at all offensive to the public out there that seven of the apostles, and including the first president, are polygamists?

Mr. PRATT. I do.

Mr. TAYLER. You do?

Mr. PRATT. I think it is very offensive.

Mr. TAYLER. And it does not need to be daily advertised in order that people may remember and know that for their dissatisfaction?

Mr. PRATT. Not at all.

Mr. TAYLER. They are not disturbed in these relations, are they?

Mr. PRATT. No.

Mr. TAYLER. Is there any reason why there should not be peace so far as they are concerned?

Mr. PRATT. Not any.

Mr. TAYLER. Do you think that is the peace of justice, to use a phrase we have heard lately, or the peace of complacency?

Mr. PRATT. Well, it has been peaceful there.

Mr. TAYLER. Peaceful?

Mr. PRATT. And there have not been nearly as many violations of law. Of course, it has not been as public.

Mr. TAYLER. That is all.

The CHAIRMAN. I want to ask you one question. I understand you to say "When the present president, Mr. Smith, took the reins of government." When was that? Do you remember?

Mr. PRATT. I think about three years ago.

The CHAIRMAN. In 1901?

Mr. PRATT. Yes; I think so.

The CHAIRMAN. Since that time, since he took the reins of government, he has attempted to keep the church out of politics?

Mr. PRATT. I think so.

The CHAIRMAN. How was it before?

Mr. PRATT. Well, as far as he was concerned——

The CHAIRMAN. I am speaking about the attitude of the church.

Mr. PRATT. The head of the church?

The CHAIRMAN. Yes, and the attitude of the church previous to that time.

Mr. PRATT. Well, I do not think they were as particular about it some years before that.

The CHAIRMAN. What do you mean by not being particular about it?

Mr. PRATT. Well, I think there were a great many Gentiles who were seeking that influence, and I do not think President Snow was near as particular as President Smith has been.

The CHAIRMAN. Before that time it was a factor in politics, I suppose.

Mr. PRATT. I am inclined to think so.

The CHAIRMAN. But since Mr. Smith has taken the reins of government there has been a change?

Mr. PRATT. There has been a change; yes, sir.

The CHAIRMAN. Gentlemen, will you want these witnesses who have been examined to-day any further?

Mr. TAYLER. I shall want to ask Mr. Brady a question or two.

The CHAIRMAN. Can the other witnesses be excused except Mr. Brady?

Mr. VAN COTT. Mr. Chairman, with the exception of Mr. Holzheimer, we do not want these witnesses excused until they have read over their evidence, and they are at work on it now.

The CHAIRMAN. How long will it take them?

Mr. VAN COTT. I think they will be through so we can excuse them some time to-morrow.

The CHAIRMAN. We want to avoid as much expense as possible, but they will be given plenty of time to look over the evidence.

Mr. TAYLER. I would like to ask, if there is any change made in the record from the text that the stenographer gives, to have it called to my attention.

Mr. VAN COTT. Every witness of ours who looked it over has been instructed that he is to make no changes unless it is a change of an error in grammar.

Mr. TAYLER. Yes; I understand that.

Mr. VAN COTT. But if any sentence is changed it is to be brought back here and called to our attention.

The CHAIRMAN. Yes; that will be done.

Mr. TAYLER. No doubt there are many errors of certain kinds that can with propriety be changed without referring them to us.

The CHAIRMAN. The committee will stand adjourned until to-morrow morning at 10 o'clock.

The committee (at 5 o'clock and 5 minutes p. m.) adjourned until Saturday, January 14, 1905, at 10 o'clock a. m.

WASHINGTON, D. C., January 14, 1905.

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

Present: Senators Burrows (chairman), McComas, Foraker, Knox, Dubois, and Overman; also Senator Smoot; also R. W. Tayler, counsel for the protestants, and A. S. Worthington and Waldemar Van Cott, counsel for the respondent.

TESTIMONY OF JAMES E. LYNCH.

JAMES E. LYNCH, being duly sworn, was examined, and testified as follows:

Mr. VAN COTT. What is your age?

Mr. LYNCH. Thirty-six.

Mr. VAN COTT. Where do you reside?

Mr. LYNCH. Salt Lake City.

Mr. VAN COTT. How long have you resided there?

Mr. LYNCH. Thirty-six years.

Mr. VAN COTT. Are you a Mormon?

Mr. LYNCH. No, sir.

Mr. VAN COTT. Have you ever been?

Mr. LYNCH. No, sir.

Mr. VAN COTT. In politics what are you?

Mr. LYNCH. A Democrat.

Mr. VAN COTT. Do you know Angus M. Cannon, jr.?

Mr. LYNCH. Yes, sir; I do.

Mr. VAN COTT. How long have you known him?

Mr. LYNCH. I have known Angus M. Cannon, jr., for twenty-five years.

Mr. VAN COTT. Are you any relation by marriage?

Mr. LYNCH. Yes, sir; he married my sister.

Mr. VAN COTT. Some time in the year 1904 do you remember the circumstance of Angus M. Cannon, jr., coming here and testifying in this case?

Mr. LYNCH. Yes, sir.

Mr. VAN COTT. Before that did you have any talk with E. B. Critchlow regarding Angus M. Cannon, jr.?

Mr. LYNCH. Yes, sir.

Mr. VAN COTT. What was the conversation?

Mr. LYNCH. Mr. Critchlow and Judge Henderson came to the United States Mining Company's office, where I am employed, and told me that Mr. Cannon had informed Mr. Wilson that he had witnessed the marriage of Abraham Cannon to Lillian Hamlin on the high seas, and he said in the year 1896.

He asked me if I knew anything about it. I told him I did not, but I did not believe it. I asked him if Angus had been drinking. They said, yes, somewhat. I said, "I will investigate it closer for you, Mr. Critchlow." I immediately went to the phone and telephoned down to George H. Wood, deputy city treasurer now, and asked him when the Democrats took office from the election of 1896. He said the spring of 1897.

I turned around to Mr. Critchlow and said, "Mr. Cannon was not in California in 1896. It was in the spring of 1897." He said, "How do you know this?" and I said, "Because my wife and I kept house for him while he was gone, and attended to his children. He took my sister, his wife, along with him."

Mr. VAN COTT. Have you been active in politics in Salt Lake City and Salt Lake County?

Mr. LYNCH. Yes, sir.

Mr. VAN COTT. For how many years past?

Mr. LYNCH. Up to 1902, for fourteen years, I was active in politics.

Mr. VAN COTT. Have you been one of the young men active in working among the voters?

Mr. LYNCH. Yes, sir.

Mr. VAN COTT. What is your opinion as to the sentiment among young Mormons with respect to the perpetuation of polygamy?

Mr. LYNCH. Their opinion is that they want to do away with it.

Mr. VAN COTT. What is your opinion as to the constancy of Mormons in adhering to the party tickets?

Mr. LYNCH. I find the young Mormons very partisan.

Mr. VAN COTT. How do you find them as to being independent in politics?

Mr. LYNCH. If their word goes for anything, I find that they are very independent indeed.

Mr. VAN COTT. How do you find them when you come to see the result of the voting in the different precincts?

Mr. LYNCH. Well, in the districts I have ever canvassed they always come right up to the handle with the votes for their party.

Mr. VAN COTT. That is all.

Mr. WORTHINGTON. How long was it before Cannon came here to testify that you told Critchlow he was not in California in the summer of 1896?

Mr. LYNCH. How long was it? I should judge it was about ten days. I would not say for certain, but it was before Mr. Cannon was subpoenaed.

Mr. WORTHINGTON. That is all.

Mr. TAYLER. What relation are you to Angus Cannon?

Mr. LYNCH. Brother-in-law.

Mr. TAYLER. Your wife is his sister?

Mr. LYNCH. My sister is his wife.

Mr. TAYLER. Are you related to Governor Cutler?

Mr. LYNCH. No, sir.

Mr. TAYLER. Not by marriage?

Mr. LYNCH. No, sir.

Mr. TAYLER. Did Angus tell you that Lillian Hamlin had been married to Abraham Cannon by Joseph Smith?

Mr. LYNCH. When I investigated it, Mr. Tayler—

Mr. TAYLER. I have asked you a question. If you can not answer it, say so, and I will go on to another.

Mr. LYNCH. Mr. Cannon did so; yes, sir.

Mr. TAYLER. He insisted upon it that that was the fact.

Mr. LYNCH. He did not insist. He was drunk when he told me. When I went out for Mr. Critchlow—

Mr. TAYLER. Is that the only time he talked to you about that?

Mr. LYNCH. Yes, sir.

Mr. TAYLER. Is that the only time you had ever heard it?

Mr. LYNCH. No, sir. I heard it discussed frequently in the Cannon family.

Mr. TAYLER. Did you talk with Mr. Wilson about it?

Mr. LYNCH. No, sir.

Mr. TAYLER. Did you talk with Doctor Paden about it?

Mr. LYNCH. I do not know the gentleman.

Mr. TAYLER. Then you did not talk with him?

Mr. LYNCH. Doctor Paden?

Mr. TAYLER. Then you did not talk with him?

Mr. LYNCH. No, sir; I did not.

Mr. TAYLER. Who was present beside Mr. Critchlow when you told him that Angus Cannon was not in California at that time?

Mr. LYNCH. Judge Henderson.

Mr. TAYLER. You told Mr. Critchlow and Judge Henderson—

Mr. LYNCH. I did, sir.

Mr. TAYLER. That you had learned that Angus Cannon was where at the time?

Mr. LYNCH. That he had not been in California in 1896.

Mr. TAYLER. Where was he?

Mr. LYNCH. He was in Utah.

Mr. TAYLER. Was he living with you?

Mr. LYNCH. No, sir; but I was in close touch with him every week, probably twice a week.

Mr. TAYLER. That is all.

The CHAIRMAN. You say the young Mormons are generally adverse to the practice of polygamy?

Mr. LYNCH. Yes, sir.

The CHAIRMAN. Is there considerable feeling among the younger Mormons in that regard?

Mr. LYNCH. They say they must have it done away with, Senator.

The CHAIRMAN. "They say." Is that the general expression among the Mormons?

Mr. LYNCH. Among the younger Mormons with whom I have affiliated in politics, yes, sir.

The CHAIRMAN. Do you know of any protests they have made to the president of the church against his living in polygamy?

Mr. LYNCH. I do not.

The CHAIRMAN. At any time?

Mr. LYNCH. I do not, sir.

The CHAIRMAN. Do you know of members of his church—the younger members of his church, or any others—protesting against it?

Mr. LYNCH. No, sir.

The CHAIRMAN. You speak of the marriage of Cannon to Miss Hamlin?

Mr. LYNCH. Yes, sir.

The CHAIRMAN. You heard something of that?

Mr. LYNCH. Frequently.

The CHAIRMAN. By whom did you hear that the marriage ceremony was performed?

Mr. LYNCH. I heard by Joseph F. Smith.

The CHAIRMAN. The president of the church?

Mr. LYNCH. Yes, sir; through Mr. Angus M. Cannon, jr.

The CHAIRMAN. That is all.

Mr. WORTHINGTON. You heard it from Angus M. Cannon, jr.?

Mr. LYNCH. Yes, sir.

Mr. WORTHINGTON. The man who came here and testified?

Mr. LYNCH. Yes, sir.

The CHAIRMAN. Did you ever hear it from anybody else?

Mr. LYNCH. No, sir.

Senator DUBOIS. Did you ever hear that anyone other than Joseph F. Smith had performed the marriage ceremony?

Mr. LYNCH. I did not.

Senator DUBOIS. He is the only person whose name was connected with it?

Mr. LYNCH. Yes, sir.

Senator DUBOIS. You have heard that several apostles have entered into new marriage relations—polygamous relations—since the manifesto?

Mr. LYNCH. I have heard it through the press; yes, sir; I have read it through the press.

Senator DUBOIS. Have you ever known of the young Mormons protesting against the apostles having taken plural wives since the manifesto?

Mr. LYNCH. I have heard them deny it.

Senator DUBOIS. That is not my question. Have you ever heard them protest against it; that they wanted an investigation by the church of the matter?

Mr. LYNCH. I never heard of them asking the church to investigate it.

Senator DUBOIS. But they have protested to you?

Mr. LYNCH. Yes, sir.

Mr. VAN COTT. Mr. Chairman, we should like to have Mr. Lynch excused. He has been wired for from Utah, and we have put him on a little out of the regular order in order to facilitate his return.

The CHAIRMAN. Mr. Tayler, will you want the witness any more?

Mr. TAYLER. Mr. Chairman, this witness seems to have been brought here for the purpose of discrediting Mr. Critchlow, who is a very reputable gentleman. He no doubt will be taken very much by surprise, and he may want us to make some inquiry about it. That is all this witness was brought here for, because Mr. Critchlow and others sent Angus M. Cannon here as a witness, as the chairman knows.

He was examined under oath, and he said that he had said that he was present and saw Joseph F. Smith marry Apostle Cannon to Lillian Hamlin, but that he had lied when he told Mr. Critchlow and Mr. Wilson, the cashier of the bank, that he had witnessed it.

Now, this witness is brought here for the purpose of implicating Mr. Critchlow in a corrupt design to suborn perjury. I think Mr. Critchlow may want to have us ask some questions.

The CHAIRMAN. You would like to have the witness retained?

Mr. TAYLER. I think he had better be retained.

Mr. WORTHINGTON. Is Mr. Critchlow in town?

Mr. TAYLER. No, sir; he is not. He is in Salt Lake.

The CHAIRMAN (to the witness). You will be obliged to remain for the present. You will be excused just as soon as you possibly can be.

Mr. LYNCH. Very well.

The CHAIRMAN. Who is the next witness?

Mr. WORTHINGTON. Call Mr. Dougall.

TESTIMONY OF HUGH M. DOUGALL.

HUGH M. DOUGALL, being duly sworn, was examined, and testified as follows:

Mr. WORTHINGTON. What is your age?

Mr. DOUGALL. Sixty-eight, nearly.

Mr. WORTHINGTON. Where do you live?

Mr. DOUGALL. Springville, Utah.

Mr. WORTHINGTON. How long have you lived there?

Mr. DOUGALL. Nearly fifty years.

Mr. WORTHINGTON. How far is that from Salt Lake?

Mr. DOUGALL. Fifty miles.

Mr. WORTHINGTON. How far is it from Provo?

Mr. DOUGALL. Six miles.

Mr. WORTHINGTON. What is your business at present?

Mr. DOUGALL. Now farming and cattle growing, and I am post-master of the little town I live in.

Mr. WORTHINGTON. Are you a Mormon?

Mr. DOUGALL. Not now.

Mr. WORTHINGTON. I infer from that that you were a Mormon at one time?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. You say you were a Mormon at one time?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. When?

Mr. DOUGALL. The connection ceased, I think, in 1874—in 1873 or 1874 or 1875, I am not certain in regard to the year.

Mr. WORTHINGTON. How did your connection with the church cease? Did you retire or were you—

Mr. DOUGALL. I was fired.

Mr. WORTHINGTON. You were put out?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. Since then have you been connected with any religious organization?

Mr. DOUGALL. Personally, no.

Mr. WORTHINGTON. In any way?

Mr. DOUGALL. My family are connected now with the Episcopal Church.

Mr. WORTHINGTON. Have you had occasion to go about in Utah during your time there?

Mr. DOUGALL. In central Utah, two counties. I am pretty well acquainted with Utah County and Sanpete County.

Mr. WORTHINGTON. You are pretty well acquainted in those counties?

Mr. DOUGALL. Very well in Utah and fairly well in Sanpete.

Mr. WORTHINGTON. With Mormons and non-Mormons?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. Have you mingled in politics at all?

Mr. DOUGALL. Yes, sir; in my own county.

Mr. WORTHINGTON. As a Republican or a Democrat?

Mr. DOUGALL. A Republican.

Mr. WORTHINGTON. Or something else?

Mr. DOUGALL. A Republican part of the time—since the Republican party was formed there after statehood. Prior to that with the Liberal party.

Mr. WORTHINGTON. Are you familiar with the political movements and affairs in those two counties?

Mr. DOUGALL. Yes, sir; fairly well.

Mr. WORTHINGTON. And the feeling among the Mormons and the non-Mormons there in regard to the question of polygamy which has been agitated so long?

Mr. DOUGALL. Yes, sir; I am pretty well acquainted with the feeling.

Mr. WORTHINGTON. What is the population of Springville?

Mr. DOUGALL. Thirty-five hundred. There is a little town that was cut off a few years ago—made a precinct. There are about 4,000 in Springville and Mapleton. It is substantially one town.

Mr. WORTHINGTON. Do you know personally or by reputation the polygamists who are living there?

Mr. DOUGALL. I know by common repute those who are supposed to live in polygamy.

Mr. WORTHINGTON. In your town of 3,500 inhabitants, how many men are living in polygamy, or are said to be?

Mr. DOUGALL. I can think of five.

Mr. WORTHINGTON. Only five?

Mr. DOUGALL. Yes.

Mr. WORTHINGTON. How does that number compare with what the situation was in that regard in 1890, at the time of the manifesto?

Mr. DOUGALL. I think there must have been two-thirds more at that time. They have died. The old people have died off, and the connection has ceased in that way generally.

Mr. WORTHINGTON. Do you mean to say, then, that it is decreasing?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. Have you heard by reputation or otherwise, anywhere in that region where you are acquainted of any new polygamous marriages since 1890?

Mr. DOUGALL. No, sir; I have not.

Mr. WORTHINGTON. What was your business when you separated from the church, or were separated from it?

Mr. DOUGALL. At that time I had a flour and grist mill in Sanpete and a couple of sawmills.

Mr. WORTHINGTON. And about how long after you were expelled from the church did you carry on that business?

Mr. DOUGALL. I did right along.

Mr. WORTHINGTON. For how long?

Mr. DOUGALL. For about ten years.

Mr. WORTHINGTON. Ten years?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. Are those Mormon counties, or counties where the majority of the inhabitants are Mormons?

Mr. DOUGALL. Yes, sir. In Utah the great majority of the inhabitants are Mormons, and in Sanpete more so, particularly at that time, almost all Mormons.

Mr. WORTHINGTON. Then your customers were largely, or almost altogether, among the Mormons?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. What effect did the fact that you had been expelled from the church have on your business; were you ostracized?

Mr. DOUGALL. No, sir; it did not hurt me one particle.

Senator DUBOIS. When was he expelled?

Mr. DOUGALL. I was expelled in 1874 or 1875.

Mr. WORTHINGTON. You say you are in touch with politics there. What has been your observation as to whether the church interferes in political matters?

~~Mr. DOUGALL. Since the marriage—since the agreement that the~~
church made to keep out of politics, I have seen little or none.

Mr. WORTHINGTON. That was in 1890?

Mr. DOUGALL. 1890, I believe. But I could not say about that, because I belonged to the Liberal party until six or eight months before their final disbandment.

Mr. WORTHINGTON. You belonged to the anti-Mormon party before the people divided on the ordinary party lines?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. Let me ask you, particularly during the last few years, since Joseph F. Smith became president of the organization, whether you have observed any indication at all that the church, as a church, has interfered in politics?

Mr. DOUGALL. The reputation in our end of the country is that Joseph F. Smith keeps strictly out of politics.

Mr. WORTHINGTON. According to what you have learned by common repute, is that true?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. How do you find the Mormons as voters, so far as regards standing by their party?

Mr. DOUGALL. They usually stand pat.

Mr. WORTHINGTON. You can usually count upon a Mormon Republican to vote the Republican ticket?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. And a Mormon Democrat to vote the Democratic ticket?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. When you were a Mormon did you go through the ceremony which is called "taking the endowments?"

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. And when did you do that?

Mr. DOUGALL. In 1862.

Mr. WORTHINGTON. How old were you then?

Mr. DOUGALL. About 25 years old.

Mr. WORTHINGTON. Twenty-five?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. Was that before or after you were married?

Mr. DOUGALL. I went there to be married.

Mr. WORTHINGTON. Did you take your endowments at any other time than on this occasion when you were 25 years old?

Mr. DOUGALL. No, sir.

Mr. WORTHINGTON. Where did you take them?

Mr. DOUGALL. In the old Endowment House in Salt Lake.

Mr. WORTHINGTON. In the Endowment House in Salt Lake?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. Have you a recollection of what transpired when you took your endowments?

Mr. DOUGALL. I have a general recollection. I could not give—

The CHAIRMAN. We can not hear the answer.

Mr. DOUGALL. I could not give, even if I tried, the whole detail.

Mr. WORTHINGTON. I want to ask you whether on that occasion this or anything like it happened. First let me ask you, did others go through with you?

Mr. DOUGALL. Oh, yes; there were 150 went through that same day, I should judge.

Mr. WORTHINGTON. I want to ask you whether you, or any of those who went through with you, to your knowledge, were called upon to agree to what I now read, or to it in substance:

"That you, and each of you, do promise and vow that you will never cease to importune High Heaven to avenge the blood of the prophets upon this nation."

Mr. DOUGALL. No, sir.

Mr. WORTHINGTON. Did anything like that occur?

Mr. DOUGALL. Well, as I remember, there is something that might possibly have resembled that.

The CHAIRMAN. We can not hear the witness.

Mr. DOUGALL. There was something, as I remember, that might have led one to believe that such a thing was being done. As I remember it, they importuned Heaven to avenge the blood of the prophets and the martyrs on this generation, I think.

Mr. WORTHINGTON. "On this generation?"

Mr. DOUGALL. I think so; that is as near as I can remember. I would not vouch for that being correct; nothing in regard to this nation.

Mr. TAYLER. This generation?

Mr. DOUGALL. As I remember it.

Mr. WORTHINGTON. Did anything draw your attention particularly to that part of the ceremony?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. What was it?

Mr. DOUGALL. Previous to going there I had read a book that purported to give an exposé of the Mormon endowment ceremony, and among them was an obligation that you took, some obligation of disloyalty or enmity to this Government. I was looking out particularly for that particular point.

Mr. WORTHINGTON. You were looking for it?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. Did it come?

Mr. DOUGALL. No, sir.

Mr. WORTHINGTON. Was there anything of that nature in the ceremony?

Mr. DOUGALL. No, sir.

Mr. WORTHINGTON. Do you remember whether there was anything about Joseph Smith?

Mr. DOUGALL. There was not a thing I remember. I do not remember his name being mentioned at all.

Mr. WORTHINGTON. I do not know whether you care to answer it, but I will ask you if you belong to any organizations which are commonly called secret organizations?

Mr. DOUGALL. I am a Forester now and have been associated with the United Workmen, and at one time to another secret association we had in Utah. We called it the Liberal League.

Mr. WORTHINGTON. Was that anti-Mormon?

Mr. DOUGALL. Anti-Mormon thoroughly.

Mr. WORTHINGTON. That was secret?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. Was it not the Loyal League instead of the Liberal League?

Mr. DOUGALL. Yes, sir; the Loyal League; that was it.

Mr. WORTHINGTON. Have you been in the legislature of the State? I did not ask you that question heretofore.

Mr. DOUGALL. I served one term in the legislature.

Mr. WORTHINGTON. When was that?

Mr. DOUGALL. 1894.

Mr. WORTHINGTON. Since you were expelled from the church have you been a candidate for office?

Mr. DOUGALL. No; except that once—that time I ran for the legislature, in 1894.

Mr. WORTHINGTON. From what county?

Mr. DOUGALL. Utah county.

Mr. WORTHINGTON. Who was your opponent?

Mr. DOUGALL. Mr. Robertson, a Democrat. I was elected on the Republican ticket.

Mr. WORTHINGTON. Was he a Mormon or a non-Mormon?

Mr. DOUGALL. A Mormon.

Mr. WORTHINGTON. And you, a man who had been expelled from the Mormon Church, in that county, which is composed largely of Mormons, beat a Mormon for the legislature?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. How did you run with the rest of the candidates on your ticket in that county?

Mr. DOUGALL. Only he and I were in the race in that particular district.

Mr. WORTHINGTON. But were there not other candidates for other offices on your ticket?

Mr. DOUGALL. I think that was a special election. I do not remember. [After a pause] No; it was not. No; I did not run quite up to the ticket.

Mr. WORTHINGTON. How far did you run behind?

Mr. DOUGALL. Fifteen or 20 or 30 votes.

Mr. WORTHINGTON. Fifteen or 20 or 30 votes?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. Can you give the committee any explanation why it is, although it appears to be admitted that in your locality there are some people who are living in polygamous relations, or are reputed to be living in that way, nothing is done about it?

Mr. DOUGALL. Well, the most people there are perfectly willing to let the older cases go and let them die out; naturally die out.

Mr. WORTHINGTON. Would you say that is the general feeling in the part of the State where you are acquainted?

Mr. DOUGALL. The general feeling in the part of the State where I live, particularly in my vicinity.

Mr. WORTHINGTON. How long has that sentiment existed?

Mr. DOUGALL. Shortly after the amnesty proclamation of President Harrison.

Mr. WORTHINGTON. It has continued down to this time?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. Then when Reed Smoot became an apostle, which was in April, 1900, that was an established status of affairs in your State?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. By the general consent of the community?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. That is all.

Mr. TAYLER. The amnesty proclamation of President Harrison was based upon the promise of the people that they would no longer live in plural relations, was it not?

Mr. DOUGALL. Yes, sir.

Mr. TAYLER. And ever since that proclamation was issued, based upon obedience to the law by the polygamous husbands, you have been perfectly satisfied that they should go on and violate the law?

Mr. DOUGALL. I have.

Mr. TAYLER. And violate the proclamation?

Mr. DOUGALL. Yes, sir; I have.

Mr. TAYLER. You have?

Mr. DOUGALL. Yes, sir.

Mr. TAYLER. Exactly. You know Mr. Harmer?

Mr. DOUGALL. Yes, sir.

Mr. TAYLER. He is a polygamist?

Mr. DOUGALL. Yes, sir; so I understand.

Mr. TAYLER. How many wives has he?

Mr. DOUGALL. Two, by common repute. I do not know that he has.

Mr. TAYLER. Has he any other companion by common repute other than his two wives?

Mr. DOUGALL. Yes, sir; so I understand. I did not know that, though, until after it was published.

Mr. TAYLER. You live in the same place he does?

Mr. DOUGALL. Yes, sir; I do.

Mr. TAYLER. How long has he lived there?

Mr. DOUGALL. He has lived there all his life. He was born there.

Mr. TAYLER. You have lived there how long?

Mr. DOUGALL. Fifty years nearly.

Mr. TAYLER. He is not an old man, is he?

Mr. DOUGALL. Harmer?

Mr. TAYLER. Yes.

Mr. DOUGALL. No; he is a man I should think about 40 or 45.

Mr. TAYLER. It is popularly known that he is living with two wives and another woman right in your town?

Mr. DOUGALL. Living with two wives, and I presume he is living with the other woman. He has that common repute. Incidentally I do not know the woman you have reference to. I know the family. I know her sisters.

Mr. TAYLER. Whose sisters?

Mr. DOUGALL. This woman's sisters that Harmer is accused of living with.

Mr. TAYLER. What is their name?

Mr. DOUGALL. Anderson.

Mr. TAYLER. Are they nice people?

Mr. DOUGALL. They appear to be. They live on their farm down a mile and a half below town. I am postmaster, and the reason why I know the girls, her sisters—three or four of them. They say there is a large family of girls, and this woman's mail, if she gets any, comes in the name of Anderson. But I do not know her distinct from her sisters—from two or three of her sisters.

Mr. TAYLER. She is not reputed to be a woman wanting in chastity, is she?

Mr. DOUGALL. No, sir.

Mr. TAYLER. Harmer was prosecuted some years ago.

Mr. DOUGALL. Yes, sir; and plead guilty to adultery, and served in the penitentiary.

Mr. TAYLER. And since that time has he continued to live with this woman?

Mr. DOUGALL. So reputed.

Mr. TAYLER. Do you know how long he remained in the penitentiary?

Mr. DOUGALL. Something less than a year. The sentence was for a year.

Mr. TAYLER. Was he pardoned?

Mr. DOUGALL. My impression is that he was.

Mr. TAYLER. Did you petition for his pardon, with others?

Mr. DOUGALL. Well, sir, I do not remember; but if that petition was presented to me I undoubtedly signed it.

Mr. TAYLER. You undoubtedly signed it?

Mr. DOUGALL. Yes, sir.

The CHAIRMAN. Let me ask you a question. Who was governor of the State at the time?

Mr. DOUGALL. Governor Wells.

The CHAIRMAN. Is he a Mormon?

Mr. DOUGALL. Yes, sir.

The CHAIRMAN. Go on, Mr. Tayler.

Mr. TAYLER. You think there are now only about five polygamists living in Springville?

Mr. DOUGALL. I can not think of more.

Mr. TAYLER. How many wives have they—how many will they average—two, or three, or four?

Mr. DOUGALL. I think, outside of Harmer, with his woman, as you say, the ones I have heard of have two each.

Mr. TAYLER. You say that as you remember this obligation, it was that the blood of the prophets should be avenged on this generation.

Mr. DOUGALL. Well, to ask God to avenge the blood—

The CHAIRMAN. We can not hear you at all.

Mr. DOUGALL. To ask God to avenge the blood of the prophets and martyrs on this generation. That is the way I remember it. It may not be correct.

Mr. TAYLER. What did you understand was meant by the "prophets?"

Mr. DOUGALL. I do not know.

Mr. TAYLER. Had the oath no meaning to you?

Mr. DOUGALL. No; it had no meaning in that connection. I was looking for something else.

Mr. TAYLER. You did not know whether it meant Joseph Smith or not?

Mr. DOUGALL. No. I do not know who it meant.

Mr. TAYLER. Who are the martyrs in the Mormon Church?

Mr. DOUGALL. In the Mormon Church?

Mr. TAYLER. Yes.

Mr. DOUGALL. I suppose Joseph Smith and Hyrum Smith.

Mr. TAYLER. And who are the prophets in the Mormon Church?

Mr. DOUGALL. Joseph Smith and Hyrum Smith, who have been martyred, I presume. I do not know anything more.

Mr. TAYLER. What did you understand "this generation" to mean?

Mr. DOUGALL. I do not know that I understood it to mean much.

Mr. TAYLER. Much?

Mr. DOUGALL. No. I was there that day to be married. That was my principal business.

Mr. TAYLER. And you were more interested in that than in the other?

Mr. DOUGALL. Yes, sir.

Mr. TAYLER. I understood you to say you were watching out very carefully for this obligation.

Mr. DOUGALL. I was; for the obligation of disloyalty to the Government.

Mr. TAYLER. Exactly.

Mr. DOUGALL. Yes, sir.

Mr. TAYLER. But you did not inquire of anybody what was meant by the expression "this generation?"

Mr. DOUGALL. I have inquired since—since this discussion came up—and I am told that it was in the lecture that this was inculcated, and that it was from some chapter in Revelation—copied from that. I do not remember. I have told what I remember.

Mr. TAYLER. When you prayed God to avenge on this generation, you did not interpret it to mean that it was to avenge on the Mormon Church, did you, or on the Mormon people?

Mr. DOUGALL. No, sir; certainly not.

Mr. TAYLER. Or upon the inhabitants of China?

Mr. DOUGALL. No.

Mr. TAYLER. You did not stop to think about it at all?

Mr. DOUGALL. Very little, Mr. Tayler.

Mr. TAYLER. Was this a plural marriage that you were entering into?

Mr. DOUGALL. No, sir.

Mr. TAYLER. Were you ever a polygamist?

Mr. DOUGALL. No, sir.

Mr. TAYLER. That is all.

The CHAIRMAN. You say there were several who took this at the same time?

Mr. DOUGALL. Yes, sir. The rooms were crowded—filled full.

The CHAIRMAN. How long did it take to perform the ceremony?

Mr. DOUGALL. It took from probably early in the morning till about 4 o'clock—from, say, 8 or 9 o'clock in the morning until 4 o'clock in the afternoon.

The CHAIRMAN. A very lengthy ceremony?

Mr. DOUGALL. Yes, sir.

The CHAIRMAN. Can you tell the committee what it was?

Mr. DOUGALL. No, sir.

The CHAIRMAN. Why not?

Mr. DOUGALL. Conscientious scruples. I have promised secrecy. I have kept it for forty years or more, and feel under moral obligation to keep it.

The CHAIRMAN. Were you sworn to secrecy?

Mr. DOUGALL. I think so. As I remember it, I was. I think so.

The CHAIRMAN. You were obligated to secrecy?

Mr. DOUGALL. Yes, sir.

The CHAIRMAN. Never to reveal what occurred in the Endowment House while you were there?

Mr. DOUGALL. That is right.

The CHAIRMAN. Was there any penalty attached if you did reveal it?

Mr. DOUGALL. I think there was.

The CHAIRMAN. What was it?

Mr. DOUGALL. I do not care about saying what it was, Mr. Burrows.

The CHAIRMAN. You decline to state what the penalty was?

Mr. DOUGALL. Yes, sir.

The CHAIRMAN. Was it a severe penalty?

Mr. DOUGALL. As my memory goes, I think it was.

The CHAIRMAN. Was it a penalty of death?

Mr. DOUGALL. I do not think that I care about answering any more questions on that point, Senator.

The CHAIRMAN. All who were present that day, going through that ceremony, were obligated to secrecy the same as you were?

Mr. DOUGALL. Yes, sir.

The CHAIRMAN. You have stated your recollection as to a portion of the ceremony, and you decline to state the whole of the ceremony?

Mr. DOUGALL. Yes, sir.

The CHAIRMAN. You were married at that time?

Mr. DOUGALL. I was married that day.

The CHAIRMAN. Do persons marrying in the Endowment House take this obligation?

Mr. DOUGALL. Yes, sir.

The CHAIRMAN. Are they all obliged to take it?

Mr. DOUGALL. If they go through the endowments, I presume they are.

The CHAIRMAN. If they are married in the Temple or in the Endowment House are they obliged to take these endowments?

Mr. DOUGALL. They are obliged to take them before they can be married in the Endowment House. They may go any place and be married after they have taken the endowments.

The CHAIRMAN. But in order to be married in the Endowment House they must first take the endowments?

Mr. DOUGALL. Yes, sir.

Mr. TAYLER. Or before being married in the Temple?

Mr. DOUGALL. Yes, sir.

The CHAIRMAN. Were you and your wife dressed in your ordinary wearing apparel?

Mr. DOUGALL. Well, Senator, I think that is coming down to that part as to which I decline to answer.

The CHAIRMAN. You feel that under your oath of secrecy you can not disclose it?

Mr. DOUGALL. Yes, sir.

The CHAIRMAN. You would not want to state whether you wore garments with certain symbols on them, indicating the punishment to be inflicted on you, in the event of disclosure?

Mr. DOUGALL. No, sir; I would not.

The CHAIRMAN. Do you know whether that ceremony is continued up to the present time?

Mr. DOUGALL. I do not. I presume it is, but I do not know. It is forty years since I was there, Senator.

The CHAIRMAN. Is this a public ceremony?

Mr. DOUGALL. No, sir.

The CHAIRMAN. No one is permitted to be present except those who take the obligations?

Mr. DOUGALL. And the officers.

The CHAIRMAN. And the officers?

Mr. DOUGALL. Yes, sir.

The CHAIRMAN. Who officiated at the time you took the endowments?

Mr. DOUGALL (after a pause). I think it was Heber C. Kimball. There were a great many more. There were a great many.

The CHAIRMAN. Name the others who officiated.

Mr. DOUGALL. I could not do it, even if I was willing.

The CHAIRMAN. Could you not name any of the others?

Mr. DOUGALL. One man I can remember, and only one. That was J. V. Long, a man who died many years ago.

The CHAIRMAN. The other person is who?

Mr. WORTHINGTON. Heber C. Kimball.

Mr. DOUGALL. Heber C. Kimball.

The CHAIRMAN. What position did he hold in the church at that time?

Mr. DOUGALL. He was the next man to Brigham Young.

The CHAIRMAN. Let me ask you another question. I understand you to state that where the marriage was consummated in the Endowment House by the officials of the church it was necessary to take the endowments?

Mr. DOUGALL. Yes, sir.

The CHAIRMAN. Do you know whether the ceremony of marriage at that time was performed outside of the Endowment House?

Mr. DOUGALL. Which, for plural marriages?

The CHAIRMAN. Yes, sir; for any marriage.

Mr. DOUGALL. Oh, legal marriages could be performed anywhere, or by almost anyone, but plural marriages, marriages in the Mormon Church, could not be performed anywhere except in the Endowment House.

The CHAIRMAN. Marriages in the Mormon Church?

Mr. DOUGALL. Yes, sir.

The CHAIRMAN. What time did you say you left the church; the year?

Mr. DOUGALL. I was elected to the legislature in 1894.

The CHAIRMAN. No; I asked what time it was that you severed your connection with the church?

Mr. DOUGALL. It was in 1874 or 1875 or 1873; 1874 or 1875.

The CHAIRMAN. 1875?

Mr. DOUGALL. Yes, sir.

The CHAIRMAN. Thirty years ago?

Mr. DOUGALL. Yes, sir.

The CHAIRMAN. And this obligation you took at that time, although you have severed your connection with the church, is of such a character that you can not reveal what occurred?

Mr. DOUGALL. I never revealed a thing of it; kept it secret from

the time I took it, and have conscientious scruples about divulging it now or ever.

The CHAIRMAN. That is all.

Mr. WORTHINGTON. In reference to this matter of the persons who are referred to by the terms "prophets" and "martyrs," do you not know that the Mormon people accept the Old and New Testament of what is commonly called the Christian Bible as part of their fundamental doctrine?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. Have you any reason to suppose that the prophets and martyrs there referred to may not be the prophets and martyrs referred to in the Christian Bible?

Mr. DOUGALL. I think it is probable.

Mr. WORTHINGTON. There was no explanation made at the time?

Mr. DOUGALL. No, sir.

Mr. WORTHINGTON. So that we can tell as well as they could what probably was meant?

Mr. DOUGALL. That is right.

Mr. WORTHINGTON. As to Mr. Harmer, he was expelled from the church as well as sent to the penitentiary for adultery?

Mr. DOUGALL. He was expelled from his office in the church. If he has been expelled from the church I do not know it.

Mr. WORTHINGTON. What was his office?

Mr. DOUGALL. Bishop.

Mr. WORTHINGTON. Bishop of a ward?

Mr. DOUGALL. Bishop of one ward in the village.

Mr. WORTHINGTON. As to the woman with whom he is said to have lived besides his two wives, you say that she has the reputation of a chaste woman?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. What do you mean by that, inasmuch as it appears that she has had a child by him?

Mr. DOUGALL. As against being a common woman of the town.

Mr. WORTHINGTON. I understand. Now, when did you first learn that he is said to have lived with this woman after he got out of the penitentiary?

Mr. DOUGALL. After he came out of the penitentiary?

Mr. WORTHINGTON. Yes.

Mr. DOUGALL. I did not hear a thing of it until about a month ago—six weeks ago, may be.

Mr. WORTHINGTON. It was not a matter of common knowledge and reputation in your community?

Mr. DOUGALL. No, sir.

Mr. WORTHINGTON. Or you would have heard it?

Mr. DOUGALL. When I heard it last, it was told me, I think, by the sheriff of our county.

Mr. WORTHINGTON. What the sheriff told you was that he had testified to that fact here?

Mr. DOUGALL. That Harmer had?

Mr. WORTHINGTON. Yes.

Mr. DOUGALL. Yes.

Mr. WORTHINGTON. That is the way you learned it?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. You did not learn it by common reputation?

Mr. DOUGALL. No. But I suppose I could have learned it that way. The sheriff happened to tell me. It was the sheriff who told me.

Mr. WORTHINGTON. I understand you to say the sheriff told you, and what he told you was that Harmer had testified to that here?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. You never heard of it before?

Mr. DOUGALL. I did not happen to read Harmer's testimony here.

Mr. WORTHINGTON. You had never heard that he had gone to living with this woman or having the same sort of relations with her after he got out of the penitentiary until you learned it through the testimony he gave here?

Mr. DOUGALL. That is right.

Mr. WORTHINGTON. You said you had an impression he had been pardoned. Can you give us any idea where you got that impression? Is it not a fact that a petition for a pardon was filed, and he was not pardoned?

Mr. DOUGALL. He was not pardoned?

Mr. WORTHINGTON. Is not that the fact?

Mr. DOUGALL. I do not know. I am vague on that point.

Mr. WORTHINGTON. You spoke of his being pardoned, and the governor being a Mormon. Do you not know that in Utah the pardoning power is vested in a board composed of the governor, the three judges of the supreme court, and the attorney-general?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. And the judges of the supreme court are all non-Mormons?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. And the attorney-general?

Mr. DOUGALL. Yes, sir; Breedon.

Mr. WORTHINGTON. Now, about the obligation of secrecy that has been spoken of and questions addressed to you about it; was it an oath?

Mr. DOUGALL. Sir?

Mr. WORTHINGTON. Was the obligation of secrecy which you took when you went through the endowment ceremony in the nature of an oath? It has been referred to as an oath in questions which have been propounded to you.

Mr. DOUGALL. I do not remember. I know there was an obligation of secrecy, but whether directly an oath or not, I do not remember.

Mr. WORTHINGTON. Do any of the other secret societies which you have testified you are connected with have an obligation of secrecy?

Mr. DOUGALL. Yes, sir.

Mr. WORTHINGTON. Would you be willing to reveal here what transpires in those ceremonies?

Mr. DOUGALL. No, sir.

Mr. WORTHINGTON. Is the obligation which you took when you took your endowments any different, in your mind, in its nature or binding effect upon you, than when you went through the ceremony with respect to the other secret societies?

Mr. DOUGALL. It would not have any more effect upon me, but the ceremony was different.

Mr. WORTHINGTON. Of course. But I mean is the conscientious

obligation of secrecy which you say you feel any different in relation to what transpired in the Mormon Church ceremony from what transpired in a secret society?

Mr. DOUGALL. Not a bit, so far as the secrecy is concerned.

Mr. WORTHINGTON. Would you mind answering whether in the other secret societies there is any penalty imposed for a violation of the obligation of secrecy?

Mr. DOUGALL. I do not remember any?

Mr. WORTHINGTON. You do not remember any?

Mr. DOUGALL. No.

Mr. WORTHINGTON. That is all.

The CHAIRMAN. But you do remember that there is a penalty for this obligation?

Mr. DOUGALL. In the Mormon Church?

The CHAIRMAN. Yes.

Mr. DOUGALL. Yes, sir.

The CHAIRMAN. Have you any questions, Mr. Tayler?

Mr. TAYLER. No.

The CHAIRMAN. Who is the next witness?

Mr. WORTHINGTON. Call Mr. Noon.

TESTIMONY OF ALONZO ARTHUR NOON.

ALONZO ARTHUR NOON, being duly sworn, was examined, and testified as follows:

Mr. WORTHINGTON. What is your age?

Mr. NOON. I will be 68 the 28th of June of this year.

Mr. WORTHINGTON. Where do you live?

Mr. NOON. In Provo.

Mr. WORTHINGTON. Utah?

Mr. NOON. Yes, sir.

Mr. WORTHINGTON. How long have you lived in that town?

Mr. NOON. I have lived in that town about thirty-five years.

Mr. WORTHINGTON. You are a townsman of Senator Smoot, and have been for a long time?

Mr. NOON. I have, sir.

Mr. WORTHINGTON. Have you known him since you have been there?

Mr. NOON. I have known him since he was a boy.

Mr. WORTHINGTON. You know him well?

Mr. NOON. Yes, sir.

Mr. WORTHINGTON. Are you a Mormon?

Mr. NOON. I am not now a Mormon.

Mr. WORTHINGTON. When were you a Mormon?

Mr. NOON. I was a Mormon up to about 1870.

The CHAIRMAN. 1870?

Mr. NOON. Yes, sir.

Mr. WORTHINGTON. Was your separation from the church voluntary or involuntary?

Mr. NOON. Decidedly voluntary.

Mr. WORTHINGTON. Was there a formal leave-taking of the church, or did you simply drift away?

Mr. NOON. I just left the church.

Mr. WORTHINGTON. Did you give notice to your bishop?

Mr. NOON. In talking over the matter I did.

Mr. WORTHINGTON. You told him you had left?

Mr. NOON. I disbelieved in modern revelations. I began to disbelieve it, and finally it impressed me so thoroughly that I entirely disbelieved it.

Mr. WORTHINGTON. Did you tell him to consider you no longer a member of the Mormon Church?

Mr. NOON. He did so.

Mr. WORTHINGTON. Since that time have you been affiliated with any religious organization?

Mr. NOON. Yes.

Mr. WORTHINGTON. What?

Mr. NOON. I have not been a member of any organization, but my family—of course, I have quite a large family—have been associated with the Christian church in Provo—first the Methodist Church, and finally they took their choice, the Congregational.

Mr. WORTHINGTON. In view of your remarks that you have a large family, I must ask you whether you have more than one wife?

Mr. NOON. No, sir; one wife is all I wanted, and I had family enough by the one.

Mr. WORTHINGTON. Have you taken part in political affairs in your county?

Mr. NOON. I have, sir.

Mr. WORTHINGTON. In what way?

Mr. NOON. Oh, in a general way, as a citizen.

Mr. WORTHINGTON. Have you attended political conventions?

Mr. NOON. I have, sir.

Mr. WORTHINGTON. As a Democrat or a Republican?

Mr. NOON. As a Republican.

Mr. WORTHINGTON. Say, since 1890—I do not care to go back into ancient history—what conventions have you attended?

Mr. NOON. I have attended almost all the county conventions and city conventions.

Mr. WORTHINGTON. You mean the Republican conventions?

Mr. NOON. As a Republican.

Mr. WORTHINGTON. I mean Republican county and city conventions?

Mr. NOON. Yes, sir; I never was a Democrat.

Mr. WORTHINGTON. Have you attended them as a member or in some other capacity?

Mr. NOON. I have attended sometimes as one of the members, one of the delegates, etc. I can not remember each one, because we have had a good many since then.

Mr. WORTHINGTON. Have you kept in touch at all with State politics?

Mr. NOON. In what way?

Mr. WORTHINGTON. Have you kept yourself informed about what was going on in the State in reference to political matters?

Mr. NOON. Oh, in a general way.

Mr. WORTHINGTON. Have you gone out through the State at all?

Mr. NOON. No, sir; not as a lecturer.

Mr. WORTHINGTON. Do you hold any office?

Mr. NOON. I do.

Mr. WORTHINGTON. What office?

Mr. NOON. I hold office as justice of the peace of Provo City and also the precinct justice of the same precinct. I hold the two offices.

Mr. WORTHINGTON. How long have you been a justice of the peace in that town?

Mr. NOON. Since 1890, with the exception of two years. That is the time of the Bryan wave, when I was let out.

Mr. WORTHINGTON. In 1896, when everybody was swept out?

Mr. NOON. Yes, sir; at that time.

Mr. WORTHINGTON. For how long a term are you elected? I want to find out how often you have had to go before those people for their suffrages.

Mr. NOON. Every two years.

Mr. WORTHINGTON. Since 1890 you have been a candidate every two years?

Mr. NOON. With the exception of two years.

Mr. WORTHINGTON. You were a candidate then?

Mr. NOON. Yes, sir.

Mr. WORTHINGTON. But got left?

Mr. NOON. Yes, sir; I was a candidate each time.

Mr. WORTHINGTON. That is a Mormon community?

Mr. NOON. Yes, sir; decidedly so.

Mr. WORTHINGTON. It has been said that about 70 per cent are Mormons. Do you agree with that?

Mr. NOON. Yes, sir; I presume that is right.

Mr. WORTHINGTON. And as a man who had left the Mormon Church you have had to run in that Mormon community?

Mr. NOON. I hardly understand you.

Mr. WORTHINGTON. Let the stenographer read the question.

The reporter read as follows:

"Mr. WORTHINGTON. And as a man who had left the Mormon Church you have had to run in that Mormon community?"

Mr. NOON. As a public officer.

Mr. WORTHINGTON. I mean in the way of getting votes. You have been elected every time, you have said, except in 1896?

Mr. NOON. Yes, sir.

Mr. WORTHINGTON. When all the Republicans went down? At other times how have you run with your ticket?

Mr. NOON. I have always run over the ticket. Democratic or Republican, I have never been under my ticket. Everybody seemed to vote for me.

Mr. WORTHINGTON. What is your observation, in the range with which you are familiar, as to whether the Mormon voters adhere pretty closely to their political parties or are instructed and governed by the church as to the way they shall vote?

Mr. NOON. I do not believe they are instructed at all.

Mr. WORTHINGTON. Can you give us any idea of what leads you to that conclusion?

Mr. NOON. Because they are naturally free in their way of life and independent.

Mr. WORTHINGTON. Some of them are Republicans and some Democrats?

Mr. NOON. Yes, sir; they are all kinds.

Mr. WORTHINGTON. And those, you say, who are Democrats generally adhere to their party, and vice versa?

Mr. NOON. Most assuredly.

Mr. WORTHINGTON. Have you seen any indications at all in your time there since the division on party lines that the church has been interfering in political matters at all?

Mr. NOON. No, sir; I have not seen it.

Mr. WORTHINGTON. From your acquaintance with the Mormon people, what would you say as to whether the Mormon voters would yield to dictation from the superior officers of the church as to how they should vote?

Mr. NOON. From my conversations with the people I think they would shun it with scorn under present conditions.

Mr. WORTHINGTON. You think they would not take instructions from anybody as to how they should exercise the privileges of American citizenship?

Mr. NOON. No, sir. I think their characters are too independent—since the manifesto.

Mr. WORTHINGTON. I mean since the division on party lines?

Mr. NOON. That is what I mean—since the division on party lines.

Mr. WORTHINGTON. We all understand that before that is was Mormon and anti-Mormon.

Mr. NOON. They are very free and outspoken and say what they think, and they do it.

Mr. WORTHINGTON. Have you any knowledge, by reputation or otherwise, that there are Mormons living in your vicinity who have plural wives and live with them?

Mr. NOON. Well, by report only.

Mr. WORTHINGTON. By report only?

Mr. NOON. Yes, sir. That is, there are one or two who I presume live with their wives, their plural wives.

Mr. WORTHINGTON. What is the population of Provo?

Mr. NOON. They are old people, though.

Mr. WORTHINGTON. What is the population of Provo?

Mr. NOON. I think the last census was 7,000.

Mr. WORTHINGTON. Seven thousand?

Mr. NOON. I think so; 7,000; but I think it will go over that now.

Mr. WORTHINGTON. By reputation, how many men have plural wives in that community?

Mr. NOON. There might be five or six, for what I know. I know of no others.

Mr. WORTHINGTON. What is the reputation as to whether they live with their plural wives?

Mr. NOON. Some of them are dead that I am now speaking of.

Mr. WORTHINGTON. Some of the wives?

Mr. NOON. Some of the men; maybe some of the ladies are dead for all I know.

Mr. WORTHINGTON. I am asking about the present time, as to how many living polygamists there are.

Mr. NOON. Only about three.

Mr. WORTHINGTON. Only three?

Mr. NOON. Yes, sir.

Mr. WORTHINGTON. So far as your information goes, do they live with their plural wives?

Mr. NOON. I presume they do; I do not know.

Mr. WORTHINGTON. They are old people, you say?

Mr. NOON. Yes, sir.

Mr. WORTHINGTON. How old?

Mr. NOON. They are older than I am. There is one younger man, if I remember aright. But there are one or two who are older than I.

Mr. WORTHINGTON. How does the situation in that regard at Provo compare with what it was in 1890, as to the number of polygamists?

Mr. NOON. Very much less.

Mr. WORTHINGTON. How many less?

Mr. NOON. I can hardly remember all of them, but two or three I know are dead; never a great many.

Mr. WORTHINGTON. Never?

Mr. NOON. Not that I can remember, and I knew them pretty well.

Mr. WORTHINGTON. Has it come to your knowledge, by reputation or otherwise, that there have been any new polygamous marriages in that vicinity since the manifesto?

Mr. NOON. No, sir. I have never heard of any.

Mr. WORTHINGTON. You would say it is dying out?

Mr. NOON. I certainly do not believe there is anything of the kind.

Mr. WORTHINGTON. What is the feeling among the Mormon people as to the matter of polygamy?

Mr. NOON. The young people that I talked with, and my family, and we talk occasionally, and most of my family—our daughters, and they are around amongst the young women more or less—from my knowledge and information and impressions, gained from remarks casually now and again, they do not indorse anything of the kind. They are glad to get rid of it. They consider it an incubus. They are glad it has gone.

Mr. WORTHINGTON. To go back to political matters for a moment, when you have run there as a candidate for justice of the peace, have you run against Mormons?

Mr. NOON. I have, certainly, against Mormons.

Mr. WORTHINGTON. Has there always been a Mormon against you?

Mr. NOON. At the last precinct election there was a young man. I do not know whether he was a Mormon or not. But at every other time always against Mormons.

Mr. WORTHINGTON. And, except in 1896, at every other election you have defeated the Mormon candidate?

Mr. NOON. Yes, sir; each one.

Mr. WORTHINGTON. Now, on the matter of polygamy, in view of the feeling among the Mormons there, what would you say would be the effect if President Smith were to undertake to promulgate a new revelation reestablishing polygamy?

Mr. NOON. They would not accept it.

The CHAIRMAN. What is that?

Mr. NOON. They would not accept it in any condition. I do not believe they would, from the remarks made to me and from my association with the people, and their feelings and expressions.

Mr. WORTHINGTON. Now, about Mr. Smoot. It has been said here that he was a man who was never thought of for high office in Utah until he became an apostle, which was in April, 1900. Can you give us any information about that?

Mr. NOON. I think he was a public man, and was thought of for office as soon as he was quite a young man.

Mr. WORTHINGTON. Prior to 1900, when he became an apostle?

Mr. NOON. I think so; to the best of my recollection.

Mr. WORTHINGTON. How soon after the division on party lines?

Mr. NOON. He was right in with us.

Mr. WORTHINGTON. From that time on?

Mr. NOON. From that time on until now.

Mr. WORTHINGTON. Were you surprised when you heard that he was talked of for Senator?

Mr. NOON. Oh, I do not know why I should be, especially.

Mr. WORTHINGTON. That is what I want to get at.

Mr. NOON. No, sir.

Mr. WORTHINGTON. It has been spoken of here as a matter of great surprise that he should be spoken of for that office?

Mr. NOON. He was a bright, intelligent young man, and I was glad that he was aiming for an office that might suit him.

Mr. WORTHINGTON. Was he a man who engaged in political affairs there?

Mr. NOON. Always in them, certainly; ever since he was a young man and able to do it.

Mr. WORTHINGTON. Did you take your endowments, as they are called, when you were a Mormon?

Mr. NOON. Yes, sir.

Mr. WORTHINGTON. Are you a Mason?

Mr. NOON. I am, sir. I have been one since 1863.

Mr. WORTHINGTON. Since 1863?

Mr. NOON. Yes, sir; I was made a Mason in Southern Africa.

Mr. WORTHINGTON. Have you been a member of that organization since?

Mr. NOON. I have been a charter member of a lodge in Provo.

Mr. WORTHINGTON. When did you take your endowments?

Mr. NOON. I took the endowments in 1865 or 1866; maybe 1866.

Mr. WORTHINGTON. Was that preliminary to your marriage or a part of the marriage ceremony?

Mr. NOON. I was married.

Mr. WORTHINGTON. How old were you when you took the endowments?

Mr. NOON. I must have been about 28—between that and 30.

Mr. WORTHINGTON. How long was it before you left the church because you did not believe in revelations?

Mr. NOON. I left about 1870.

Mr. WORTHINGTON. Have you a recollection of the endowment ceremony?

Mr. NOON. Well, partially, yes; I think I have.

Mr. WORTHINGTON. I want to ask you whether, in going through that ceremony, anything like this occurred. I want you to understand I am not asking you about these precise words, but anything like this, or in substance:

“That you and each of you do promise and vow that you will never cease to importune high heaven to avenge the blood of the prophets upon this nation?”

Mr. NOON. No, sir; it was not said.

Mr. WORTHINGTON. Was anything like that said?

Mr. NOON. No; not in those words.

Mr. WORTHINGTON. Was there anything that imported hostility to the country?

Mr. NOON. No, sir.

Mr. WORTHINGTON. To the United States?

Mr. NOON. No, sir.

Mr. WORTHINGTON. To the Government of the United States?

Mr. NOON. No, sir.

Mr. WORTHINGTON. Are you clear about that?

Mr. NOON. Yes, sir; I am perfectly clear about that.

Senator KNOX. Let the reporter read the questions and the answers. The reporter read as follows:

"Mr. WORTHINGTON. I want to ask you whether, in going through that ceremony, anything like this occurred. I want you to understand I am not asking you about these precise words, but anything like this, or in substance:

"That you and each of you do promise and vow that you will never cease to importune high heaven to avenge the blood of the prophets upon this nation?"

"Mr. NOON. No, sir; it was not said.

"Mr. WORTHINGTON. Was anything like that said?

"Mr. NOON. No; not in those words.

"Mr. WORTHINGTON. Was there anything that imported hostility to the country?

"Mr. NOON. No, sir.

"Mr. WORTHINGTON. To the United States?

"Mr. NOON. No, sir.

"Mr. WORTHINGTON. To the Government of the United States?

"Mr. NOON. No, sir.

"Mr. WORTHINGTON. Are you clear about that?

"Mr. NOON. Yes, sir; I am perfectly clear about that."

Mr. WORTHINGTON. Could you tell us whether or not there was anything said in that obligation about Joseph Smith?

Mr. NOON. I do not remember the name Joseph Smith being said.

Mr. WORTHINGTON. Do you remember whether anything was said about prophets or martyrs?

Mr. NOON. There is a quotation in the lecture given from part of the Scriptures. I think it was from Revelation somewhere.

Mr. WORTHINGTON. Have you any objection to stating what the substance of that obligation was, as you remember it?

Mr. NOON. As I understood it—it was in the course of the lecture—that it was simply a quotation from the Scriptures. The intent of its meaning I never took much interest in.

Mr. WORTHINGTON. Do you think you would recognize that quotation if you heard it again?

Mr. NOON. I think I would.

Mr. WORTHINGTON. Let me have a Bible. I read the ninth and tenth verses of the sixth chapter of Revelations:

"9. And when he had opened the fifth seal I saw under the altar the souls of them that were slain for the word of God, and for the testimony which they held.

"10. And they cried with a loud voice, saying, How long, O Lord, holy and true, dost thou not judge and avenge our blood on them that dwell on the earth?"

Mr. NOON. I think that was about the intent; something like that. Forty years is a long while to remember.

Mr. WORTHINGTON. I should like to be clear, or to have you clear

about it, as to whether there was anything indicating hostility to the Government in that obligation.

Mr. NOON. The very reverse. I have never heard any people taught only loyalty to the Government of the United States.

The CHAIRMAN. I do not remember the year that you said you took the endowment.

Mr. NOON. I think it was about 1866. I could not remember exactly the exact year, of course, keeping no dates.

Mr. WORTHINGTON. You can tell us what your age was when you were married?

Mr. NOON. Between 28 and 30.

Mr. WORTHINGTON. Where was the ceremony performed? In the Endowment House at Salt Lake?

Mr. NOON. Yes, sir; in Salt Lake.

Mr. WORTHINGTON. Do you remember who administered the obligation, who was the officiating priest?

Mr. NOON. Daniel H. Wells.

Mr. WORTHINGTON. He is now dead?

Mr. NOON. Who is now dead.

Mr. WORTHINGTON. He was the father of Governor Wells?

Mr. NOON. The father of Governor Wells.

Mr. WORTHINGTON. Cross-examine, brother Tayler.

Mr. TAYLER. He was one of the first presidency?

Mr. NOON. Yes, sir; he was one of the first presidency.

Mr. TAYLER. You took no obligation at all—

Mr. WORTHINGTON. There is one thing I should like to ask about.

Mr. TAYLER. Let me get an answer to this question. Did you take no obligation at all?

Mr. NOON. Obligation?

Mr. TAYLER. Yes.

Mr. NOON. Various obligations.

Mr. TAYLER. Did you not take an obligation in respect of this subject?

Mr. NOON. No; that was a lecture.

Mr. TAYLER. That was a lecture?

Mr. NOON. Yes, sir; I do not know how the matter was combined. I forget that.

Mr. TAYLER. Did you hear Mr. Dougall testify?

Mr. NOON. I did, sir.

Mr. TAYLER. Does your memory accord with his?

Mr. NOON. Well, I suppose it would in general.

Mr. TAYLER. What did Mr. Dougall say about it?

Mr. NOON. I do not remember what he said; I only know for myself.

Mr. TAYLER. You can not remember what he said fifteen minutes ago, and yet you are undertaking to say what occurred forty years ago?

Mr. NOON. There is a difference between remembering a person who has just spoken on some subject which you did not notice particularly and that which would be more particularly impressed on your mind.

Mr. TAYLER. Did you not say just a while ago that it did not have much impression on you?

Mr. NOON. What?

Mr. TAYLER. This particular part of the ceremony?

Mr. NOON. What part of it?

Mr. TAYLER. What part did not impress you?

Mr. NOON. It all more or less impressed me.

Mr. TAYLER. Which the least—this part?

Mr. NOON. As I stated before, that was in a lecture, and I noticed it among the rest.

Mr. TAYLER. Was there any sort of obligation taken that they were to pray Almighty God to avenge the blood of the prophets and martyrs upon this generation?

Mr. NOON. No, sir.

Mr. TAYLER. Do you remember whether Mr. Dougall said anything like that? Did he say anything like that?

Mr. NOON. I think he said they did not, if I remember aright.

Mr. TAYLER. So that if you were called upon to testify as to whether Mr. Dougall had said anything like that a few minutes ago you would say, "No; he never said anything of that sort?"

Mr. NOON. I should think so.

The CHAIRMAN. That he did not say so?

Mr. NOON. Yes.

The CHAIRMAN. That is your recollection?

Mr. NOON. That he said there was not such an obligation as that taken.

Mr. TAYLER. As that I have just read?

Mr. NOON. As that you have just read.

Mr. TAYLER. Who are the old men who are polygamists in Provo? [To Mr. Worthington:] If you want to ask a question you can do so now.

Mr. WORTHINGTON. Go on, and I will ask him later.

Mr. TAYLER. Who are the old men in Provo who are polygamists?

Mr. NOON. I only know one old man who is a polygamist in Provo.

Mr. TAYLER. I misunderstood you. I thought you said they were all old men.

Mr. NOON. When I come to think, there is one man, but I understand he is not now a polygamist, but I do not know.

Mr. TAYLER. What is his name?

Mr. NOON. One is Mr. S. S. Jones, but I think that he is not living with any of his wives; it is so reported.

Mr. TAYLER. He is not living with any of his wives?

Mr. NOON. No; I have heard it so reported.

Mr. TAYLER. Do you mean he has deserted them?

Mr. NOON. I do not know anything about that, whether he deserted them, or cares for them, or not.

Mr. TAYLER. Is he a respectable man?

Mr. NOON. Yes, sir; certainly.

Mr. TAYLER. Highly respectable?

Mr. NOON. Yes, sir; but keeping the law. I do not know——

Mr. TAYLER. Do people speak to him on the street?

Mr. NOON. Surely.

Mr. TAYLER. You know him, do you?

Mr. NOON. Yes.

Mr. TAYLER. What is his business?

Mr. NOON. He used to be a merchant.

Mr. TAYLER. Is he a member of the Mormon Church?

Mr. NOON. Of course.

Mr. TAYLER. Does he hold any position in the church?

Mr. NOON. I do not know. I am not a member of the church. I would not know that.

Mr. TAYLER. I suppose you know who the bishops are, and who the president of the stake is, and all that sort of thing, do you not—men who have public places?

Mr. NOON. Some I do. I take very little interest in the Mormon Church. I take very little interest in it, indeed.

Mr. TAYLER. Who besides Mr. Jones?

Mr. NOON. There is a gentleman by the name of Mr. David Johns. He is an old man.

Mr. TAYLER. He is an old man?

Mr. NOON. Yes, sir. All his family are married.

Mr. TAYLER. Who else?

Mr. NOON. I do not remember anyone else at present.

Mr. TAYLER. You do not?

Mr. NOON. No.

Mr. TAYLER. John C. Graham?

Mr. NOON. I had forgotten him.

Mr. TAYLER. Is he an old man?

Mr. NOON. He is a man of about my age, I think.

Mr. TAYLER. How many wives has he?

Mr. NOON. Personally, I do not know——

Mr. TAYLER. I know——

Mr. NOON. I know one wife personally.

Mr. TAYLER. What is the repute of the community?

Mr. NOON. He is reputed to have two wives.

Mr. TAYLER. Anybody else?

Mr. NOON. Yes; there is a man reputed to have two wives, but I do not know his family. I know him personally, simply by meeting him occasionally. That is young Mr. Bean. I forget his initials.

Mr. TAYLER. Young Mr. Bean?

Mr. NOON. Yes. I do not remember his name. I do not know it, indeed. I never asked.

Mr. TAYLER. There is Mr. Hickman?

Mr. NOON. I do not know him.

Mr. TAYLER. You have never heard of him?

Mr. NOON. I have heard people talk of him lately.

Mr. TAYLER. Have you heard of Mr. Brimhall?

Mr. NOON. Yes; of him also.

Mr. TAYLER. Have you heard of Ben Cluff?

Mr. NOON. I have heard of him, but I do not know much about him. I do not know much about any of these gentlemen.

Mr. TAYLER. Did you ever hear that he took a plural wife three or four years ago?

Mr. NOON. I heard it by newspaper report.

Mr. TAYLER. You never heard it in any other way?

Mr. NOON. No, sir.

Mr. TAYLER. It was not even talked about?

Mr. NOON. As I said before, I never talk about people in Provo myself.

Mr. TAYLER. That is what I supposed.

Mr. NOON. I never talk about them.

Mr. TAYLER. One of the cardinal dogmas of your community is "Mind your own business."

Mr. NOON. I think it is a good one.

Mr. TAYLER. A good one, an excellent one; and it is especially observed in your community, is it not?

Mr. NOON. Well, I do not know. So far as I am concerned, I generally mind my own business, because I have all I can do to do it.

Mr. TAYLER. The subject whether men take new plural wives is deeply seated in your heart and interest?

Mr. NOON. If they take new plural wives?

Mr. TAYLER. Is not that a matter of very deep personal concern to all your people, or is it, or do you mind your own business about it?

Mr. NOON. I would presume that I would mind my own business.

Mr. TAYLER. So that whether a man took an extra wife or two would not concern you?

Mr. NOON. I think the law is the proper place to go for that.

Mr. TAYLER. So that it would not be talked about?

Mr. NOON. I do not know.

Mr. TAYLER. You do not know that it would?

Mr. NOON. I never talk about——

Mr. TAYLER. And the fact that Ben Cluff, jr., president of the Brigham Young University, took a plural wife three or four years ago was not talked about at all, was it?

Mr. NOON. I think it was possibly talked about. I hear people talk, but I take no notice of it. I do not bother my head with the church.

The CHAIRMAN. Did I understand you to say you had held the office of justice of the peace?

Mr. NOON. Yes, sir.

The CHAIRMAN. From what time to what time?

Mr. NOON. From 1890 to the present time—I am now justice of the peace—with the exception of two years' interval.

The CHAIRMAN. Would your court, under the laws of Utah, have jurisdiction of complaints against polygamists for polygamous cohabitation?

Mr. NOON. As a precinct court it might possibly. I have never had any case of that kind in my court.

The CHAIRMAN. No complaint has ever been made to you as justice of the peace against persons living in polygamous cohabitation?

Mr. NOON. No, sir.

The CHAIRMAN. And yet such cases exist, as I have understood you to say?

Mr. NOON. Sir?

The CHAIRMAN. And yet there are such cases in your community?

Mr. NOON. As polygamy?

The CHAIRMAN. Yes.

Mr. NOON. I presume there are one or two of them.

The CHAIRMAN. You say that you took the endowments?

Mr. NOON. Yes, sir.

The CHAIRMAN. Were others with you at the same time?

Mr. NOON. Yes, sir; quite a few.

The CHAIRMAN. How many?

Mr. NOON. I could not begin to tell.

The CHAIRMAN. Were there ten thousand, five thousand, or a hundred?

Mr. NOON. Oh, I do not know. There may have been perhaps fifty or sixty; maybe more or less.

The CHAIRMAN. How long did the ceremony take?

Mr. NOON. It took, if I remember aright, from the morning about 10 or 11 o'clock, before we went out in the afternoon some time possibly.

The CHAIRMAN. Was there any change in your apparel in taking the ceremony?

Mr. NOON. I think that when a man enters into any organization, there are some matters associated with all organizations that are not public.

The CHAIRMAN. I am asking you about the ceremony you went through.

Mr. NOON. I should refuse to answer the question, Senator.

The CHAIRMAN. Why?

Mr. NOON. Because I think it would be improper to answer the question.

The CHAIRMAN. Why improper?

Mr. NOON. Because it would be endeavoring to reach, like any other secret organization, the form of the organization.

The CHAIRMAN. Then you regarded the organization at that time as a secret organization, of course?

Mr. NOON. I did.

The CHAIRMAN. Was there any penalty attached to the disclosure of the ceremony?

Mr. NOON. Yes; there was a penalty.

The CHAIRMAN. What?

Mr. NOON. There was a penalty attached.

The CHAIRMAN. What was it?

Mr. NOON. That is like any other question; it would be the same question, and I would not desire to answer it—as to what the penalty was.

The CHAIRMAN. You decline to state what the penalty was?

Mr. NOON. Yes; I think it is proper not to answer it.

The CHAIRMAN. Was it a severe penalty?

Mr. NOON. Fairly severe. I presume it would be like any other organization.

The CHAIRMAN. I am not talking about other organizations. I am asking you about this. Was the penalty a severe penalty? Was it a penalty of expulsion?

Mr. NOON. I believe that is a question I would refuse to answer.

The CHAIRMAN. What do you say as to the penalty being the tearing out of the tongue or the tearing open of the breasts and taking out the vitals? What do you say about that?

Mr. NOON. I answer the same as the other—that is, I would refuse to answer it.

The CHAIRMAN. You decline to answer it?

Mr. NOON. I decline to answer.

The CHAIRMAN. You say the young people are opposed to polygamy?

Mr. NOON. Yes, sir; I do.

The CHAIRMAN. Do you know of any movement in your community

among the young people—the young Mormons, I mean, in the church—in the nature of a protest to the church against the people continuing in polygamy?

Mr. NOON. No protest that I am aware of, but they speak plain enough.

The CHAIRMAN. I asked you if you know of any protests made to the church or to the officials of the church against the continuance of polygamy?

Mr. NOON. I know of no application or petition of that kind.

The CHAIRMAN. You say there has been no interference in politics on the part of the church since 1890?

Mr. NOON. No, sir; I never heard of it.

The CHAIRMAN. Was there before that?

Mr. NOON. People might possibly have the impression. Prejudices go a long way when they are opposed to each other. Their imaginations go a long way.

The CHAIRMAN. Answer my question, whether before 1890 it was generally understood that the church took an active part in politics?

Mr. NOON. Before the division in 1890 there were two parties. One was the People's Party, and the other the Liberal party, and they were antagonistic one to another, and fought extremely severely with each other. One was presumed the church party, and the other was the non-Mormon or Gentile party. That is all I know.

The CHAIRMAN (to the reporter). Now, will you read my question?

The reporter read as follows:

"The CHAIRMAN. Answer my question, whether before 1890 it was generally understood that the church took an active part in politics."

Mr. NOON. As a People's Party, they certainly did.

The CHAIRMAN. That is all.

Mr. WORTHINGTON. Why is it, Mr. Noon, if you know, that no efforts are made to prosecute these men who had plural wives before the manifesto and who are living in Provo?

Mr. NOON. I hardly understand the question.

Mr. WORTHINGTON. You have said there have been no prosecutions against these few men who you say took plural wives before the manifesto and are supposed to be living with them now. Why is it nothing is done to prosecute them?

Mr. NOON. I do not know, unless the officers of the law do not proceed.

Mr. WORTHINGTON. Do you know anything about the public sentiment in that community as to letting those people alone if there are no new plural marriages?

Mr. NOON. They let them alone because they consider they are old; that it would be kind of worrisome. They are about halfway in the grave, anyway. They do not want to worry them to death.

Mr. WORTHINGTON. Do you not know that a justice of the peace has no right to hear a criminal prosecution for polygamous cohabitation in your county? You have no right to hear such cases.

Mr. NOON. No, sir; I understand it.

Mr. WORTHINGTON. You understand you have no right?

Mr. NOON. Simply as a committing magistrate; that is, a precinct officer.

Mr. TAYLER. As a committing magistrate, you say?

Mr. NOON. Yes, sir; as a precinct officer.

Mr. TAYLER. I never heard of a justice of the peace having any other jurisdiction.

Mr. WORTHINGTON. Having any other jurisdiction?

Mr. TAYLER. In a criminal case.

Mr. NOON. Neither have I.

Mr. TAYLER. Except as a committing magistrate.

Mr. WORTHINGTON. You are not familiar with the procedure in the District of Columbia.

Mr. NOON. They have in small misdemeanors, but not in felonies.

Mr. WORTHINGTON. That is all.

TESTIMONY OF HUGH M. DOUGALL—Recalled.

Senator KNOX. I wish to ask Mr. Dougall a question.

Mr. WORTHINGTON. Mr. Dougall, take the stand.

HUGH M. DOUGALL, having been previously duly sworn, was examined, and testified as follows:

Senator KNOX. Mr. Dougall, having testified, when you were on the stand, that the vow taken by you in the Endowment House did not include an invocation of vengeance against this nation, are you willing to say whether the vow obligated you to anything incompatible with your giving full and supreme allegiance to the United States or the State of Utah or which obligated you to anything incompatible with your fully performing your duty as a citizen of the United States and of that State?

Mr. DOUGALL. Not one thing.

Senator KNOX. That is all.

TESTIMONY OF ALONZO ARTHUR NOON—Recalled.

Mr. VAN COTT. We should like to have Mr. Noon answer the same question.

The CHAIRMAN. Very well.

ALONZO ARTHUR NOON, having been previously duly sworn, was examined, and testified as follows:

Mr. VAN COTT. Mr. Noon, did you pay attention to the question just asked by Mr. Knox?

Mr. NOON. I did.

Mr. VAN COTT. What is your answer to it?

Mr. NOON. I heard nothing that would come in conflict with any duty that I might owe this Government.

Mr. VAN COTT. Can you answer "Yes" or "No" the whole question?

Mr. NOON. No, sir; certainly not.

TESTIMONY OF HUGH M. DOUGALL—Recalled.

The CHAIRMAN. I wish to ask Mr. Dougall a question.

HUGH M. DOUGALL, having been previously duly sworn, was examined, and testified as follows:

The CHAIRMAN. In answer to a question of Senator Knox you have said there was nothing in this obligation that would in any

way interfere with your allegiance to the State or nation. Why, then, do you refuse to disclose what it was?

Mr. DOUGALL. What the ceremonies were?

The CHAIRMAN. Yes.

Mr. DOUGALL. Because I took an obligation that I would keep it secret. I consider myself morally bound to do it.

The CHAIRMAN. You have already stated, have you not, Mr. Dougall, what the ceremony was, in part?

Mr. DOUGALL. Yes; in part—in reference to this martyr and prophet business.

The CHAIRMAN. You have stated some portion of the ceremony?

Mr. DOUGALL. Well, I presume so.

The CHAIRMAN. Now, in respect to this portion of the ceremony in relation to the obligation, you have denied in a negative way that it was an obligation hostile to the Government?

Mr. DOUGALL. Put that just as positive as you please, Senator.

The CHAIRMAN. Now, we want you to state to the committee what the obligation was, so that the committee may judge.

Mr. DOUGALL. What the obligation was?

The CHAIRMAN. Yes, sir. You have given your version of the obligation. Will you please state to the committee what the obligation was?

Mr. DOUGALL. Excuse me; I scarcely savvy you.

The CHAIRMAN. I beg pardon?

Mr. DOUGALL. I scarcely understand what you want to know.

The CHAIRMAN. You have told the character of this obligation and your version of it, and I am now asking you to state what the obligation was, so that the committee may judge as to its obligation.

Mr. DOUGALL. The obligation of secrecy?

The CHAIRMAN. No, sir; the obligation. You took some obligation, did you not?

Mr. DOUGALL. Yes, sir; I suppose so.

The CHAIRMAN. A vow?

Mr. DOUGALL. Yes, sir.

The CHAIRMAN. We ask you now to state what those obligations were?

Mr. DOUGALL. I refuse to do it. I do not remember it. I could not do it.

The CHAIRMAN. Why do you refuse?

Mr. DOUGALL. Simply on the ground that it is like any other secret order, I presume, that you pledge yourself to secrecy in regard to the ritual.

The CHAIRMAN. But you have already stated a part of it?

Mr. DOUGALL. The part that is unimportant.

The CHAIRMAN. You regard the obligation with respect to fidelity to the Government as important?

Mr. DOUGALL. Yes, sir.

The CHAIRMAN. And that you will not disclose?

Mr. DOUGALL. Well.

The CHAIRMAN. You will not disclose what that obligation was?

Mr. DOUGALL. An obligation of fidelity to the Government?

The CHAIRMAN. I say you have disclosed some things in relation

to the ceremony in the Endowment House, and the committee now want you to state what the obligation was which was taken by you in relation to avenging the blood of the prophets, or if there was any such thing, of Joseph Smith. Did you hear any such obligation?

Mr. DOUGALL. Simply the prayer to God to avenge the blood of his saints and martyrs; something like that.

The CHAIRMAN. You remember that now?

Mr. WORTHINGTON. He said that before—"on this generation."

Mr. DOUGALL. I said that before.

Senator KNOX. The point is if he is willing to state that much of it at your instance, Mr. Worthington, why is he anxious to hold back the remainder of it?

Mr. WORTHINGTON. That is what I can not understand.

The CHAIRMAN. The whole ceremony was under the obligation of secrecy?

Mr. DOUGALL. Yes, sir.

Senator FORAKER. I understood the witness to say, when interrogated about it, that he took no obligation incompatible with allegiance to the Federal and State governments.

Mr. DOUGALL. That is it.

Senator FORAKER. And that is as far as he undertakes to go.

Mr. TAYLER. But he does say that he took an obligation, or there was an injunction laid upon them, that they were to pray the Almighty to avenge the blood of the prophets and the martyrs on this generation.

Senator FORAKER. But he says there was nothing whatever connected with it that had any relation to the Government; that the Government was not referred to.

Mr. WORTHINGTON. He said his mind was directed particularly to that point, because he had read a book which had alleged that there was some such obligation.

The CHAIRMAN. You have stated your interpretation of the obligation. The committee would like to have you state the obligation in full which you took at that time.

Mr. DOUGALL. In that particular?

The CHAIRMAN. Yes.

Mr. DOUGALL. I have stated it, Senator, as fully as I can do it.

The CHAIRMAN. You have?

Mr. DOUGALL. As near as I can remember it; yes, sir. It was not given in a specific obligation—that particular part. That was in a series of lectures.

Senator KNOX. Perhaps you would be willing to state, did any other part of the ceremony have any reference to this generation or this nation, or to civil duties at all, or was it exclusively religious?

Mr. DOUGALL. Exclusively religious, as I remember it.

The CHAIRMAN. That is all.

Mr. WORTHINGTON. Shall we take another witness before the recess?

The CHAIRMAN. Yes.

Mr. WORTHINGTON. Call William Hatfield.

TESTIMONY OF WILLIAM HATFIELD.

WILLIAM HATFIELD, having been duly sworn, was examined and testified as follows:

Mr. WORTHINGTON. What is your age?

Mr. HATFIELD. Fifty-five.

Mr. WORTHINGTON. And your residence?

Mr. HATFIELD. Salt Lake.

Mr. WORTHINGTON. Salt Lake City?

Mr. HATFIELD. Yes, sir.

Mr. WORTHINGTON. How long have you lived there?

Mr. HATFIELD. I have lived in Salt Lake City for about seven years.

Mr. WORTHINGTON. What has been your business?

Mr. HATFIELD. I am in the mining business.

Mr. WORTHINGTON. Before that where did you live?

Mr. HATFIELD. In Eureka, Juab County, Utah.

Mr. WORTHINGTON. That is a mining region, I believe.

Mr. HATFIELD. Yes, sir.

Mr. WORTHINGTON. How long had you been there?

Mr. HATFIELD. Thirty years.

Mr. WORTHINGTON. So that pretty much all of your adult life has been spent in the mining regions, except while you were in Salt Lake City?

Mr. HATFIELD. Yes, sir.

Mr. WORTHINGTON. Are you a Mormon?

Mr. HATFIELD. No, sir.

Mr. WORTHINGTON. Have you ever been?

Mr. HATFIELD. I suppose I was when I was a kid.

Mr. WORTHINGTON. The word "kid" is somewhat ambiguous. How old were you when you ceased to be a Mormon?

Mr. HATFIELD. I was going on 22.

Mr. WORTHINGTON. Did you formally separate from the church or just gradually drift away from it?

Mr. HATFIELD. Just drifted away from it.

Mr. WORTHINGTON. You ceased to have any connection with it at all when you were about 22?

Mr. HATFIELD. Yes, sir.

Mr. WORTHINGTON. Since you have lived in Salt Lake City have you kept yourself informed at all as to political matters there?

Mr. HATFIELD. Some, yes.

Mr. WORTHINGTON. Are you a Republican or a Democrat?

Mr. HATFIELD. I am a Republican.

Mr. WORTHINGTON. Have you always been?

Mr. HATFIELD. Yes, sir.

Mr. WORTHINGTON. Or since the division on party lines?

Mr. HATFIELD. Yes, sir.

Mr. WORTHINGTON. When you were in the mining region, were there any polygamous families there?

Mr. HATFIELD. Not to my knowledge. There might have been, but I did not know of them.

Mr. WORTHINGTON. Were there any by reputation?

Mr. HATFIELD. Not living there.

Mr. WORTHINGTON. How many people were there in that mining region?

Mr. HATFIELD. There were 2,500 or 3,000.

Mr. WORTHINGTON. And not a polygamist among them?

Mr. HATFIELD. So far as I know.

Mr. WORTHINGTON. So far as you could tell by knowledge or reputation?

Mr. HATFIELD. Yes, sir.

Mr. WORTHINGTON. What is your observation in Utah as to whether polygamy is increasing or decreasing?

Mr. HATFIELD. The best of my knowledge and information is that it is decreasing.

Mr. WORTHINGTON. Have you known by reputation or otherwise of any new plural marriages since the manifesto of 1890?

Mr. HATFIELD. No, sir.

Mr. WORTHINGTON. Either in the mining region or in Salt Lake City?

Mr. HATFIELD. No, sir.

Mr. WORTHINGTON. What is your observation as to whether the members of the Mormon Church who are voters ordinarily and regularly vote their party ticket, or are they dictated to by the church, and do they vote as they are directed?

Mr. HATFIELD. The Democrats fight pretty hard against the Republicans. I do not see any difference in that country from any other.

Mr. WORTHINGTON. Have you seen any indication of church direction and obedience on the part of its members in politics?

Mr. HATFIELD. No, sir.

Mr. WORTHINGTON. From your general knowledge and information, what would you say as to whether polygamy is dying out, without any legal proceedings?

Mr. HATFIELD. It looks to me as if it were dying out.

Mr. WORTHINGTON. Did you at any time go through what is called the "endowment ceremony?"

Mr. HATFIELD. Yes, sir.

Mr. WORTHINGTON. How old were you when you did that?

Mr. HATFIELD. Not quite 21 years of age.

Mr. WORTHINGTON. Then you left the church within a year or so after that?

Mr. HATFIELD. Yes, sir.

Mr. WORTHINGTON. Did you go through it as a preliminary to or as a part of your marriage?

Mr. HATFIELD. Went through to get married.

Mr. WORTHINGTON. Do you belong to any secret orders such as we have in this country?

Mr. HATFIELD. Yes, sir.

Mr. WORTHINGTON. May I ask which?

Mr. HATFIELD. Sir?

Mr. WORTHINGTON. May I ask which?

Mr. HATFIELD. Yes, sir.

Mr. WORTHINGTON. What organizations?

Mr. HATFIELD. I am a Mason.

Mr. VAN COTT. Any others?

Mr. WORTHINGTON. Any others?

Mr. HATFIELD. I am an Odd Fellow, too.

Mr. WORTHINGTON. Have you belonged to those organizations for a long time?

Mr. HATFIELD. I have been a Mason for twenty-four or twenty-five years.

Mr. WORTHINGTON. Do you have any recollection—

The CHAIRMAN. Mr. Worthington, pardon me. I think you will have to stop at this point, as the committee will now take a recess.

Thereupon (at 11 o'clock and 55 minutes a. m.) the committee took a recess until 1.30 o'clock p. m.

AFTER RECESS.

The committee reassembled at the expiration of the recess.

The CHAIRMAN. I suppose some of the witnesses can now be excused.

Mr. VAN COTT. Mr. Chairman, all of the witnesses who have testified up to this time may be excused with the exception of Mr. Lynch.

Mr. WORTHINGTON. Mr. Brady wishes to be recalled for a moment.

Mr. VAN COTT. Mr. Tayler desired him to remain. We might recall Mr. Brady, as Mr. Tayler wishes to ask him a question or two.

The CHAIRMAN. Mr. Brady, will you take the stand? Is Mr. Brady present?

Mr. WORTHINGTON. He is present.

The CHAIRMAN. Mr. Brady, take the stand, please.

TESTIMONY OF JAMES H. BRADY—Continued.

JAMES H. BRADY, having been previously sworn, was examined, and testified as follows:

Mr. TAYLER. Mr. Brady, I understood you to say that the people of Idaho generally deprecated the injection of the Mormon question into the last campaign?

Mr. WORTHINGTON. Is that a statement or a question?

Mr. TAYLER. There is an interrogation point, I think, the reporter notes at the end of that question.

The CHAIRMAN. Do you hear Mr. Tayler?

Mr. BRADY. I hear him, but I do not remember that question having been asked me. If you can find the question I would like to have it read to me.

Mr. TAYLER. I do not ask you if any such question was asked you at all. I was asking whether it was a fact that you did deprecate it.

Mr. BRADY. I did; yes, sir.

Mr. TAYLER. Did you so say that you deprecated it in your testimony?

Mr. BRADY. I do not remember the question being asked me.

Mr. TAYLER. I know; but there are lots of things that are said that often are not framed in the question. I do not know that I attach any importance to the word "deprecate." Did you not give us quite a little oration on the subject of the unfortunate fact that this matter got into the campaign, and that it was intended to make feeling and all that?

Mr. BRADY. I meant to convey the idea that the Republicans thought it was very unfortunate to inject that question into the campaign at that time.

Mr. TAYLER. You did not take any steps, did you, to mollify the feeling among the Mormons?

Mr. BRADY. I did not.

Mr. TAYLER. The misfortune of having such a question in the community was not so great that you did not yourselves make use of it? Is that right?

Mr. BRADY. After the question was injected into the issue in the campaign, I made every use of it possible for the benefit of the Republican party of Idaho.

Mr. TAYLER. And you inflamed the Mormon mind, did you not?

Mr. BRADY. In every way I possibly could.

Mr. TAYLER. If there was any way in which you could emphasize their anger, you took steps to do it?

Mr. BRADY. Not particularly their anger, but I endeavored to show them that they should resent Mr. Dubois's action in the matter.

Mr. TAYLER. Were you up at Boise at the organization of the legislature?

Mr. BRADY. I was.

Mr. TAYLER. When did that occur?

Mr. BRADY. The first Tuesday, I think, of the present month.

Mr. TAYLER. Did you have a conference with the leaders there on the subject of the proposed legislation?

Mr. BRADY. I did.

Mr. TAYLER. What conference did you have with respect to legislation on the subject of adultery and unlawful cohabitation?

Mr. BRADY. The consultations that we had were in line with the promises that we had made during the campaign, that we would pass such a law.

Mr. TAYLER. What kind of a law?

Mr. BRADY. An antipolygamy law and an adultery law.

Mr. TAYLER. What antipolygamy law was introduced while you were there?

Mr. BRADY. I left before there were any bills introduced.

Mr. TAYLER. Do you know whether any has been introduced?

Mr. BRADY. I am advised so by the dispatches.

Mr. TAYLER. What has been introduced?

Mr. BRADY. I have not read the bill.

Mr. TAYLER. Can you not describe them in general terms?

Mr. BRADY. The bill that I understood would be introduced was a copy of the antipolygamy section of the Edmunds law. Whether that was done or not I can not say, but I thought it would be a good plan simply to introduce that section just as it was.

Mr. TAYLER. Do you mean a law prescribing the punishment for unlawful cohabitation?

Mr. BRADY. That was my understanding; yes, sir.

Mr. TAYLER. And with such a law on the statute books was it your purpose to enforce it?

Mr. BRADY. It was our intention, I presume, to enforce all laws.

Mr. TAYLER. You therefore did not intend to introduce and pass a law punishing unlawful cohabitation and then not enforce it?

Mr. BRADY. I had no such intention, personally.

Mr. TAYLER. Then the purpose of the law is to make criminal such acts as William Budge testified he was guilty of, and to prosecute William Budge. Is that right?

Mr. BRADY. We do not single out individuals for punishment in Idaho. It was not to prosecute Mr. Budge any more than any other citizen.

Mr. TAYLER. I understand. I am only taking him as a type.

Mr. BRADY. You used the word directly.

Mr. TAYLER. Certainly—William Budge and others like him.

Mr. BRADY. Well, that is so.

Mr. TAYLER. Is that right?

Mr. BRADY. Yes, sir.

Mr. TAYLER. In good faith?

Mr. BRADY. In good faith.

Mr. TAYLER. It is the purpose of the people of Idaho to prosecute those men for unlawful cohabitation?

Mr. BRADY. If they practice it; yes, sir.

Mr. TAYLER. So that it is not true that the people of Idaho intend to let these old polygamists remain in their present relations, is it?

Mr. BRADY. It will be true, if they do not punish them.

Mr. TAYLER. What is that?

Mr. BRADY. It will be true if they do not punish them.

Mr. TAYLER. Of course it will be true if they do not punish them, but you have told us that the public sentiment of Idaho was against the prosecution of these men whom you call "old polygamists," who were continuing their polygamous relations—that the public sentiment of Idaho was against their prosecution?

Mr. BRADY. Alleged to be continuing their polygamous relations; yes, sir.

Mr. TAYLER. That is to say, it is against prosecuting men who are in the practice. Is that right?

Mr. BRADY. That is what the purpose of the law is.

Mr. TAYLER. The purpose of the law is what?

Mr. BRADY. The punishing of those criminals the same as any other criminals.

Mr. TAYLER. Exactly. Then, I say, you were in error when you said the other day that it was the sentiment of Idaho not to prosecute those men. Is that right?

Mr. BRADY. My judgment is I was not in error.

Mr. TAYLER. Then you are going to pass this law and enforce it, notwithstanding the fact that public sentiment is against it. That is right, is it?

Mr. BRADY. We are going to pass this law, and we are going to pass the question up to Senator Dubois and his friends to enforce it, if they believe there is crime that exists there.

Mr. TAYLER. Exactly——

Mr. BRADY. Now, then——

Mr. TAYLER. Wait a moment.

Mr. WORTHINGTON. I submit he has a right to finish his answer.

Mr. TAYLER. Go on. I would not interrupt him to any extent.

Mr. WORTHINGTON. Then what do you do it for?

The CHAIRMAN. Proceed.

Mr. VAN COTT. Let us have the witness's answer read, as far as he has gone.

Mr. TAYLER. Let the witness go on. He is not in need of any assistance.

Mr. VAN COTT. You are interrupting him in his answer, and I simply want to know where he was when he was interrupted.

Mr. TAYLER. He said that they were going to pass it up to Senator Dubois and his friends to enforce it, if they believed there was any violation of the law. That is what you said?

Mr. BRADY. Yes, sir. I take the position that I am a business man in Idaho; that I have never drawn a salary as a State or Federal officer; that I have not been a resident of Idaho one-half as long as Senator Dubois has; that in the twenty-five years that he has been there he has held office almost twenty years of that time; that he has drawn over \$75,000 of salary as an officer while he has been a citizen of that State; that he knows just as well as I do, and that the Democratic party knows just as well as the Republican party does, whether or not those laws are being violated.

Mr. TAYLER. Yes. Is that all your answer?

Mr. BRADY. No, sir. We took the position as Republicans all through this campaign that Senator Dubois would not go and personally file any complaint against those old, decrepit men. There is something in that, gentlemen, that you people do not seem to understand our position in.

Mr. TAYLER. Let us eliminate the old, decrepit men.

Mr. BRADY. Yes. We said that he personally would not prosecute. He said we personally should prosecute. That is what we meant when we put it up to him in every instance, that if he personally would file the complaint we would prosecute the case. I said then, during that campaign, and I say now, that Senator Dubois will not do it.

The CHAIRMAN. Is that all, Mr. Tayler?

Mr. BRADY. No, sir.

Mr. TAYLER. I would not interrupt the witness. He seems to be suspended between two thoughts, and I want him to finish. Was that all your answer?

Mr. BRADY. No, sir.

Mr. TAYLER. No; I thought not.

Mr. BRADY. I want to be at this time fully understood as to my position in this question.

Mr. TAYLER. I think you will not be misunderstood, Mr. Brady. I think you have been very clear and intelligible.

Mr. BRADY. While I will not prosecute any of those old Mormons, I will not lay a straw in the way of Senator Dubois or anybody else who wants to prosecute them under the laws that will be strict enough to convict any man on the ordinary evidence. We know that there are polygamist families in Idaho—a small number of them. Aside from this question of their polygamous relations, nobody questions their honesty or their integrity. These old men have their families living around them, and they may go over and see their children. They may stay until night. They may put the children to bed, and the old couple may sit there before the fireplace and talk. Charles Mostyn Owen may sneak up to the house and peep in the window to see what those old people are doing. I will not do it. Senator Dubois will not do it, I say, and I do not know of any good business man in Idaho who will do it.

Mr. TAYLER. Is that all your answer?

Mr. BRADY. The law that I recommended to be passed in the con-

ference, before I left Idaho, was such a law that any polygamist in Idaho could be punished if he was guilty. It was the consensus of opinion that we should make that law just as strong as it could be made, and then that we would still stand on our position and ask Senator Dubois, as a good citizen, to personally make that complaint. If he does not do it, there is no reason why you should ask me or any other good citizen to do it. That is my position on that question.

Mr. TAYLER. Do you understand that there are no polygamists in Idaho except those old men who go and sit around the fireside with their venerable wives?

Mr. BRADY. I know of no polygamist in Idaho, and I am sure I can not recall the names of any of them, as to which individual it is—but I know of no polygamist in Idaho under 55 years of age.

Mr. TAYLER. You heard the list read here the other day—the list of twenty sent to Mr. Borah?

Mr. BRADY. Yes; I heard the list.

Mr. TAYLER. There is no law in Idaho now against polygamous or unlawful cohabitation, is there?

Mr. BRADY. I understood from the dispatches this morning that they had passed the law, but you mean back of that time?

Mr. TAYLER. Oh, yes. If they have passed it since, I am not referring to that. So that this law is to be passed for the purpose of having Senator Dubois and his friends show what they mean to do about it?

Mr. BRADY. Yes, sir; whether they are in good faith or are not.

Mr. TAYLER. And that is the only reason why you are going to have it passed?

Mr. BRADY. That is the only reason why I wanted it passed. I don't know what the legislature wanted; I have nothing to do with them.

Mr. TAYLER. And was there also introduced a bill against adultery?

Mr. BRADY. What is that?

Mr. TAYLER. I say, was there also introduced a bill against adultery?

Mr. BRADY. Yes, sir. It was to be—I don't know whether it was or not, but that is what I recommended; that it would pass.

Mr. TAYLER. Who was elected speaker of the house?

Mr. BRADY. J. Frank Hunt.

Mr. TAYLER. Is he a Mormon?

Mr. BRADY. He is.

Mr. TAYLER. He is not a polygamist, is he?

Mr. BRADY. No, sir; he does not believe in polygamy; so he told me himself.

Mr. TAYLER. And is against it?

Mr. BRADY. What is that?

Mr. TAYLER. You say he does not believe in polygamy. Do you mean that he does not believe in the divinity of the revelation enjoining polygamy?

Mr. BRADY. It is——

Mr. TAYLER. Answer that question, please. Do you mean to say that you want to be quoted as saying this man, Mr. Hunt, does not believe in the divine origin of polygamy and its propriety up to the manifesto?

Mr. BRADY. What I mean to be quoted as saying——

Mr. TAYLER. Just say yes or no; whether you understood that, whether you are undertaking to quote him——

Mr. WORTHINGTON. I submit the witness has said that all he knows about it was what that man told him, and all he can do is to tell us what he said.

Mr. TAYLER. He has said one thing, that he did not believe in polygamy. I want to know what he understood by that—that he did not believe in the divine origin of polygamy and its propriety prior to the manifesto?

Mr. BRADY. That was my understanding of what Frank Hunt meant when he told me that.

Mr. TAYLER. That is to say, he never believed in it? That he never believed it was right?

Mr. BRADY. I can not say that. That we did not discuss—what he ever believed. We were discussing what he believed to-day.

Mr. TAYLER. You do not want us to interpret your quotation of him as putting him on record against the propriety of polygamy prior to the manifesto?

Mr. BRADY. I do not know anything about that. I was not there at the time.

Mr. TAYLER. No, I suppose not. But you did not understand him to mean that he was always opposed to polygamy, before the manifesto?

Mr. BRADY. I did not ask him that question. I asked him whether or not he was personally opposed to polygamy now, and he said, "I am. I want to go on record as being such."

Mr. TAYLER. Who was the candidate against him for speaker?

Mr. BRADY. Well, there was no very formidable candidate. Judge Richards was a candidate.

Mr. TAYLER. Is he a formidable man?

Mr. BRADY. What is that?

Mr. TAYLER. He is not a formidable man—Judge Richards?

Mr. BRADY. Well, he did not make a hard fight for it.

Mr. TAYLER. He did not?

Mr. BRADY. He is a very strong man, and a good man.

Mr. TAYLER. As good a man as Hunt?

Mr. BRADY. Just as good a man as Hunt, and Hunt is just as good a man as Richards. They are both good men.

Mr. TAYLER. Where does Mr. Hunt live?

Mr. BRADY. He lives in Bannock County.

Mr. TAYLER. That is your county?

Mr. BRADY. That is my county.

The CHAIRMAN. I wanted to ask whether this rival candidate is a Mormon or a Gentile?

Mr. BRADY. He was a Gentile—a Christian Scientist. That was his religion.

Senator DUBOIS. Was not Fred Turner a candidate also?

Mr. BRADY. No, sir. He talked about being a candidate before the meeting of the legislature, but he came to me personally and told me that he wanted to see the southeast get it, and——

Senator DUBOIS. Did you personally advocate the selection of Mr. Hunt as speaker?

Mr. BRADY. I had not finished my answer to the question about Mr. Turner. Read that question about Mr. Turner, please.

The reporter read as follows:

"Senator DUBOIS. Was not Fred Turner a candidate also?

"Mr. BRADY. No, sir. He talked about being a candidate before the meeting of the legislature, but he came to me personally and told me that he wanted to see the southeast get it and——"

Mr. BRADY. That he did not believe that they could get it if there were two candidates in the field, and for that reason he wanted me to say to Mr. Hunt that he was not a candidate and was for him for speaker.

The **CHAIRMAN.** Is there anything further?

Senator DUBOIS. Did you advocate the nomination and selection of Mr. Hunt as speaker? Did you lobby for him?

Mr. BRADY. I did not particularly advocate the candidacy of Mr. Hunt for speaker.

Senator DUBOIS. Did Governor Gooding?

Mr. BRADY. He did not until the last two days before the meeting of the legislature.

Senator DUBOIS. And then you did?

Mr. BRADY. Then, I think, he took not a very active part, but I think he indicated to parties that he would prefer to have Mr. Hunt for speaker.

Senator DUBOIS. Judge Richards is rather a leading man, is he not, in Boise City?

Mr. BRADY. Yes, sir; Judge Richards is a leading man and a good man.

Senator DUBOIS. He is one of the leaders of the Republican party, is he not?

Mr. BRADY. He is one of the leaders of the Republican party, and he did very effective work in this campaign.

Senator DUBOIS. Was it not understood that he was to be a candidate for speaker, all through the campaign?

Mr. BRADY. That I do not think was understood. If it was, Judge Richards never mentioned it to me.

Senator DUBOIS. I was going to ask you that question. Perhaps you can answer it more definitely. Did Judge Richards inform you that he would be a candidate for speaker, and ask both you and Governor Gooding if you had any objection to his being a candidate, and ask you whether you would interfere against him?

Mr. BRADY. He did not.

Senator DUBOIS. And did he not come to you during the last two days and remind you of this and ask you why you were interfering—you and Governor Gooding—on behalf of Mr. Hunt?

Mr. BRADY. Judge Richards never mentioned the question of speakership, directly or indirectly, to me for at least a month before the meeting of the legislature in Boise, because I had been away, and when I came to Boise he never discussed it with me.

Senator DUBOIS. Do you understand, Mr. Brady, that laws against unlawful cohabitation have been introduced?

Mr. BRADY. I do.

Mr. WORTHINGTON. In the Idaho legislature?

Senator DUBOIS. In the Idaho legislature.

Mr. BRADY. I do.

Senator DUBOIS. Do you favor a law against unlawful cohabitation in Idaho?

Mr. BRADY. I do.

Senator DUBOIS. Would you also favor a change of venue in cases affecting the Mormons which come under this law of unlawful cohabitation?

Mr. BRADY. If it was necessary to do so, I would. I consider that under our law the governor's authority fully covers that, but if it was necessary to have a change of venue I would be in favor of it.

Senator DUBOIS. Would you be surprised when you return to Boise to find that no law has been introduced against unlawful cohabitation, and that the legislature has not passed one?

Mr. BRADY. I should be very much surprised, and I promise you that if it is not introduced it will be.

Senator DUBOIS. That will be a very great advantage. You do not mean that this legislation would be in response to any public sentiment? I believe you said there was none; that the Democrats and Republicans were all very much opposed to my position, and that this will not be in response to any public sentiment at all in the State?

Mr. BRADY. I would like to have the question repeated.

The reporter read the question.

Mr. BRADY. If I did say that I conveyed the wrong idea. We mean to pass such a law because we think that the people will then have a chance to see whether these men who have been clamoring for it will themselves endeavor to enforce it.

Senator DUBOIS. I understand. Now, Mr. Brady, just between ourselves, frankly, while you were inflaming the Mormons against my position, were you not assuring the Gentiles, at the same time, that the Republicans would pass this legislation which I was demanding?

Mr. BRADY. I was. We took the position that the injection of this question into the politics of Idaho in the last campaign was absolutely uncalled for; that the Democratic party had absolute control of the government from 1896 on to 1902, from governor down to constable; that if they believed at that time that those conditions existed they had every chance to pass and enforce these laws; that instead of passing the laws and enforcing them they waited until they were out of power and then passed the resolutions. We said to the people, "Instead of passing resolutions we will pass laws."

Senator DUBOIS. How many members of the legislature are there?

Mr. BRADY. There are 48, I think, of the lower house, and 21 of the upper house.

Senator DUBOIS. Sixty-seven altogether. How many of those are Republicans?

Mr. BRADY. Republicans? All but two, I think, in the lower house.

Senator DUBOIS. And in the senate?

Mr. BRADY. Yes; you have got a senator from Elmore and, I think, Custer, too.

Senator DUBOIS. How many Mormons are there in the legislature?

Mr. BRADY. I would have to figure that up, Senator. I think there are 14.

Mr. TAYLER. In both houses?

Senator DUBOIS. Fourteen in both houses.

Mr. BRADY. Fourteen in both houses; yes, sir.

Senator DUBOIS. There would be 68 Republican members, then, in both houses, and out of that there would be 14 Republican Mormons?

Mr. BRADY. Yes.

The CHAIRMAN. How many Mormons are there in the house, Mr. Brady?

Mr. BRADY. Eleven, I think, Mr. Chairman.

The CHAIRMAN. Have you anything further, Senator?

Senator DUBOIS. There are 48 members of the house, and 11 of those are Mormons.

Mr. BRADY. That is the way I figure it. I am not real sure.

Mr. VAN COTT. You were chairman of the Republican State committee in Idaho in the last campaign?

Mr. BRADY. I was.

The CHAIRMAN. Who is your next, gentlemen?

Mr. VAN COTT. Governor McConnell wishes to make an explanation.

The CHAIRMAN. Governor McConnell, you have that privilege.

Mr. VAN COTT. One moment, Mr. Chairman. Mr. Brady, will you return just a moment?

Mr. Brady, you stated to me that there was one error that you thought you had made in answering Senator Dubois about "leaders" and "ladies." Do you want to make any explanation of that, or were you satisfied when you read over your testimony?

Mr. BRADY. No; I am glad you mentioned that. It is entirely an error on the Senator's part as to what I said.

Mr. VAN COTT. You said "leaders."

Mr. BRADY. Yes, sir. I am satisfied that the Senator misunderstood me.

Mr. VAN COTT. And when Senator Dubois asked you a question he asked you to mention the names of any "ladies" who offered to exchange their votes.

Mr. BRADY. Yes, sir. I am satisfied he asked me the question, because he understood me to say "ladies" before.

Mr. VAN COTT. And you said "leaders?"

Mr. BRADY. "Leaders."

Senator DUBOIS. I understood you to say both "lady" and "leader."

Mr. BRADY. No.

Senator DUBOIS. You made the same reply in regard to leader?

Mr. BRADY. Yes.

Senator DUBOIS. You could not recall the name of a lady or a leader?

Mr. BRADY. No, sir.

The CHAIRMAN. Who is the next?

Mr. VAN COTT. Governor McConnell, will you resume the stand?

TESTIMONY OF WILLIAM J. McCONNELL—Continued.

WILLIAM J. McCONNELL, having been previously sworn, was examined, and testified as follows:

The CHAIRMAN. Will you proceed with such corrections as you desire to make?

Mr. McCONNELL. I notice in this morning's paper—a Washington paper—that such dispatches have been sent from here as cause the

Idaho legislature to object to the testimony that I gave, and I wanted to express to this committee that I had no desire of impugning the general character of the members of the twelfth session of the Idaho legislature, nor any legislature since. I tried to convey the idea that the Mormon members were church members, while some of the Gentile members were not church members, and consequently there was a greater restraint, perhaps, upon the Mormons than there was upon the others. While the great majority of our members of all sessions of the legislature are as good men as you will find in any State legislature, occasionally some get there who drink and perhaps play cards. But they will average as well as any legislative body in the United States. That is what I wish to convey to this committee. As I say, the Mormons are all church members, and consequently they try to conduct themselves accordingly, the same as other members of the legislature who are church members. We have men who belong to other churches there.

In the session of 1882, to which I referred, I can call to mind several Gentile members who were members of churches—one from Nez Perces County, Mr. Buchanan; and Mr. Foutz, who was the speaker of the house, was a church member, I believe. All of these were just as good men; but there is occasionally an exception, where men indulge in drinking—perhaps not to an extent that would be objectionable, but they do drink some and play cards some—that is, some of the members do. I would not have it inferred, either, that because a man takes an occasional drink or plays an occasional game of cards he is not qualified to legislate for the people, because some of our brightest minds, even in Congress, have been addicted—in a moderate way, of course—to the use of spirituous liquors.

Mr. TAYLER. Of course, you will stand by your proposition that even now the average Mormon is a better man and a better legislator than the average Gentile in the Idaho legislature?

Mr. McCONNELL. The Mormons who are now in the legislature are all church members, and from the standpoint of church morals they would be considered better men than the men who are not church members.

Mr. TAYLER. All right.

The ACTING CHAIRMAN (Senator KNOX). Is that all you want to correct?

Mr. McCONNELL. Yes, sir.

Senator DUBOIS. Did you ever know a Mormon to drink liquor, Governor?

Mr. McCONNELL. I do not think I ever saw a Mormon take a drink at a bar—at a public bar.

Mr. WORTHINGTON. Mr. Hatfield will take the stand.

TESTIMONY OF WILLIAM HATFIELD—Continued.

WILLIAM HATFIELD, having been previously sworn, was examined, and testified as follows:

Mr. WORTHINGTON. Mr. Hatfield, when was it you took your endowments?

Mr. HATFIELD. In the spring of 1870.

Mr. WORTHINGTON. How old were you then?

Mr. HATFIELD. Not quite 21.

Mr. WORTHINGTON. And you took your endowments in the Endowment House at Salt Lake City?

Mr. HATFIELD. Yes, sir.

Mr. WORTHINGTON. Do you recollect what took place on that occasion, in a general way, or in detail?

Mr. HATFIELD. Oh, some of it; yes.

Mr. WORTHINGTON. I wish you would tell us whether or not at that time anything like this occurred. You went through with others, I think you said?

Mr. HATFIELD. Yes, sir; there was a big lot of them that went through at the same time.

Mr. WORTHINGTON. Did you or any of those who went through with you take an obligation anything like this: That "You, and each of you, do promise and vow that you will never cease to importune high heaven to avenge the blood of the prophets upon this nation?"

Mr. HATFIELD. I do not know what anybody else did; but I did not.

Mr. WORTHINGTON. You heard what went on?

Mr. HATFIELD. Yes, sir.

Mr. WORTHINGTON. Did you?

Mr. HATFIELD. Yes, sir.

Mr. WORTHINGTON. Did you at that time take any obligation, or enter into any covenant, or vow, or agreement of any kind inconsistent with your duties as a citizen of the Territory of Utah and of the United States?

Mr. HATFIELD. No, sir.

Mr. WORTHINGTON. That is all, Mr. Tayler.

Mr. TAYLER. That is all.

The ACTING CHAIRMAN. Call the next witness.

Mr. WORTHINGTON. We will call Mr. Meakin.

TESTIMONY OF JOHN P. MEAKIN.

JOHN P. MEAKIN, having been duly sworn, was examined, and testified as follows:

Mr. WORTHINGTON. Your full name is John P. Meakin?

Mr. MEAKIN. Yes, sir.

Mr. WORTHINGTON. M-e-a-k-i-n?

Mr. MEAKIN. Yes, sir.

Mr. WORTHINGTON. What is your age, Mr. Meakin?

Mr. MEAKIN. I am 53.

Mr. WORTHINGTON. Where do you live?

Mr. MEAKIN. I live at Salt Lake City.

Mr. WORTHINGTON. How long have you lived in Utah?

Mr. MEAKIN. Thirty-five years the 21st of last August. In 1869 I went to Salt Lake City.

Mr. WORTHINGTON. You were how old then?

Mr. MEAKIN. I was 13 in July of that year.

Mr. WORTHINGTON. Where had you lived before you went to Utah?

Mr. MEAKIN. England.

Mr. WORTHINGTON. Were you a Mormon?

Mr. MEAKIN. My parents were Mormons, and I was, of course, as their boy.

Mr. WORTHINGTON. You say you were, and you are?

Mr. MEAKIN. I was, as their son—as their boy—and in youth.

Mr. WORTHINGTON. When did you cease to be a member of the church?

Mr. MEAKIN. To the best of my recollection, I think it was in the winter of 1873 or 1874.

Mr. WORTHINGTON. Let us see, you were then about how old?

Mr. MEAKIN. I was then about 23 years of age, or 24.

Mr. WORTHINGTON. Why did you leave the Mormon church?

Mr. MEAKIN. I did not believe in polygamy, and I left the Mormon Church for that reason.

Mr. WORTHINGTON. And for that reason only?

Mr. MEAKIN. Yes, sir.

Mr. WORTHINGTON. In what way did you break off your relations with the church?

Mr. MEAKIN. I wrote a letter to the bishop——

Mr. WORTHINGTON. Of your ward?

Mr. MEAKIN. Of my ward—Bishop Weiler.

Mr. WORTHINGTON. I do not care to go into that letter. You told him that you left the church, and why you left it, did you not?

Mr. MEAKIN. Yes, sir.

Mr. WORTHINGTON. What is your business, Mr. Meakin?

Mr. MEAKIN. I am a dramatic reader and lecturer.

Mr. WORTHINGTON. And lecturer?

Mr. MEAKIN. Yes, sir.

Mr. WORTHINGTON. In that capacity have you had occasion to go over the State of Utah?

Mr. MEAKIN. Yes, sir.

Mr. WORTHINGTON. How thoroughly?

Mr. MEAKIN. Well, with the exception of a few little towns away off, I have been, I believe, in every town and settlement in Utah.

Mr. WORTHINGTON. And during what term of years have you been all over the State in that way?

Mr. MEAKIN. Well, during the past twenty-five years.

Mr. WORTHINGTON. Did you have any other business in going around through the State, except that of a lecturer?

Mr. MEAKIN. During the past three years; yes.

Mr. WORTHINGTON. And in what capacity have you traveled over the State in the last three years?

Mr. MEAKIN. Two years and eight months, to be definite. I was the traveling representative of the Salt Lake Tribune.

Mr. WORTHINGTON. In getting advertisements and subscriptions, and that sort of thing?

Mr. MEAKIN. Subscriptions, collections, appointing correspondents and agents, and looking after the general outside business.

Mr. WORTHINGTON. Then, I take it, from what you say, you must be pretty well acquainted with the people all over the State.

Mr. MEAKIN. I believe I can say that without egotism.

Mr. WORTHINGTON. Have you, in the course of your journeyings around the country, had occasion to talk with the Mormon people about the question of polygamy?

Mr. MEAKIN. Yes, sir.

Mr. WORTHINGTON. Then you are pretty conversant with their feelings on that subject?

Mr. MEAKIN. Yes, sir.

Mr. WORTHINGTON. And with their practices in regard to it?

Mr. MEAKIN. Yes, sir.

Mr. WORTHINGTON. What would you say, in the first place, as to the practice of polygamy, and the number of polygamous households throughout the State, as compared with what it was, let us say, in 1890, at the time of the manifesto?

Mr. MEAKIN. Do you mean as to the prevalence of polygamy?

Mr. WORTHINGTON. Yes.

Mr. MEAKIN. Well, sir, it is almost a thing of the past. The old men and women who went into the relationship for principle's sake, many years ago—I believe some of them still keep up that relationship. I believe so. But the old men and women are dying off very fast, and from figures that I have gotten, I learn that of the number of polygamists who were living in that relationship when the manifesto was issued, thirteen or fourteen years ago, one-third of them have now passed away.

Mr. WORTHINGTON. What is your observation—and by that I include what you get from the common reputation of the localities where you have been—as to whether, since that time, there have been any new plural marriages?

Mr. MEAKIN. Personally, I do not believe that there has been.

Mr. WORTHINGTON. You find no rumors or reputation of that kind throughout the State?

Mr. MEAKIN. I have heard rumors from Mother Grundy. I pay no attention to that.

Mr. WORTHINGTON. I speak of reputation as distinguished from mere rumors. Do you find that there is any general understanding throughout the State?

Mr. MEAKIN. No, sir.

Mr. WORTHINGTON. Or any part of the State, that new plural marriages are being practiced?

Mr. MEAKIN. No, sir.

Mr. WORTHINGTON. What have you ascertained as to the feeling of the Mormon people on the subject of polygamy of late years?

Mr. MEAKIN. Well, I have entered into conversation very much with the people, and I find that they are all very pleased that polygamy is a thing of the past; and they welcome the emancipation from the system. I speak not only for the young Mormons, but for the middle-aged. It is a matter of general pleasure, or rejoicing, that it is being obliterated.

Mr. WORTHINGTON. What would you think, from your knowledge, obtained in this way, would be the effect if the president of the church should undertake now to promulgate a new revelation, re-establishing polygamy in Utah?

Mr. MEAKIN. Knowing the men, I think it is rather a question that is not supposable; but I do not believe that the people of Utah would stand for it a minute.

Mr. WORTHINGTON. I speak of the Mormon people. Is that what you mean?

Mr. MEAKIN. I am speaking of the Mormon people.

Mr. WORTHINGTON. I did not ask you whether, since you left the Mormon Church, you have affiliated with any other religious organization.

Mr. MEAKIN. Yes, sir; to some extent. I belong to the Unitarian Society, in Salt Lake City.

Mr. WORTHINGTON. Do you belong to any of the organizations that are called secret societies in this country?

Mr. MEAKIN. Nearly all of them.

Mr. WORTHINGTON. You do?

Mr. MEAKIN. Yes, sir; I am a "joiner."

Mr. WORTHINGTON. Just give the names of two or three of the leading ones you belong to?

Mr. MEAKIN. I belong to the Knights of Pythias, and am the Past Grand Chancellor of our State. I belong to the Benevolent Protective Order of Elks, and I served as chaplain for six months. I belong to the Fraternal Order of Eagles, to the Woodmen of the World, to the Maccabees, and I still have a standing in the Odd Fellows, but not active.

Mr. WORTHINGTON. You are a member of the Odd Fellows?

Mr. MEAKIN. Yes, sir; I am a fraternalist.

Mr. WORTHINGTON. Previous to your leaving the church on account of your opposition to the doctrine of polygamy, did you take the endowments?

Mr. MEAKIN. Yes, sir.

Mr. WORTHINGTON. When and where?

Mr. MEAKIN. I went through the Endowment House—that is our phrase in Utah—in the winter of 1869 or 1870; I am not positive as to the month or the year.

Mr. WORTHINGTON. How old were you then?

Mr. MEAKIN. I was just turned 18; I was 18 in July, 1869.

Mr. WORTHINGTON. Do you recall the ceremony?

Mr. MEAKIN. Not definitely.

Mr. WORTHINGTON. Do you recall whether there was any obligation, which has been referred to here as the obligation of vengeance or retribution?

Mr. MEAKIN. No, sir; I have no recollection of it at all.

Mr. WORTHINGTON. I will ask you whether this, or anything like it, took place? Did others go through with you?

Mr. MEAKIN. To the best of my recollection there were others that went through with me.

Mr. WORTHINGTON. I will ask you to state whether this took place, as to you or any of the others, in your hearing: "That you and each of you do promise and vow that you will never cease to importune High Heaven to avenge the blood of the prophets upon this nation?"

Mr. MEAKIN. No, sir.

Mr. WORTHINGTON. Or anything about avenging the blood of Joseph Smith on anybody?

Mr. MEAKIN. No, sir.

Mr. WORTHINGTON. I will ask you whether there was anything took place there that imported on your part any obligation in opposition to your duty as a citizen either to the Territory of Utah or to the United States?

Mr. MEAKIN. No, sir.

Mr. WORTHINGTON. How clear are you as to that, Mr. Meakin?

Mr. MEAKIN. I am very clear.

Mr. WORTHINGTON. In your travels about the State have you ob-

served anything as to the political conduct of the voters, Mormon and non-Mormon?

Mr. MEAKIN. Yes, sir; some little.

Mr. WORTHINGTON. You have not been a candidate for any office, I believe?

Mr. MEAKIN. No, sir; but I have been in nearly every campaign.

Mr. WORTHINGTON. You have been in campaigns in what way?

Mr. MEAKIN. In the capacity of speaker and reader.

Mr. WORTHINGTON. On which side?

Mr. MEAKIN. Republican.

Mr. WORTHINGTON. And what have you observed as to whether the Mormon voters do or do not adhere to their party lines as steadily as the non-Mormons?

Mr. MEAKIN. I find them very emphatic upon that question. I have resented many times the imputation that the Mormon people have been set apart, some to be Republicans and some Democrats. I do not believe it, and I have not found them so.

Mr. WORTHINGTON. How do they compare in this regard with the non-Mormons, as to standing by their party?

Mr. MEAKIN. They are just about the same.

Mr. WORTHINGTON. What indications, if any, have you observed that in their voting they are governed by instructions from high authorities in the church?

Mr. MEAKIN. Will you repeat that?

The reporter read the question as follows:

"Mr. WORTHINGTON. What indications, if any, have you observed that in their voting they are governed by instructions from high authorities in the church?"

Mr. MEAKIN. Well, of late years I have not seen any.

Mr. WORTHINGTON. I mean since the division on party lines.

Mr. MEAKIN. Yes, sir.

Mr. WORTHINGTON. You mean since that time?

Mr. MEAKIN. Since that time.

Mr. WORTHINGTON. And from your acquaintance with them how would you say they would take any attempt on the part of the high authorities of the church to direct them how to vote, and require them to obey the direction?

Mr. MEAKIN. Well, the impression they made upon me is that they would resent it. During the last campaign the question was broached, and I know scores of men who resent the imputation. They stand upon their own feet and use their own heads in this particular, and they become to some extent angry when the question is broached to them.

Mr. WORTHINGTON. Angry at the idea of being——

Mr. MEAKIN. Angry at the idea.

Mr. WORTHINGTON. You speak of "men." Do you mean Mormons?

Mr. MEAKIN. Yes, sir.

Mr. WORTHINGTON. That is all.

Mr. TAYLER. Do you mean to say they declare that it is no longer true that the church undertakes to control their acts?

Mr. MEAKIN. Yes, sir.

Mr. TAYLER. They resent it vigorously, do they?

Mr. MEAKIN. Yes, sir.

Mr. TAYLER. They do not deny that it has been true in the past, do they?

Mr. MEAKIN. In the past years, before the manifesto?

Mr. TAYLER. Yes.

Mr. MEAKIN. No, sir.

Mr. TAYLER. How recently? How quickly? Did they quit right off?

Mr. MEAKIN. Yes; I believe they did.

Mr. TAYLER. The church had control over them in their political votes, did it not, at one time?

Mr. MEAKIN. Yes, sir; like the Pilgrim fathers in early times.

Mr. TAYLER. You say you have not heard of any new marriage occurring since the manifesto?

Mr. MEAKIN. No, sir; I have not.

Mr. TAYLER. None at all?

Mr. MEAKIN. No, sir.

Mr. TAYLER. Did you ever hear of Apostle Cannon—

Mr. WORTHINGTON. When you say new marriage, you mean new plural marriage?

Mr. TAYLER. Yes.

Mr. MEAKIN. I read the story in the papers.

Mr. TAYLER. How do you hear of things if you do not see it in the papers, or in some way of that sort?

Mr. MEAKIN. That is what I heard. I never heard it out there amongst the people who were talking to me on the matter, that had any authentic information about it.

Mr. TAYLER. Precisely. You never heard any talk then about Abram Cannon having married Lillian Hamlin since the manifesto?

Mr. MEAKIN. No, sir. Since, I have read it in the papers.

Mr. TAYLER. So that if it did occur it was not talked about?

Mr. MEAKIN. Not with me.

Mr. TAYLER. Did you ever hear about the president of the Brigham Young University taking a plural wife three or four years ago?

Mr. MEAKIN. No, sir.

Mr. TAYLER. That was not talked of?

Mr. MEAKIN. No, sir.

Mr. TAYLER. Did you ever hear of Apostle Taylor having taken two plural wives within the last two or three years?

Mr. MEAKIN. I have heard that casually said; yes.

Mr. TAYLER. Casually said?

Mr. MEAKIN. Yes.

Mr. TAYLER. Have you heard of Apostle Cowley being reputed to have taken a plural wife since the manifesto?

Mr. MEAKIN. No, sir.

Mr. TAYLER. You never heard of that?

Mr. MEAKIN. No, sir.

Mr. TAYLER. That is all.

Mr. WORTHINGTON. That is all.

The ACTING CHAIRMAN. Call another witness, please.

Mr. VAN COTT. Mr. Burton.

Mr. TAYLER. Just one other question, Mr. Meakin. Was there anything like this in this endowment ceremony: That you were to pray the Almighty to avenge the blood of the prophets and martyrs upon this generation?

Mr. MEAKIN. No, sir.
Mr. TAYLER. Nothing like that in it?
Mr. MEAKIN. No, sir.
Mr. TAYLER. Anywhere?
Mr. MEAKIN. No, sir.
Mr. TAYLER. In any phrase or form?
Mr. MEAKIN. No, sir.
Mr. TAYLER. All right.

TESTIMONY OF ROBERT T. BURTON, JR.

ROBERT T. BURTON, jr., being duly sworn, was examined and testified as follows:

Mr. VAN COTT. What is your name, Mr. Burton?
Mr. BURTON. Robert T. Burton, jr.
Mr. VAN COTT. What is your age?
Mr. BURTON. Fifty-one.
Mr. VAN COTT. Where do you reside?
Mr. BURTON. In Salt Lake City, Utah.
Mr. VAN COTT. How long have you resided there?
Mr. BURTON. Over fifty-one years.
Mr. VAN COTT. Were you born there?
Mr. BURTON. Yes, sir.
Mr. VAN COTT. Your father also lives there?
Mr. BURTON. Yes, sir.
Mr. VAN COTT. And is still alive?
Mr. BURTON. Yes, sir.
Mr. VAN COTT. Is your father a member of the Mormon Church?
Mr. BURTON. Yes, sir.
Mr. VAN COTT. And he has been for many years?
Mr. BURTON. Since I can't remember.
Mr. VAN COTT. Have you ever been a member of the Mormon Church?
Mr. BURTON. No, sir.
Mr. VAN COTT. You have been engaged in business in Salt Lake City?
Mr. BURTON. Yes, sir.
Mr. VAN COTT. Do you know Angus M. Cannon, jr.?
Mr. BURTON. Yes, sir.
Mr. VAN COTT. How long have you known him?
Mr. BURTON. I have known him for a number of years. I could not say just the number—a long time.
Mr. VAN COTT. Do you know E. B. Critchlow?
Mr. BURTON. Yes, sir.
Mr. VAN COTT. How long have you known him?
Mr. BURTON. Fifteen or twenty years.
Mr. VAN COTT. Calling your attention to last year, did you have any conversation with Mr. Critchlow regarding the testimony that Angus M. Cannon, jr., had given here?
Mr. BURTON. I had a conversation with Mr. Critchlow on his return from Washington last spring.
Mr. TAYLER. I do not think, Mr. Chairman, it is quite just to Mr. Critchlow to make a deliberate attack upon him. I would like to hear from the gentleman a justification of it.

Mr. WORTHINGTON. The justification of it is this: This case comes before the Senate and before this committee now solely upon the protest, as it has been called here, signed by 19 people. Mr. Critchlow has been here and has admitted that he himself prepared that protest and sent around and got the members whose names are appended to it to sign it.

Mr. TAYLER. The record shows what he says about it.

Mr. WORTHINGTON. It shows that, Mr. Tayler.

Mr. TAYLER. No; it does not show that.

Mr. WORTHINGTON. If there is any question about that, we will have to turn to the record. That is what it shows. I have also heard that in every case where there is a prosecution—and this is in the nature of a prosecution—it is perfectly competent to show the animus of those who are behind it.

Mr. TAYLER. What is the difference? Suppose he is a confessed perjurer; what difference does that make in regard to the vital facts in this case?

Mr. WORTHINGTON. What difference does it make when a man brings a prosecution against a person for some alleged offense in a criminal court that he has a malicious object in bringing the prosecution? It does not make any difference if the crime is shown to have been committed, but it is perfectly competent, in showing the motives of the person who instigated the prosecution, to show that there is no offense.

Mr. TAYLER. I suppose, if that is your purpose, it needs no reply from me as to Mr. Critchlow.

Mr. WORTHINGTON. Not only that, but Mr. Critchlow, during the time of the main taking of the testimony on behalf of the protestant, sat where Mr. Owen is sitting now, and was practically an assistant prosecutor here up to the time they closed their case.

Mr. TAYLER. Suppose he was?

Mr. WORTHINGTON. Now, it appears that the same Mr. Critchlow, who was behind the entire movement, sent here a man whom he knew was coming here to tell a falsehood, and sent him here to tell a falsehood.

Mr. TAYLER. Suppose he did; what has that to do with it?

The CHAIRMAN. May I ask, Mr. Worthington, what you propose to show by this witness?

Mr. VAN COTT. We propose to show by Mr. Burton that after Angus M. Cannon, jr., had testified here, Mr. Critchlow met Mr. Burton and told him that he knew that when Angus M. Cannon, jr., was sent down here to testify—and he was among those who procured him to come—that he knew he could not be believed under oath.

The CHAIRMAN. That this witness stated——

Mr. VAN COTT. No; Mr. Critchlow told this witness that Angus M. Cannon, jr., could not be believed under oath.

Mr. WORTHINGTON. When he sent him down here.

Mr. TAYLER. What has that to do with this case?

Mr. WORTHINGTON. Mr. Critchlow, let me also remind those who were not present at the former hearing, was a witness in this case. It might be that, pursuing the strict principles of law, so far as that is concerned, we ought to have Mr. Critchlow here and ask him if he had not made this statement, and then contradict him.

The CHAIRMAN. Lay the foundation.

Mr. WORTHINGTON. But if there is any rule of evidence that has not been more or less mangled during our hearing I am not acquainted with it, because we have proceeded on the theory that this is an investigation, and that everything may be heard.

The CHAIRMAN. Let the witness state it.

Mr. VAN COTT. Did you ever have any conversation with Mr. Critchlow in Salt Lake, after Angus M. Cannon, jr., had testified here?

Mr. BURTON. Yes, sir.

Mr. VAN COTT. What did he say to you?

The CHAIRMAN. After Cannon had testified here?

Mr. VAN COTT. Yes, sir. What did Mr. Critchlow say to you?

Mr. BURTON. Mr. Critchlow asked me what I knew about Angus M. Cannon. I said, "Mr. Critchlow, you know Angus M. Cannon just as well as I do."

The CHAIRMAN. You know what?

Mr. BURTON. "You know Angus M. Cannon, jr., just as well as I do." He said, "Well, Mr. Burton, what do you know about him?" I said, "Mr. Critchlow, you know just as much about him as I do, and have known him just as long as I have." He said, "Mr. Burton, I wouldn't believe him on oath."

Mr. VAN COTT. Angus M. Cannon, jr., has lived in Salt Lake a good many years?

Mr. BURTON. Yes, sir.

Mr. VAN COTT. And so has Mr. Critchlow?

Mr. BURTON. Yes, sir.

Mr. VAN COTT. That is all.

Mr. TAYLER. Do you mean it would be impossible, therefore, for Angus M. Cannon ever to be a witness to anything?

Mr. BURTON. The statement that——

Mr. TAYLER. Do you mean Angus M. Cannon can not tell the truth?

Mr. BURTON. I mean that I would not believe it.

Mr. TAYLER. You mean you would not believe him at all?

Mr. BURTON. No, sir.

Mr. TAYLER. No matter whether he had an interest in it or not, you would not believe him?

Mr. BURTON. No.

Mr. TAYLER. He is an outlaw, absolutely beyond consideration by anybody as fit to live in the community. Is that right?

Mr. BURTON. I would not believe his statement.

Mr. TAYLER. But do you mean to say he could not tell the truth?

Mr. BURTON. He might tell the truth. I would not know whether he was telling the truth or whether he was not telling it.

Mr. TAYLER. Are you a polygamist?

Mr. BURTON. No, sir.

Mr. TAYLER. Is your father?

Mr. BURTON. Yes, sir.

Mr. TAYLER. That is all.

Mr. VAN COTT. That is all, Mr. Burton.

The CHAIRMAN. Who next, gentlemen?

Mr. VAN COTT. Mr. Cole.

TESTIMONY OF SAMUEL N. COLE.

SAMUEL N. COLE being duly sworn, was examined, and testified as follows:

Mr. VAN COTT. What is your name?

Mr. COLE. Samuel N. Cole.

Mr. VAN COTT. What is your age, Mr. Cole?

Mr. COLE. I am 41.

Mr. VAN COTT. Where do you live?

Mr. COLE. I live in Corinne, Utah, Boxelder County.

Mr. VAN COTT. That is northwest of Ogden, is it?

Mr. COLE. It is very near directly north of Ogden.

Mr. VAN COTT. Were you born there?

Mr. COLE. No; I was born in northern Illinois; in Lake County, Ill.

Mr. VAN COTT. And did you grow up to manhood there?

Mr. COLE. In Illinois; yes, sir.

Mr. VAN COTT. When did you first go to Utah?

Mr. COLE. Well, I moved to Utah—it will be four years the 12th of next March since I left Illinois.

Mr. VAN COTT. Were you ever a member of the Mormon Church?

Mr. COLE. No, sir.

Mr. VAN COTT. Do you belong to any church?

Mr. COLE. I have always attended the Methodist Church. I do not belong myself.

Mr. VAN COTT. What are you in politics?

Mr. COLE. I am a Republican.

Mr. VAN COTT. When you went to Utah you made your home at Corinne, Boxelder County, Utah, did you?

Mr. COLE. Yes, sir.

Mr. VAN COTT. And you engaged in business there?

Mr. COLE. I did, a year ago last May; yes.

Mr. VAN COTT. Briefly, what business are you engaged in?

Mr. COLE. I am running a little bank at Corinne.

Mr. VAN COTT. Is Boxelder a Mormon county; that is, are the majority of the people Mormons or Gentiles?

Mr. COLE. They are mostly Mormons.

Mr. VAN COTT. Are there other banks in Boxelder County?

Mr. COLE. Yes; there are two.

Mr. VAN COTT. Are they owned by Mormons or Gentiles?

Mr. COLE. They are owned by Mormons.

Mr. VAN COTT. Do you know of the Utah Sugar Company?

Mr. COLE. Yes, sir.

Mr. VAN COTT. Who is the president of that company?

Mr. COLE. Joseph Smith.

Mr. VAN COTT. Joseph F. Smith?

Mr. COLE. Joseph F. Smith is the president of the company.

Mr. VAN COTT. Does that company bank with you?

Mr. COLE. Yes, sir.

Mr. VAN COTT. Do you hold any office in Boxelder County?

Mr. COLE. Yes, sir.

Mr. VAN COTT. What office?

Mr. COLE. I am treasurer of the county.

Mr. VAN COTT. When were you elected?

Mr. COLE. The 8th of November.

The CHAIRMAN. Last year?

Mr. COLE. Last November.

Mr. VAN COTT. And of course by the Republican party?

Mr. COLE. Yes, sir.

Mr. VAN COTT. In the convention that was held, who was your opponent, a Gentile or a Mormon?

Mr. COLE. In the convention there was a Mormon. One man was presented against me. He was a Mormon.

Mr. VAN COTT. And in the election, who was your opponent on the Democratic ticket, a Mormon or a Gentile?

Mr. COLE. He was a Gentile. He was a kind of missionary—on the Democratic ticket.

Mr. VAN COTT. I beg pardon, but you said a Gentile, a returned missionary. Do you mean that?

Mr. COLE. No; I say the Mormon is a returned missionary. There are no Gentiles returned missionaries.

Mr. VAN COTT. During the campaign did you travel around Boxelder County?

Mr. COLE. No, sir; I did not. I was only at two meetings, I believe. In fact, I know I was only at two meetings. One was at Corinne and one was at Bear River City. That is a little village about 5 miles north of Corinne.

Mr. VAN COTT. You took some interest in the election, did you?

Mr. COLE. Well, not very much. Of course I took some interest, because I was a candidate, but very little.

Mr. VAN COTT. Were there Mormons on the Republican ticket?

Mr. COLE. On the Republican ticket? The county ticket certainly was made up of Mormons, or mostly.

Mr. VAN COTT. How did you hold up in your vote with the Republican Mormons on the same ticket?

Mr. COLE. I ran right along with them, as near as I could make out, with the exception of this Petersen on the Democratic ticket, against me. He was a Brigham City man. That is the greatest vote that is cast, at Brigham City. In his ward, the ward he lives in, I understand he ran a little ahead, but outside of that I ran with the ticket, right through the county.

Mr. VAN COTT. Did you run a little ahead of your own ticket in Corinne precinct, where you live?

Mr. COLE. Yes; a little.

Mr. VAN COTT. While you have lived in Boxelder County, have you seen any interference on behalf of the Mormon Church with the politics of the people or of the voters of either party?

Mr. COLE. No; I have not.

Mr. VAN COTT. How have you found the Republican Mormons and the Democratic Mormons in regard to being independent in politics?

Mr. COLE. You mean whether they stay by the ticket?

Mr. VAN COTT. Yes.

Mr. COLE. I believe they will, certainly. There is no question about that. They stay by the ticket in our county as well as any people I know.

Mr. VAN COTT. Calling attention to the time that you have been in Utah, what is your opinion as to the manner in which the Gentiles

have been treated in the Mormon county you refer to, namely, Boxelder County, in regard to offices and officers?

Mr. COLE. Well, they have been treated real well. The fact of the matter is, I can't notice where they make a distinction. Of course, there are generally some Mormons on the ticket. In fact, there are always some Mormons on the ticket, but there is a big majority of Mormons in the county. There are always some Gentiles on the ticket ever since I have been there.

Mr. VAN COTT. Are the principal affairs of the county administered by what are called county commissioners?

Mr. COLE. Yes.

Mr. VAN COTT. Is one of them a Gentile?

Mr. COLE. We have one a Gentile, one a Mormon, and one that seems to be neither one, I believe.

Mr. VAN COTT. The Gentile that is known as a Gentile—does he belong to any church?

Mr. COLE. Yes; I think he is a Baptist.

Mr. VAN COTT. Do you know whether this is his first term?

Mr. COLE. No; this was his second term. He was elected last fall to his second term.

Mr. VAN COTT. How did he go along with his comrades on the Republican ticket? Did he hold up with them?

Mr. COLE. He held right up with the ticket everywhere as near as I can make out. I inquired into it a little just to see how it was running.

Mr. VAN COTT. Calling attention to some of the settlements in Boxelder County, are some of them new settlements?

Mr. COLE. Well, comparatively new; yes. The Bear River Valley was watered ten years ago, you know, and for the last—well, four or five or six years or such a matter they have been coming in there from all parts of the country.

Mr. VAN COTT. Principally Gentiles or principally Mormons?

Mr. COLE. I don't know what per cent would be Mormons or Gentiles. I am sure they are quite a few Gentiles in there. I know in one section there are quite a few Gentiles.

Mr. VAN COTT. Calling attention to one of your new settlements there and to the schoolhouse, is the schoolhouse used for any other purpose than school purposes?

Mr. COLE. They have been; yes. They have been used for—well, one school in particular has been used by the Baptists and Methodists and the Mormons, too, I believe, as a meetinghouse—church.

Mr. VAN COTT. Is it a new place?

Mr. COLE. Yes; it is just built up in the last four years, or such a matter.

Mr. VAN COTT. Is there any other public building there except this one?

Mr. COLE. No; there are no churches at all right in that neighborhood.

Mr. VAN COTT. So that this building is used, as you have said, by all these people?

Mr. COLE. Yes, sir.

Mr. VAN COTT. And the public school?

Mr. COLE. Yes, sir.

Mr. VAN COTT. Is that stopped now?

Mr. COLE. I don't think it is stopped yet. I believe they are holding services yet in some of them, but in some cases they have churches and meetinghouses that the Mormons call their part of it—in some sections—but there are some that are used still, I believe, for all parties.

Mr. VAN COTT. I will ask you whether they are all engaged in endeavoring to build their separate churches—church buildings I mean.

Mr. COLE. Well, I believe they are, as near as I know. They are trying to get churches in every part of the country there.

Mr. VAN COTT. I refer particularly to church buildings.

Mr. COLE. Yes; they are trying to build churches in two or three different places up through the valley now.

Mr. VAN COTT. Mr. Cole, you do not live in Brigham City, do you?

The CHAIRMAN. I do not know that I understood his answer or that you did. I understood him to say they use these schoolhouses for church meetings. Do they?

Mr. COLE. They have used them for that, and I believe they do yet where they have no churches.

Mr. VAN COTT. That is, the different churches use them?

Mr. COLE. Yes; the Baptists use the schoolhouse there now, I know, or they have right along.

Mr. VAN COTT. You do not live in Brigham City, do you?

Mr. COLE. No, sir; I live in Corinne.

Mr. VAN COTT. Is Brigham City the principal city of Boxelder County?

Mr. COLE. Yes.

Mr. VAN COTT. The county seat?

Mr. COLE. It is the county seat.

Mr. VAN COTT. How far is Corinne from Brigham City?

Mr. COLE. It is about 6 miles.

Mr. VAN COTT. You can drive over to it readily?

Mr. COLE. Yes.

Mr. VAN COTT. Have you heard anything about what has been mentioned in this testimony at different times and at considerable length regarding the opera house matter in Brigham City? Have you heard of it?

Mr. COLE. I have heard of it; yes. I do not know anything particular about it, only what I have heard on the street and around generally. I have heard a little talk of it.

Mr. VAN COTT. Was that a contest in any sense between Mormons and Gentiles?

Mr. COLE. No; it was not. I do not think there was a Gentile connected with either side.

Mr. VAN COTT. It was entirely between Mormons?

Mr. COLE. Yes.

Mr. VAN COTT. Do you know what the objection was to some of those people who built this dance pavilion or dance house?

Mr. COLE. Objections to the building of it?

Mr. VAN COTT. Well, yes; why was it objected to?

Mr. COLE. In the first place, it was a very cheap affair and built right up to the sidewalk and anybody that had money to pay for a dance could go in and dance.

Mr. VAN COTT. Was it open—exposed to the public?

Mr. COLE. Yes; it was.

Mr. VAN COTT. Did you understand that that was or was not the objection to it?

Mr. COLE. I understood that was the objection to it in the first place.

Mr. VAN COTT. In going over Boxelder County, and from what you know there since you have been in office, I will ask you whether in your opinion the sentiment is for polygamy or against it?

Mr. COLE. Oh, it is against it, decidedly. Everywhere that I have ever been, or anything I have ever heard spoken of, it is certainly against polygamy.

Mr. VAN COTT. How is it with the younger element—the younger generation?

Mr. COLE. Well, they in particular are against polygamy.

Mr. VAN COTT. How is it with Mormons who are more advanced in years since the manifesto?

Mr. COLE. I have not heard that matter discussed very much. I do not know that there are any persons there—I never heard a person express himself in favor of polygamy since I have been in Utah.

Mr. VAN COTT. You may take the witness, Mr. Tayler.

Mr. TAYLER. So you have been hearing about this opera house and dancing hall business at Brigham City, have you?

Mr. COLE. I heard very little about it. Just street talk is all I know about it.

Mr. TAYLER. You know just what kind of controversy it was, you told us?

Mr. COLE. That I know it?

Mr. TAYLER. What?

Mr. COLE. I say I have heard very little about it.

Mr. TAYLER. But you told us you know it was between Mormons in the first place.

Mr. COLE. Yes; I know that.

Mr. TAYLER. Not between Mormons and Gentiles, and that it was because it was being built on the street.

Mr. COLE. Not on the street.

Mr. TAYLER. What?

Mr. COLE. I say it was built up to the sidewalk.

Mr. TAYLER. I meant up to the sidewalk. Do you know that an application was made to the mayor and the council of Brigham City for a permit to build this dance hall or opera house?

Mr. COLE. No; I do not know anything about that.

Mr. TAYLER. You assume there must have been something of that sort, do you not?

Mr. COLE. I presume that there must have been; yes.

Mr. TAYLER. And that the application was granted, do you not?

Mr. COLE. I did not know anything about that.

Mr. TAYLER. You assume that must have been done also, because they did build, did they not?

Mr. COLE. Yes, sir.

Mr. TAYLER. Do you not know that on the 1st of May, 1903, the high council of the Mormon Church of the Boxelder Stake of Zion rendered the following decision? You know the high council is a part of the church, is it not? You know what a high council is, do you not?

Mr. COLE. No, sir. I do not know much about the organization.

Mr. TAYLER. The high council is not one of your elective, civil, political bodies, is it?

Mr. COLE. No, sir.

Mr. TAYLER. It belongs to the church somewhere, does it not?

Mr. COLE. Yes, sir.

Mr. TAYLER. Did you ever hear that it rendered this decision:

"Inasmuch as Brother C. O. Anderson appeared on behalf of himself and Brother Chris Christensen in regard to the dancing pavilion which they are erecting and presented certain propositions before the council,"——

This is the high council, not the city council, you understand, do you?

Mr. COLE. Yes, sir; I understand.

Mr. TAYLER (reading):

"the council after due consideration decided that they could not rescind its former decision given on this question; it was also the advice and council of the meeting that these brothers cease their work on said pavilion and that they do not use it for dancing purposes, but that said pavilion be removed and the material in its construction be disposed of."

Did you ever hear of that?

Mr. COLE. No, sir; I never heard of that.

Mr. TAYLER. You never heard of that before?

Mr. COLE. Yes, sir; I heard something about it.

Mr. TAYLER. You heard something about it?

Mr. COLE. Yes. I never read that.

Mr. TAYLER. Do you know that one of the wards of the church there in Brigham City owns the Brigham City Opera House? Is that right?

Mr. COLE. I understood it belonged to the church organization, but I did not know about any particular ward.

Mr. TAYLER. To the church organization. And do you not know that the people who were erecting this new building undertook to settle this matter with the high council by paying something to them in order to satisfy them for the competition that would come about between the new hall and the opera house that belonged to the church? Do you not know that?

Mr. COLE. No, sir; I did not know it.

Mr. TAYLER. And do you not know that there was such an adjustment made?

Mr. COLE. I heard about six months or a year ago something like that, that there was some kind of an agreement come to, but that is all I know about it.

Mr. TAYLER. Exactly. Do you remember reading in the Boxelder News a letter by President Kelly? You know President Kelly, do you not?

Mr. COLE. I have met him.

Mr. TAYLER. He is president of the stake, is he not?

Mr. COLE. Yes, sir.

Mr. TAYLER. Boxelder stake?

Mr. COLE. Yes, sir.

Mr. TAYLER. The highest official in the county, is he not—the highest church official?

Mr. COLE. I believe they consider him so; yes.

Mr. TAYLER. He is the president, the highest official in the county. In which he stated that "they (that is, these people who were building this new hall) ought to have abided by the counsel that was given them and avoided the controversy which has arisen out of their disobedience to counsel." Do you remember seeing that or hearing of it?

Mr. COLE. No; I do not remember hearing it.

Mr. TAYLER. You do not remember that there was any church question in this, do you?

Mr. COLE. As I said before, I understood that it was between the Mormons themselves.

Mr. TAYLER. Between the Mormons themselves?

Mr. COLE. It was the church on both sides, according to that.

Mr. TAYLER. Yes; it was between the high council of the stake, or the high council there, and some other Mormons who were building a private building that would come into competition with the church's building. Is not that right, and they were ordered to tear it down, were they not?

Mr. COLE. That is, according to that statement.

Mr. TAYLER. Is not that the way you understand it?

Mr. COLE. Yes; I believe that is all right.

Mr. TAYLER. I want to ask another question or two. Do you know Oleen N. Stohl?

Mr. COLE. I am a little acquainted with some of the Stohls, but I am not sure about the name.

Mr. TAYLER. Is he not one of the councilors to the president of the stake?

Mr. COLE. There is one of them, yes, that I understood was.

Mr. TAYLER. Yes; councilor to the president of the stake—who, as recently as last February, in respect to this particular controversy, said:

"The authorities of this stake must dictate and control, and members of the church must take a stand one way or the other. If you bishops have any officers who will not carry out 'counsel' we want you to drop them, and even members of the high council will be dropped. The church has authority in this matter. This is no longer an opera-house fight, but a church fight. The new dancing hall (the academy of music and dancing) has been built in direct opposition to this authority."

Do you remember reading about that?

Mr. COLE. I never read it.

Mr. TAYLER. You heard about it, did you not?

Mr. COLE. Yes; I presume I heard about it, but I did not take any notice of it.

Mr. TAYLER. And then did not President Kelly say that he heartily indorsed those remarks, and said "amen" to them? Is your office in Brigham City?

Mr. COLE. It is.

Mr. TAYLER. As treasurer of the county?

Mr. COLE. Yes, sir.

Mr. TAYLER. Do you not know this, that over 25 good citizens, who refused to sustain President Kelly in this controversy between the Mormon opera house and the private hall that was built, who refused to sustain President Kelly in his interference in this matter, were dropped from their official positions in the church?

Mr. COLE. I did not know it.

Mr. TAYLER. Had you never heard of it?

Mr. COLE. No, sir; I had not.

Mr. TAYLER. Had you heard that at a meeting held last January—a year ago this January—in the priesthood meeting in the first ward of Brigham City, every person who applied for a recommend to get married in the Mormon temple at Logan was required to stand up before the entire congregation and there promise to obey the priesthood in all matters, “spiritual and temporal,” and that Frank Christensen refused to make that promise and was not permitted to marry in the temple? Did you hear that?

Mr. COLE. No, sir.

Mr. TAYLER. Was not that a matter of public discussion?

Mr. COLE. No, sir; it was not. I never heard a word of any such stuff as that.

Mr. TAYLER. Now, how did you understand the church authorities and these other people building the private hall settled that difference? How did you understand they finally settled it?

Mr. COLE. Well, I did not have any understanding of it. I understand they came to some kind of a settlement. I believe all I heard about it was some little article in the paper that it had been settled in some way, but I could not say how, and I never knew anything about it further.

Mr. TAYLER. Do you not know there was a quarrel about it, and that President Kelly announced that he had been sustained by the greatest tribunal on earth?

Mr. COLE. No, sir; I did not know that.

Mr. TAYLER. Do you remember that?

Mr. COLE. I did not hear of it.

Mr. TAYLER. And that then this was published:

“OFFICE OF THE PRESIDENCY OF THE

“BOXELDER STAKE OF ZION,

“July 20, 1904.

“We, the undersigned, mutually agree that the dancing in the Boxelder Academy of Music and Dancing be conducted under the direction of the stake amusement committee, appointed by the presidency of the stake, and that the presidency of the stake will encourage the patronage of the people to that institution under proper rules and regulations.

“And the directors of the Boxelder Academy of Music and Dancing agree that 25 per cent of the net earnings be turned into the stake treasury to be disbursed as they see fit for the benefit of the church in the Boxelder Stake of Zion.”

Is not that talk in everybody's mouth that that settlement was made?

Mr. COLE. Not where I have been; no, sir; it was not.

Mr. TAYLER. What is that?

Mr. COLE. Not where I have been. I never heard the agreement at all before.

Mr. TAYLER. “And that E. C. Wheatley and J. A. Edwards”—I am continuing this finding—“are hereby added to the stake amusement committee by appointment by the presidency of the stake. And the stake presidency will advise that the dance hall in the opera house

be not used in competition with the dancing academy, and that both of the aforesaid halls will be used under the direction of the stake amusement committee."

Signed by Charles Kelly, Lucious A. Snow, Oleen N. Stohl, stake presidency, and by E. C. Wheatley and five others, directors of the Boxelder Academy of Music and Dancing.

Now, does not all that I have adverted to agree with the talk—the understanding you have as to the settlement of that Boxelder Dancing Academy episode?

Mr. COLE. No, sir; as I said before, I never heard what the settlement was. I just understood there was a settlement of some kind.

Mr. TAYLER. Speak up, Mr. Cole.

Mr. COLE. I just understood there was a settlement. That is the first I heard it read.

Mr. TAYLER. You say the schoolhouses there, or a schoolhouse, is used by several different church organizations?

Mr. COLE. They have been, and some of them are now.

Mr. TAYLER. At what time?

Mr. COLE. Ever since I have been there.

Mr. TAYLER. At what time in the day or week?

Mr. COLE. Sunday.

Mr. TAYLER. Do the Methodists hold services there right after school lets out?

Mr. COLE. I never heard of them.

Mr. TAYLER. Do the Baptists?

Mr. COLE. I do not think they do.

Mr. TAYLER. Do the Mormons?

Mr. COLE. I do not know whether they do or not.

Mr. TAYLER. You do not know whether they do either?

Mr. COLE. No, sir; I do not.

Mr. TAYLER. That is all.

Mr. VAN COTT. That is all.

The CHAIRMAN. Who is your next witness?

Mr. WORTHINGTON. Judge Miner.

TESTIMONY OF JAMES A. MINER.

JAMES A. MINER, being duly sworn, was examined, and testified as follows:

Mr. WORTHINGTON. Your name is James A. Miner, Judge?

Mr. MINER. Yes, sir.

Mr. WORTHINGTON. Might I ask your age?

Mr. MINER. Sixty and upwards.

Mr. WORTHINGTON. Where do you reside?

Mr. MINER. In Salt Lake City.

Mr. WORTHINGTON. How long have you lived in Utah?

Mr. MINER. Since July, 1890.

Mr. WORTHINGTON. In what capacity did you go to Utah in 1890?

Mr. MINER. As an associate justice of the supreme court of the Territory.

Mr. WORTHINGTON. Under appointment by the President, of course?

Mr. MINER. President Harrison.

Mr. WORTHINGTON. Where had you lived before that, Judge?

Mr. MINER. At Marshall, Mich.

Mr. WORTHINGTON. How long did you serve as associate justice of the supreme court of the Territory?

Mr. MINER. Four years.

Mr. WORTHINGTON. That would take you until 1894?

Mr. MINER. Yes, sir.

Mr. WORTHINGTON. After that what did you do?

Mr. MINER. For one year I continued the practice of the law at Salt Lake City. During that first term I resided at Ogden. For one year I practiced, and at the close of that year I was elected justice of the supreme court of the new State.

Mr. WORTHINGTON. That is, the organization of the court when the State was admitted?

Mr. MINER. Yes; I held that position for seven years.

Mr. WORTHINGTON. You held it how long?

Mr. MINER. Seven years.

Mr. WORTHINGTON. Until 1903?

Mr. MINER. Yes, sir.

Mr. WORTHINGTON. Have you held any position since then?

Mr. MINER. No.

Mr. WORTHINGTON. I need not ask you, I suppose, but the record had better show it. You are not a Mormon?

Mr. MINER. I am not.

Mr. WORTHINGTON. You never have been?

Mr. MINER. I never have been.

Mr. WORTHINGTON. Are you connected with any religious society or organization?

Mr. MINER. I believe I am a member—an imperfect member—of the Episcopal Church.

Mr. WORTHINGTON. During your term of four years there—from July, 1890, was it?

Mr. MINER. July; yes, sir.

Mr. WORTHINGTON. For four years did you have anything to do with the prosecution of persons who were charged with polygamous cohabitation?

Mr. MINER. Well, a great many of those cases were tried before me, as associate justice. I was assigned to the first district.

Mr. WORTHINGTON. I was going to ask. Your headquarters were at Ogden?

Mr. MINER. During that four years, yes.

Mr. WORTHINGTON. What was your jurisdiction, or district?

Mr. MINER. It included the first district, which included the Provo District.

Mr. WORTHINGTON. Did it include Salt Lake City?

Mr. MINER. No.

Mr. WORTHINGTON. It was on both sides of Salt Lake City?

Mr. MINER. On both sides of Salt Lake City. The district had been divided, and there was another justice assigned to the Provo district—that is, in my district—but I had a clerk in that court and also in the Ogden court.

Mr. WORTHINGTON. Could you give us some idea of the nature of those prosecutions, and the result of them—how the people acted who were prosecuted?

Mr. MINER. Yes. When I went there in July, 1890, there were a

great many criminal prosecutions for polygamy and unlawful cohabitation pending, and a great many more were brought during that year. Of course they were tried before myself, as the judge of that court.

Mr. WORTHINGTON. Did they plead guilty, or were they convicted, or what?

Mr. MINER. Many of them would plead guilty, and many of them contested it. Of course the purpose of the court—and I think of all the courts at that time—was to get the people charged with polygamous practices of with unlawful cohabitation to promise to obey the law. It was understood at that time that they were advised by their authorities above them not to obey the law; that is, they were not to be guilty of it. I remember one instance that might illustrate the others, if you wish it.

Mr. WORTHINGTON. Just state it, Judge.

Mr. MINER. One young man about 30 years old, perhaps a little over, was brought before me and pleaded guilty to polygamy at one time during my first experience there on the bench. I asked him if he could not promise to obey the law in the future. He said no, sir; he could not. I asked Judge Rolapp—I think Judge Rolapp was a Mormon lawyer—if he would not take the young man out privately and talk with him, and see if he would not promise to obey the law in the future, because the purpose was to get them to obey the law, or promise to obey it, and as a rule they would keep their promise. Mr. Rolapp took the young man out, and after a time returned with the statement that he could not make him promise. I then asked him why he could not make the promise. I said we all had to obey the law, and I asked him why he could not.

Well, he was very respectful in his reply. He said that he was brought up in the Mormon Church; he had been taught from his infancy that polygamy was right; that some three or four years prior he had married his first wife and had a couple of children by her; that a year or two later he took his second wife, and he had a child by her; that a year or two prior to the trial he had taken his third wife, and had a child by her. "Now," he said to me, "I have promised those wives to live with them and provide for them." He said: "I love those children. Those wives and children love me." He said: "Would I not be a hypocrite to desert those wives and children now?" It was somewhat new to me at the time. I sentenced him, I think, for four or five years in the penitentiary, but subsequently, after the manifesto was issued, I learned he was disposed to make the promise, and I made every effort to get him out of the penitentiary. I felt sorry for him, and I got him out.

Mr. WORTHINGTON. You say after the manifesto he was disposed to make a promise. What promise?

Mr. MINER. To obey the law.

Mr. WORTHINGTON. I want to ask you whether, at about the time the manifesto was issued, any change came over the Mormons in reference to whether they would or would not make the promise?

Mr. MINER. Yes, sir.

Mr. WORTHINGTON. Did the prosecutions then stop?

Mr. MINER. The prosecutions largely stopped.

Mr. WORTHINGTON. After the manifesto, and during the continu-

ance of your term there, which took you down to 1894, the prosecutions were very few, were they?

Mr. MINER. Very few.

Mr. WORTHINGTON. Could you give us an idea of the number?

Mr. MINER. No; I could not. I presume I sent up a hundred or more to the penitentiary—perhaps 200 of them—during the time I had there. I know they came very rapidly. It became sickening and tiresome to me to send those people to the penitentiary, and I therefore used every effort I could to get them to promise to obey the law, and when I got the promise from them as a rule they would keep the promise.

Mr. WORTHINGTON. After the manifesto, which was in the fall of 1890, the prosecutions were very few?

Mr. MINER. Yes, sir.

Mr. WORTHINGTON. We know, then, that from that time down to the time the State was admitted into the Union, which was in January, 1896, the officers of the United States were in charge there.

Mr. MINER. They were.

Mr. WORTHINGTON. The prosecuting officers, the governor of the Territory, the judges, and everything.

Mr. MINER. Yes, they were; right along. We had quite a good many United States marshals at Ogden, where I resided at that time.

Mr. WORTHINGTON. Can you tell us anything about what was done in prosecuting Mormons during that period, between the time of the manifesto and the time the State was admitted into the Union, as to whether they overlooked the fact, or continued to prosecute men who lived in polygamy, who had taken plural wives before the manifesto?

Mr. MINER. Yes; they were brought right along continuously, but not as numerous. They dropped off largely after that.

Mr. WORTHINGTON. There were very few of them?

Mr. MINER. Very few. The officers were, of course, vigilant—I think they were—watching these people all the time.

Mr. WORTHINGTON. Naturally, from your being in that relation to the State when you went there, and living there ever since, you must have observed the history and progress of the State in reference to this matter of polygamy?

Mr. MINER. I have.

Mr. WORTHINGTON. What can you tell us, as to whether it is increasing or decreasing?

Mr. MINER. It is very much decreasing; it has decreased nearly 100 per cent since I went there. I should say there was 90 per cent at least decrease in the number of polygamous families from that time to this out of 100.

Mr. WORTHINGTON. What would you say as to the decrease in the number of new plural marriages since the manifesto?

Mr. MINER. We do not hear of them.

Mr. WORTHINGTON. So far as your knowledge or observation goes, they have ceased, have they?

Mr. MINER. They have. Of course, I have heard a rumor here and there that somebody must be associating improperly with some woman or other. It is not generally spoken of.

Mr. WORTHINGTON. You heard the rumor, I suppose, published in the papers, about the charge that Abram Cannon, an apostle, had married Lillian Hamlin?

Mr. MINER. I heard that since this trial commenced. I heard a whisper of it before.

Mr. WORTHINGTON. But as a general thing the knowledge you have there, from your own observation and from general reputation, is that new polygamous marriages have practically ceased since the manifesto?

Mr. MINER. Yes, sir; I think they have.

Mr. WORTHINGTON. And polygamy is dying out?

Mr. MINER. It is.

Mr. WORTHINGTON. What have you observed as to the feeling of the Mormons themselves as to this subject of polygamy?

Mr. MINER. The younger class of Mormons are, I think, very much opposed to it.

Mr. WORTHINGTON. Do you find that to be well-nigh universal among them?

Mr. MINER. I think it is.

Mr. WORTHINGTON. What would you say would be the future of polygamy in that respect, without reference to any law on that subject?

Mr. MINER. I think in time, when these old people who are now in polygamy die off, it will entirely end. That has been my hope.

Mr. WORTHINGTON. What is your observation and knowledge, by reputation or otherwise, as to whether the Mormons who have plural wives continue to live in polygamous cohabitation with them?

Mr. MINER. Those that now have them?

Mr. WORTHINGTON. Yes; as to whether they all continue to do it, or some of them.

Mr. MINER. It is dying out. It is gradually giving away. We hear less of it.

Mr. WORTHINGTON. That is all I want to ask on the subject of polygamy at present. Have you had any interest in the political affairs of the Territory or of the State since you went there?

Mr. MINER. Yes. Do you mean when I ran for office?

Mr. WORTHINGTON. Well, in a way. I want to know whether you have kept informed in a general way, as citizens do, of political affairs in your State.

Mr. MINER. I have. I came from Michigan.

Mr. WORTHINGTON. If Senator Burrows were here he might consider that flattery.

Mr. TAYLER. He might consider it pleasant flattery.

The ACTING CHAIRMAN (Senator KNOX). There are no politics up there, Judge. It is all unanimous. [Laughter.]

Mr. WORTHINGTON. We heard a good deal last spring about the city election that was held in your town, to the effect that Mayor Morris was elected over the retiring mayor, Mr. Knox, and that that was said to be a result of church interference and dictation to the voters. Do you know anything about that, Judge?

Mr. MINER. I know something of it—something by reputation. I will say to you that I have been on the sick list for about two years and a half now, and consequently have not been engaged in any active business.

Mr. WORTHINGTON. And at that time?

Mr. MINER. And I was not out at that time, but just before, at the time the convention was held, I was out. I was not well, but I was

out, and I heard considerable talk in regard to the conduct of a certain Republican convention. It was reputed that proxies had been sold for money, and it incensed the prominent Republicans there to a great extent, I think. I was taken sick, and did not appear on the streets for some time; but after I became well, and, in fact, during my sickness, I learned that the Republicans were largely going to vote against that ticket, because it had been put up, as they called it.

Mr. WORTHINGTON. Knox was the Republican candidate?

Mr. MINER. No; the Republican candidate, I think, stood very well indeed—the nominee.

Mr. WORTHINGTON. You did not understand me. I said Mr. Knox was the Republican candidate.

Mr. MINER. Yes.

Mr. WORTHINGTON. And you knew, by what you had learned prior to your becoming sick and what you learned afterwards, that the leading prominent Republicans had turned against him?

Mr. MINER. Yes.

Mr. WORTHINGTON. Because of these reasons, which we need not go into in detail.

Mr. MINER. I should say that nearly half of the Republicans on my street voted against the ticket.

Mr. WORTHINGTON. There was nothing against Mr. Knox personally?

Mr. MINER. Not a thing. He was a good man.

Mr. WORTHINGTON. It was the influence that had put him up?

Mr. MINER. Yes.

Mr. WORTHINGTON. Would you, from your knowledge of affairs out there, attribute the result of that to the turning over of the Republicans away from the mayoralty candidate, or to the influence of the church?

Mr. MINER. I attribute it to the opposition to the manner of nominating the ticket.

Mr. WORTHINGTON. Do you know Joseph F. Smith, the president of the Mormon Church?

Mr. MINER. I do.

Mr. WORTHINGTON. Without going into ancient history, what would you say, from your knowledge of him and of affairs out there, as to whether or not there has been any interference or attempt to run the politics of the State by the Mormon Church since he became president?

Mr. MINER. I do not think there has.

Mr. WORTHINGTON. Do you think he is honestly and in good faith keeping the church out of politics?

Mr. MINER. I believe he is doing everything he can to do it. I think him an honest man, from what I know of him.

Mr. WORTHINGTON. We have also heard a good deal about the last election in Utah, and the large majority that the Republican ticket obtained, which was also, as I understand, attributed here to the influence of the church. Did you have anything to do with that election in your own jurisdiction there?

Mr. MINER. Yes; I was one of the electors on the ticket in this last Presidential election.

Mr. WORTHINGTON. You were one of the Presidential electors on the Republican ticket?

Mr. MINER. Yes,

Mr. WORTHINGTON. Did you take any active part in the campaign last fall?

Mr. MINER. I did.

Mr. WORTHINGTON. In your county?

Mr. MINER. I did.

Mr. WORTHINGTON. Could you give us any information as to the management of that campaign which would tend to show the reasons for the large majority that the Republican ticket had in your county?

Mr. MINER. Well, there was a third party, the American ticket, nominated there, called the Kearns ticket—Senator Kearns's ticket. It was gotten up among the Gentiles as a Gentile ticket in opposition to the Republican ticket, and, in fact, in opposition to all tickets really, because both Democrats and Republicans voted the American ticket, but largely Republicans; and being on the Republican ticket, and having nothing else to do, I told the chairman of the Republican State committee that if he would depute me I would do what I could toward electing the ticket. He said, "You are deputized as a committee of one to do just as you are a mind to." So I appointed five ladies, prominent ladies of the city where the opposition was to act, as a committee of five, one in each precinct. Shall I tell that? Do you want me to state that?

Mr. WORTHINGTON. If you think it helped to bring about the result of that election, why, tell it; because they say the church did it; and I want to know if you can give us any information that will throw light on that subject.

Mr. MINER. I will say this: Those ladies were very prominent ladies there. They are very elegant ladies, and good workers. They were appointed, and I requested them to appoint 20 more ladies in each precinct.

Mr. WORTHINGTON. A sort of an endless chain proceeding?

Mr. MINER. Whose duties it should be to get five votes from the opposition parties for the Republican ticket.

Mr. WORTHINGTON. Each one of them?

Mr. MINER. Each one; which they promised to do, and which they did.

Mr. TAYLER. We throw up our hands, and abandon the claim. [Laughter.]

Mr. MINER. After they were appointed I requested them to appoint 20 more, which may have been done. I also appointed a hundred or more men to do the same thing. They did excellent work, and made a great many Republican votes.

Mr. WORTHINGTON. That was a very thorough and complete organization. Did the church have anything to do with it?

Mr. MINER. Not the least that I know of.

Mr. WORTHINGTON. Let us see. You were one of the candidates for judge in the election of 1895?

Mr. MINER. Yes, sir.

Mr. WORTHINGTON. For organizing the State judiciary, and so on?

Mr. MINER. Yes, sir.

Mr. WORTHINGTON. There were three judges on your supreme court, I believe?

Mr. MINER. Yes; three candidates on the ticket.

Mr. WORTHINGTON. You were one of them?

Mr. MINER. I was one of them.

Mr. WORTHINGTON. Who were the others?

Mr. MINER. Judge Zane and Judge Barch.

Mr. WORTHINGTON. Judge Zane we know was not a Mormon. How was it as to Judge Barch?

Mr. MINER. Neither one of them was a Mormon.

Mr. WORTHINGTON. Had Judge Zane been as active as you were in prosecuting the Mormons and sending them to the penitentiary, when they would not promise to be good?

Mr. MINER. Yes, sir; and he had been on the bench longer than I had.

Mr. WORTHINGTON. Who were the opposing candidates for the three positions on the supreme court bench?

Mr. MINER. I can not recall their names. I know them perfectly well, but their names do not occur to me at the present time.

Mr. WORTHINGTON. Do you remember Thurman?

Mr. MINER. Yes; Judge Thurman.

Mr. WORTHINGTON. And Young?

Mr. MINER. Young was the second one—Young and Thurman. They were both Mormons, as I remember. Then there was a Mr. Maloney, from Ogden. He was a Gentile.

Mr. WORTHINGTON. So that on one side were you three Gentile candidates, two of whom had been sending Mormons to the penitentiary when they would not promise to give up their mode of life?

Mr. MINER. Yes, sir.

Mr. WORTHINGTON. And on the other side were two Mormons and a Gentile?

Mr. MINER. Yes, sir.

Mr. WORTHINGTON. You have already told us your ticket was elected.

Mr. MINER. My ticket was elected.

Mr. WORTHINGTON. And in a State in which the great majority of the voters were Mormons?

Mr. MINER. I think about two-thirds of them were Mormons.

Mr. WORTHINGTON. Seventy per cent, I think we have been told here.

Senator DUBOIS. What was the date of this?

Mr. WORTHINGTON. This was in 1895.

Senator DUBOIS. Was that after or before statehood?

Mr. WORTHINGTON. They were just organizing for the State. The State was admitted in 1896, and this was the election of the State officers, who took their seats in January following.

Of course, on the ticket on which you ran there were other candidates for governor and all the State officers?

Mr. MINER. Yes; all State officers and county officers.

Mr. WORTHINGTON. And there were Mormons and Gentiles both on the ticket, I suppose?

Mr. MINER. Yes, sir.

Mr. WORTHINGTON. How did you hold up in the vote you received with the other candidates on the same ticket?

Mr. MINER. Well, we did not run behind any. I think we ran—my majority was about 2,100 in the State.

Mr. WORTHINGTON. Was it about the same as the other candidates on your ticket?

Mr. MINER. Yes; about the same.

Mr. WORTHINGTON. You may cross-examine, Mr. Tayler.

Mr. TAYLER. How did you come to be on the ticket last fall as a candidate for elector?

Mr. MINER. The State committee placed me on the ticket.

Mr. TAYLER. On account of a vacancy?

Mr. MINER. On account of a vacancy; yes.

Mr. TAYLER. How did the vacancy occur?

Mr. MINER. It strikes me that somebody in St. George had withdrawn.

Mr. TAYLER. What is that?

Mr. MINER. The nominee from St. George had withdrawn from the ticket, and the State committee placed me in his place.

Mr. TAYLER. Do you know why he withdrew?

Mr. MINER. I have heard.

Mr. TAYLER. Why?

Mr. MINER. I heard he was a polygamist.

Mr. TAYLER. Because he was a polygamist? He was nominated as an elector?

Mr. MINER. He was.

Mr. TAYLER. And it created some disturbance, did it not?

Mr. MINER. No; I do not think it did.

Mr. TAYLER. Oh, it did not?

Mr. MINER. If it did, I did not know anything about it.

Mr. TAYLER. You did not know about it?

Mr. MINER. No.

Mr. TAYLER. Well, it did not create any disturbance, but he resigned?

Mr. MINER. He resigned. The first I knew of it, I was telephoned in the evening following the convention. I was asked by one of the officers if I would accept the position.

Mr. TAYLER. You understood that he got off the ticket because he was a polygamist?

Mr. MINER. I did not know at that time.

Mr. TAYLER. You know now?

Mr. MINER. I have heard since that he declined to run.

Mr. TAYLER. Respecting this matter of new polygamous marriages, you say you just heard whispers—I do not know whether that is a mild enough word to meet the lack of emphasis that all the talk you ever heard had—just vague, indefinite rumors, in so far as you heard anything, about polygamous marriages since the manifesto. Is that right, Judge?

Mr. MINER. Yes. Of course you know there have been two parties there.

Mr. TAYLER. I am not talking about parties now. Do you mean two parties, one of whom believes there were polygamous marriages and one that does not?

Mr. MINER. No; there is one party that is called the "Mormon haters." They are one side.

Mr. TAYLER. Yes.

Mr. MINER. The Mormons on the other. Then there are the two distinct parties outside of that.

Mr. TAYLER. What do you call those that are in between?

Mr. MINER. I do not know who you refer to as "between."

Mr. TAYLER. Well, I do not know whether there was a party called "Jack-Mormons" or not.

Mr. MINER. Yes; there are some people called "Jack-Mormons," who are supposed to work with the Mormons.

Mr. TAYLER. Now, Judge, you said you had just heard a whisper, or something of that sort, to the effect that Apostle Abram Cannon had taken a plural wife since the manifesto in 1896?

Mr. MINER. Yes, sir.

Mr. TAYLER. How long since you first heard it?

Mr. MINER. I think I saw that in the Tribune.

Mr. TAYLER. Of course you did not credit it, did you?

Mr. MINER. I did not credit it; no. Of course I did not know.

Mr. TAYLER. I understand.

Mr. MINER. I have learned to believe nothing unless I know it is true.

Mr. TAYLER. Precisely. Out there that is true, is it not?

Mr. MINER. Yes; I do not take for granted everything I hear.

Mr. TAYLER. You did not think about it any more, much less prosecute any inquiry about it?

Mr. MINER. It has been suggested that that was so.

Mr. TAYLER. But whether Apostle Cannon had taken a plural wife as late as 1896 did not concern you very much, and you did not make any inquiry?

Mr. MINER. It would if I had known it was true; yes. I should have been concerned about it.

Mr. TAYLER. Do you not believe now it is true?

Mr. MINER. I do not know.

Mr. TAYLER. Have you read the testimony?

Mr. MINER. I have. That is, I have read the testimony that I have seen in the papers, you know.

Mr. TAYLER. I understand; and from the testimony are you satisfied that Apostle Cannon did take a plural wife in 1896?

Mr. MINER. I am not.

Mr. TAYLER. Therefore it takes a good deal to satisfy you about such things, does it not?

Mr. MINER. I want proof. I have been accustomed to take proof for everything.

Mr. TAYLER. Precisely. Therefore you are unwilling to say that you believe Apostle Cannon did take a wife in 1896?

Mr. MINER. I would not want to believe it on the evidence that I have, but still it may be true. I would want more proof.

Mr. TAYLER. What kind of proof would you want?

Mr. MINER. Somebody who saw the marriage.

Mr. TAYLER. His admission would not make any difference?

Mr. MINER. Whose admission?

Mr. TAYLER. Apostle Cannon's.

Mr. MINER. If Apostle Cannon made the admission, I should credit it.

Mr. TAYLER. His wife testified that he admitted it to her. Joseph F. Smith, president of the church, says that they traveled in company and that she traveled as his wife.

Mr. MINER. Did he testify to that?

Mr. TAYLER. Yes.

Mr. MINER. It is pretty good evidence, then, that it is so, if he testified to it.

Mr. TAYLER. She was called Mrs. Cannon, and her child inherited under the will of George Q. Cannon. Is there any significance in that?

Mr. MINER. Those are strong circumstances.

Mr. TAYLER. George Q. Cannon, the father of Abram H. Cannon, having died after the father of the child died. Have you heard any talk about Apostle Taylor having taken a couple of them?

Mr. MINER. I have seen the general talk in the papers, you know. These people are not known to me—at least all of them are not, and I do not credit those things I hear.

Mr. TAYLER. Do you know George Reynolds?

Mr. MINER. I do not know him; no.

Mr. TAYLER. Do you know who he is?

Mr. MINER. No, sir.

Mr. TAYLER. You heard of the case of Reynolds, in the Supreme Court of the United States, in which the great question of the rights of the Mormon religion, or of the Mormon people to marry plural wives was settled?

Mr. MINER. You mean the case decided some years ago?

Mr. TAYLER. Yes.

Mr. MINER. Yes; I have heard of that.

Mr. TAYLER. The case of Reynolds against the United States?

Mr. MINER. My attention has not been called to it in a long while.

Mr. TAYLER. You do not know George Reynolds?

Mr. MINER. I do not think I do.

Mr. TAYLER. Did you ever hear that his daughter had married Benjamin Cluff, jr., the president of Brigham Young University?

Mr. MINER. I never heard it.

Mr. TAYLER. You know that school?

Mr. MINER. I know the school.

Mr. TAYLER. A school which is attended by the youth of both sexes.

Mr. MINER. Yes.

Mr. TAYLER. Did you ever hear that he had married the daughter of George Reynolds denied in the last three or four years?

Mr. MINER. I had not heard of it.

Mr. TAYLER. The ears of the people out there are very generally closed, are they not, to stories of that kind, anyhow?

Mr. MINER. I do not think they are. They are generally open.

Mr. TAYLER. That is all.

Mr. VAN COTT. We will call Mr. Candland.

TESTIMONY OF W. D. CANDLAND.

W. D. CANDLAND, being duly sworn, was examined, and testified as follows:

Mr. VAN COTT. What is your name, Mr. Candland?

Mr. CANDLAND. W. D. Candland.

Mr. VAN COTT. What is your age?

Mr. CANDLAND. Forty-six years.

Mr. VAN COTT. Where do you reside?

Mr. CANDLAND. I reside at Mount Pleasant, Utah.

Mr. VAN COTT. In what county?

Mr. CANDLAND. Sanpete County.

Mr. VAN COTT. How far is that from Salt Lake City?

Mr. CANDLAND. One hundred miles.

Mr. VAN COTT. Is it a Mormon county or a Gentile county?

Mr. CANDLAND. The Mormons predominate.

Mr. VAN COTT. Largely?

Mr. CANDLAND. Largely.

Mr. VAN COTT. Going back fourteen years, to 1890, was it more so then or not?

Mr. CANDLAND. I think a little more so.

Mr. VAN COTT. What percentage of Mormons would you say are in Sanpete County?

Mr. CANDLAND. I should judge 80 per cent.

Mr. VAN COTT. Do you belong to any secret orders or societies?

Mr. CANDLAND. Yes; I belong, or have belonged, to two.

Mr. VAN COTT. What two?

Mr. CANDLAND. The A. O. U. W. and the Woodmen of the World.

Mr. VAN COTT. And you are a member of the Mormon Church?

Mr. CANDLAND. Yes, sir.

Mr. VAN COTT. And have been?

Mr. CANDLAND. Yes, sir.

Mr. VAN COTT. Was your father?

Mr. CANDLAND. Yes, sir.

Mr. VAN COTT. Was he a polygamist?

Mr. CANDLAND. He was.

Mr. VAN COTT. And you are the son of a polygamous wife?

Mr. CANDLAND. Yes, sir.

Mr. VAN COTT. Have you held any office in the Mormon Church?

Mr. CANDLAND. Only minor offices.

Mr. VAN COTT. That is what I mean. Several of those?

Mr. CANDLAND. Several.

Mr. VAN COTT. Are you what is called a "seventy" at the present time?

Mr. CANDLAND. Yes, sir.

Mr. VAN COTT. Are you a polygamist?

Mr. CANDLAND. No, sir.

Mr. VAN COTT. Do you believe in the practice of polygamy?

Mr. CANDLAND. I do not.

Mr. VAN COTT. Or in polygamy?

Mr. CANDLAND. No, sir.

Mr. VAN COTT. Calling your attention now to Mount Pleasant, about what is the population of that town?

Mr. CANDLAND. About 3,000 in the precinct.

Mr. VAN COTT. About how many polygamists are there now living in Mount Pleasant?

Mr. CANDLAND. Why, I do not think there are any living openly in polygamy. There are four or five who have been polygamists and still have more than one wife living.

Mr. VAN COTT. About how many polygamists were there in that town in 1890, when the manifesto was issued?

Mr. CANDLAND. I could not tell that. I know there must have been, in times past, 40 or 50.

Mr. VAN COTT. Do you know of any children being born to a polygamous wife in Mount Pleasant since the issuance of the manifesto?

Mr. CANDLAND. I have heard that there were two.

Mr. VAN COTT. Is that all you know of?

Mr. CANDLAND. That is all I ever heard of.

Mr. VAN COTT. What are you in politics?

Mr. CANDLAND. A Republican.

Mr. VAN COTT. And you have been right along?

Mr. CANDLAND. Since the division on party lines.

Mr. VAN COTT. That is what I mean. Is your father a Democrat?

Mr. CANDLAND. He was.

Mr. VAN COTT. He is not living?

Mr. CANDLAND. No; he is dead.

Mr. VAN COTT. When your father's legal wife died, did he marry another wife?

Mr. CANDLAND. He married another wife before she died. She died later—a long while prior to 1890.

Mr. VAN COTT. But when your father's legal wife died, did he then marry another wife?

Mr. CANDLAND. I say he married other wives before.

Mr. VAN COTT. Yes; but did he, after the legal wife died, marry one of his polygamous wives? That is what I want to know.

Mr. CANDLAND. At one time; yes.

Mr. VAN COTT. But after his legal wife died?

Mr. CANDLAND. Yes, sir.

Mr. VAN COTT. Did he marry the next wife in order of time?

Mr. CANDLAND. He did.

Mr. VAN COTT. And made her his legal wife?

Mr. CANDLAND. He did.

Mr. VAN COTT. Do you know of any polygamous marriage, either in Mount Pleasant or in the neighborhood or county where you are acquainted, since the issuance of the manifesto?

Mr. CANDLAND. I never heard it reported that there were any marriages in that county—in that section of the State, at all—since that time.

Mr. VAN COTT. How do you understand the manifesto, as to whether it prohibits the practice of polygamy?

Mr. CANDLAND. I understand that it did.

Mr. VAN COTT. Calling your attention now to politics, what is your opinion as to the independence of the Mormon people in voting?

Mr. CANDLAND. I know that they are independent, judging others from myself.

Mr. VAN COTT. Well, from your observation?

Mr. CANDLAND. My observation has been that they voted as they pleased, without any interference; that they would brook no interference.

Mr. VAN COTT. Now, in the actual conduct of political campaigns, have there been Gentiles elected over Mormons in that county?

Mr. CANDLAND. In some instances, yes.

Mr. VAN COTT. Will you give a few of them, please?

Mr. CANDLAND. I remember where bishops or presidents of stakes have been on the ticket and have been defeated by Gentiles who were

quite bitter anti-Mormon at times. I remember that Mr. J. D. Page was elected to the constitutional convention over Mr. C. N. Lund, a very prominent Mormon, who was a Democrat.

Mr. VAN COTT. Any others?

Mr. CANDLAND. I know that Mr. George Christensen, a member of the stake presidency, has been repeatedly defeated by Gentiles. If you like, I can give you several instances.

Mr. VAN COTT. I would like you to name a few more.

Mr. CANDLAND. In 1895, I think—I am not quite positive as to that year; it was a city election—Mr. Andrew Neilson, a Gentile Republican, was elected over Bishop Lund, a Democrat, for justice of the peace. In 1902 Mr. A. L. Larsen, a Republican, was elected over George Christensen, of the stake presidency, for superintendent of schools.

Mr. VAN COTT. What was Larsen?

Mr. CANDLAND. Larsen was a Mormon, I think. I am not positive as to that. I never knew whether he was a Mormon or not.

Mr. VAN COTT. All right.

Mr. CANDLAND. In 1902 Mr. Owen, a Mormon holding no particular office, was elected over Mr. Petersen Mattson, of the stake presidency, for justice of the peace. In 1903 Mr. Bowman, a Gentile, was nominated for mayor over Mr. Mattson, and he was elected over George Christensen, a member of the stake presidency, for the office of mayor. That year we also elected two Republican councilors—one of them was the principal of a Presbyterian high school—over Mormons.

Mr. VAN COTT. I believe that will be sufficient, Mr. Candland, along that line. Calling attention now to the school board in Mount Pleasant, how is that composed?

Mr. CANDLAND. Right after the division on party lines we got together and made an agreement that there should be one Democrat, one Republican, and a Gentile on the school board, and that has been followed out ever since, with the exception of one year.

Mr. VAN COTT. So it is nonpartisan?

Mr. CANDLAND. It is supposed to be nonpartisan. Last year we elected to that office an old Union soldier man, who was a Gentile, over one of the bishopric.

Mr. VAN COTT. What is the sentiment among the Mormons in San Pete County, particularly in Mount Pleasant, regarding polygamy?

Mr. CANDLAND. I believe it is the universal opinion that polygamy ought to cease, and that it in fact has ceased.

Mr. VAN COTT. What is your opinion, if President Joseph F. Smith should try to reestablish polygamy, as to what the Mormons would do on that subject from the sentiments you know?

Mr. CANDLAND. I think he would find himself in a hopeless minority, and there would be a big row. That is about my idea.

Mr. VAN COTT. You know polygamous families, of course, and polygamous children in San Pete County?

Mr. CANDLAND. I have known a great many; yes, sir.

Mr. VAN COTT. Calling your attention particularly to the sentiment of polygamous children and to the fact as to whether those children have gone into polygamy, will you please state the facts?

Mr. CANDLAND. I have hardly ever found anyone raised in polyg-

any who believes in it or would enter into it—who could be induced to enter into it. I would say that out of the several hundred that I have known I never knew more than two to enter into that relation.

Mr. WORTHINGTON. That is, the several hundred polygamous children?

Mr. CANDLAND. Children; yes, sir.

Mr. VAN COTT. Calling attention to the appointive and elective offices not only in Mount Pleasant, but in San Pete County, what has been the division?

Mr. CANDLAND. The division has been at least fair to the Gentile element. They have never in fact complained of that question.

Mr. VAN COTT. Do you know Reed Smoot?

Mr. CANDLAND. Yes, sir.

Mr. VAN COTT. Personally, or by reputation?

Mr. CANDLAND. I have known him personally for a number of years.

Mr. VAN COTT. Do you know whether or not he was prominent in the Republican politics of Utah before he became an apostle?

Mr. CANDLAND. Yes, sir; I know he was.

Mr. VAN COTT. In any way, Mr. Candland, has there ever been any attempt made by the church to control or influence your vote?

Mr. CANDLAND. Never in the world.

Mr. VAN COTT. Or do you know of its having been used in San Pete County?

Mr. CANDLAND. No; I do not know of the church. I know that individuals have here and there tried to use their influence; at least I have so understood. They never have attempted it on me, but I have understood they have done that as individuals.

Mr. VAN COTT. And what is the sentiment and action of the Mormon voters when that is attempted?

Mr. CANDLAND. I could not say that I could call to mind any attempt that has ever been made except by individuals, and they usually resent it, and say they know enough to vote as they please.

Mr. VAN COTT. That is all.

Senator DUBOIS. You are a Mormon, I think you said?

Mr. CANDLAND. Yes, sir.

Senator DUBOIS. Do you pay your tithing regularly?

Mr. CANDLAND. No; not regularly.

Senator DUBOIS. You do not pay your tithing regularly?

Mr. CANDLAND. Not regularly.

Senator DUBOIS. You are not considered, then, a very good Mormon, are you?

Mr. CANDLAND. Well, I am not probably considered in full fellowship. I hold the position of a seventy.

The CHAIRMAN. Proceed, Mr. Tayler.

Mr. TAYLER. Many officials of the Mormon Church have undertaken in the name of the church to influence voters, have they not?

Mr. CANDLAND. I could not say they have.

Mr. TAYLER. Is not that what you said a while ago—that you have known that to occur?

Mr. CANDLAND. No, sir. If you so understood me——

Mr. TAYLER. What was it you meant to say?

Mr. CANDLAND. I said I knew of where individual members of the church had tried to influence voters.

Mr. TAYLER. Of course. We do not suppose because a man is a Mormon he never says anything to anybody about politics. What significance is there in your statement that you have known individual members of the church to try to influence voters? What do you mean by that?

Mr. CANDLAND. I mean I have known men who were prominent members of the church try to convert people to their idea of politics.

Mr. TAYLER. Undoubtedly. Well, there is nothing strange about that, is there?

Mr. CANDLAND. I think not.

Mr. TAYLER. It is hardly worthy of remark?

Mr. CANDLAND. The question was asked me. I merely answered the question, as I understood it.

Mr. TAYLER. Have you known of their taking any part in other matters than politics with the people, apart from spiritual matters? You have your bishops' courts down your way, do you not, and your high council, where they try matters?

Mr. CANDLAND. Yes, sir.

Mr. TAYLER. You believe in taking counsel, do you not?

Mr. CANDLAND. On what?

Mr. TAYLER. Why, when counsel is given to you by your ecclesiastical superior. Is not that one of the tenets of your church?

Mr. CANDLAND. I do not consider that anybody has a right to counsel me on anything except spiritual matters.

Mr. TAYLER. You get it often, do you not?

Mr. CANDLAND. Get counsel?

Mr. TAYLER. Yes.

Mr. CANDLAND. When I go to church I get some spiritual counsel.

Mr. TAYLER. Did you hear the questions I asked about that dancing academy up at Boxelder?

Mr. CANDLAND. I did.

Mr. TAYLER. And the order of the high council there about what should be done about a building that was being built by some members?

Mr. CANDLAND. Yes, sir.

Mr. TAYLER. That is the sort of thing that happens in your church? You call that a spiritual matter, do you not?

Mr. CANDLAND. Well, I would not; and so far as the decision went, I would only consider that it pertained to the man's standing in the church.

Mr. TAYLER. If it was made by the high council, would you disobey it?

Mr. CANDLAND. I would if I thought I was right.

Mr. TAYLER. What would happen to you?

Mr. CANDLAND. I do not know.

Mr. TAYLER. Would you be excommunicated?

Mr. CANDLAND. I do not know whether I would or not.

Mr. TAYLER. Do you not know the church does excommunicate people who refuse to obey the order of the high council?

Mr. CANDLAND. No; I do not know that.

Mr. TAYLER. In civil matters like, for instance, land.

Mr. CANDLAND. No, sir.

Mr. TAYLER. You do not?

Mr. CANDLAND. I do not.

Mr. TAYLER. Did you ever hear of the Birdsall case, about which we had testimony here?

Mr. CANDLAND. I have heard it through this investigation.

Mr. TAYLER. Do you doubt the claim that Miss Birdsall was excommunicated because she refused to make a deed that the high council ordered her to make? Do you doubt that?

Mr. CANDLAND. I do not know anything or care anything about it.

Mr. TAYLER. Oh, you do not?

Mr. CANDLAND. No, sir.

Mr. TAYLER. Is not that in accord with the practices of your church?

Mr. CANDLAND. Well, it may be. I can not say.

Mr. TAYLER. If the bishop's court made an order to her to make a deed, and the high council, on appeal, affirmed that order, demanded that she make the deed, and if the first presidency, over the signature of Joseph F. Smith and Anthon Lund and John H. Winder, said that she should follow the procedure that was laid down by the church and obey this order, and she still refused to do it, and was excommunicated, would that be in accordance with the orders of the church and the usual method of proceeding in it?

Mr. CANDLAND. It might be.

Mr. TAYLER. You are one of the seventies?

Mr. CANDLAND. Yes, sir.

Mr. TAYLER. You are rather a high church official, are you not?

Mr. CANDLAND. Well, not very. I am a seventy.

Mr. TAYLER. There are lower church officials than you?

Mr. CANDLAND. Yes, sir.

Mr. TAYLER. You are higher than a teacher?

Mr. CANDLAND. I am not an official.

Mr. TAYLER. You are higher than a teacher or an elder?

Mr. CANDLAND. I understand that to be so; yes, sir.

Mr. WORTHINGTON. The evidence shows, Mr. Tayler, that the seventies do not have anything to do with trials.

Mr. TAYLER. I know. That is true enough, but this looks like an intelligent witness, as he is. He knows what his church does in such matters.

Is Mount Pleasant a Mormon community?

Mr. CANDLAND. Yes.

Mr. TAYLER. Are you sure?

Mr. CANDLAND. A majority of the people are Mormons.

Mr. TAYLER. You are sure of that, are you?

Mr. CANDLAND. Yes, sir; I am sure.

Mr. TAYLER. Who was it got together and arranged this division of offices?

Mr. CANDLAND. The Republicans and Democrats, in a mass meeting.

Mr. TAYLER. All of you agreed that they should be divided, how?

Mr. CANDLAND. One Democrat, one Republican, and one Gentile.

Mr. TAYLER. And one Gentile?

Mr. CANDLAND. Yes.

Mr. TAYLER. Why one Gentile? Do you mean it meant one Mormon Republican and one Mormon Democrat and one Gentile of no politics?

Mr. CANDLAND. It meant to me that we would have two Republicans on the board. That was what it meant to me.

Mr. TAYLER. It did?

Mr. CANDLAND. Yes, sir.

Mr. TAYLER. That is to say, you knew the Gentile would be a Republican, did you?

Mr. CANDLAND. Yes.

Mr. TAYLER. Why?

Mr. CANDLAND. Because there were not any Liberals except one man, who went over to the Democratic party, and I was pretty sure he would be a Republican.

Mr. TAYLER. So that was the way you undertook to make your division?

Mr. CANDLAND. Yes, sir.

Mr. TAYLER. That is all.

Mr. VAN COTT. Mr. Candland, did you ever know of any case happening before similar to what you understand the Birdsall case to be?

Mr. CANDLAND. Oh, I have heard of church courts being held where there were disputes about matters, but I could not name any particular case. I know there have been bishops' trials, and so on.

Mr. VAN COTT. But I was referring particularly to cases involving land, or title to land.

Mr. CANDLAND. I have never understood that the Mormon courts undertook to settle the question of titles to lands.

Mr. VAN COTT. One other question: Mr. Tayler asked you about the division of offices. In answering that did you mean all offices, or were you simply referring to the school board?

Mr. CANDLAND. I understood him to refer to the school board.

Mr. TAYLER. I should have said school board. After the question was out, I recalled that it was that only.

Mr. VAN COTT. That is what you meant, any way?

Mr. CANDLAND. That is what I meant.

Mr. VAN COTT. That is all.

The CHAIRMAN. Anything further, Mr. Tayler?

Mr. TAYLER. No; that is all.

The CHAIRMAN. Who is your next witness?

Mr. WORTHINGTON. Mr. Chairman, we would like to have an adjournment now until Monday.

Mr. VAN COTT. We have no more witnesses to-day, Mr. Chairman.

The CHAIRMAN. I do not want to press the matter unduly. The committee will adjourn until Monday morning at 10 o'clock.

The committee (at 4 o'clock p. m.) adjourned until Monday, January 16, 1905, at 10 o'clock a. m.

WASHINGTON, D. C., *January 16, 1905.*

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

Present: Senators Burrows (chairman), Foraker, Dubois, and Overman; also Senator Smoot; also Robert W. Tayler, counsel for the protestants; A. S. Worthington and Waldemar Van Cott, counsel for the respondent,

The CHAIRMAN. Gentlemen, we will proceed.

Mr. VAN COTT. I wish to ask Judge Miner a few questions which were omitted the other day.

The CHAIRMAN. Certainly.

TESTIMONY OF JAMES A. MINER—Resumed.

JAMES A. MINER, having been previously duly sworn, was examined, and testified as follows:

Mr. VAN COTT. You were on the stand the other day and testified?

Mr. MINER. Yes, sir.

Mr. VAN COTT. Do you know Mr. Smoot?

Mr. MINER. I do.

Mr. VAN COTT. Have you known him personally several years?

Mr. MINER. Yes; since 1891.

Mr. VAN COTT. Do you know of his being prominent in Utah politics?

Mr. MINER. I do.

Mr. VAN COTT. How early?

Mr. MINER. My personal acquaintance with Senator Smoot did not begin until 1891 or 1892; somewhere along there. I can not tell definitely the exact date. But I knew him by reputation from the time I first went there in July, 1890.

Mr. VAN COTT. How active, in your opinion, has he been in Republican politics in the State?

Mr. MINER. I think he has been quite active since I have known him.

Mr. VAN COTT. When he became a Senatorial candidate was he prominent or not for that position?

Mr. MINER. He was.

Mr. VAN COTT. He was prominent?

Mr. MINER. Yes; he was so.

Mr. VAN COTT. Do you know anything about the reputation he bore in those early days in regard to the practice of polygamy?

Mr. MINER. Yes, sir.

Mr. VAN COTT. What was it?

Mr. MINER. My deputies were deputies for that district, which included Mr. Smoot's residence—that is, Utah County, and those deputies, during the year 1890, from July on, were over the entire district, and before I personally became acquainted with Mr. Smoot—during the time of these prosecutions or about the time of the manifesto—they reported to me, and I obtained from that reputation and from others, in speaking of him, that he was an active, bright young man from Provo, and his leanings were strongly in favor of the enforcement—that is, the people should obey the law. He was against the practice of polygamy. They regarded him as the coming young man of the State. He was so regarded, I think, from that time on as a bright, active, law-abiding man, of excellent character and habits.

Mr. VAN COTT. What is the sentiment in Utah among the Gentiles in regard to the prosecution of unlawful cohabitation cases where the marriages were contracted prior to the manifesto; and what reasons, if any, are given?

Mr. MINER. Of course the disposition from July, 1890, when I went there, was to prosecute them, and a great many of those cases were brought before my court, as other courts, and they were tried and convicted, and many of them sent to the penitentiary. But since the manifesto the disposition to prosecute these older men has not prevailed so generally, I do not think. But if any new marriages had occurred, I think the disposition would be to prosecute them, and that disposition, I do not think, is confined entirely to the Gentile population, because I have heard Mormons talk about it, and they were adverse to these plural marriages since that time—since the manifesto.

I have noticed another thing. Since the manifesto we have had Mormon jurors. Before that we had no Mormon jurors. The marshals would select Gentiles to the exclusion of Mormons. But after the manifesto we commenced having Mormon jurors instead of all Gentiles, and I found that in many cases a Mormon jury would convict anyone for adultery or unlawful cohabitation quite as well as a Gentile—that is, the feeling kept growing in that direction. And so far as the violation of the marital obligation is concerned, the Mormon people would convict a man who broke it as readily as a Gentile, and I think more so. They seem to have a feeling against Mormons who would violate that obligation, and I think among that class of young people there is more virtue than among almost any other class.

Mr. VAN COTT. During the time that you have been in Utah have you taken an active interest in public affairs—in what is going on in the State generally?

Mr. MINER. I have, except during my administration as a judge on the supreme bench; I took no active part in politics aside from the time when I myself was a candidate.

Mr. VAN COTT. But you still took an active interest in public affairs?

Mr. MINER. Oh, certainly I did.

Mr. VAN COTT. From your observation of many years in Utah and the experience you have had there I wish you would state what, in your opinion, will be the result in a short time in Utah if matters progress as rapidly in the future as they have during the last fourteen years?

Mr. MINER. I think, as I said the other day, there are not as many plural marriages or unlawful cohabitation cases as there was ten or fifteen years ago. I think it has decreased about 90 per cent. If it continues to decrease for the next ten years as it has for the last ten I think we will be far ahead of any State in the Union at the end of ten years. I think to-day, so far as unlawful cohabitation and polygamous marriages in Utah are concerned, there are not any more in that district than there are in the District of Columbia or in New York City in proportion to population. It is decreasing. There is no question about it.

Mr. VAN COTT. And is the sentiment of the Mormons themselves as strong as that of the Gentiles on that subject?

Mr. MINER. Among the younger class of Mormons I think it is.

Mr. TAYLER. You are a lawyer, I suppose? I did not mean any reflection, in view of the fact that you have been a judge, but there are prosecuting officers who are not lawyers. You classify the crime of polygamous cohabitation in Utah with lewd or immoral cohabitation as it exists elsewhere, do you?

Mr. MINER. I speak of it in that sense.

Mr. TAYLER. You compare that State with the District of Columbia and other places where similar crimes are committed. You do not, therefore, attach any importance to that phase of the crime of polygamous cohabitation which is based upon the defiant declaration that it is done in accordance with the will of God, do you?

Mr. MINER. I speak of it as a violation of law.

Mr. TAYLER. I know; of course you do; but do you make any point of that phase of it?

Mr. MINER. Well, I do not know that I have associated—

Mr. TAYLER. You do not know?

Mr. MINER. That directly with it.

Mr. TAYLER. The fact that a man says he is violating the law, but that he does it with the approval of God; that he will be damned—using the word in its strict sense—if he obeys the law of man, is, in your judgment, the same kind of offense against society, against government, and against morals as if a man committed the ordinary offense of unlawfully cohabiting with a woman? Is that your view?

Mr. MINER. I do not know that I quite catch your meaning.

Mr. TAYLER. Read the question.

The CHAIRMAN (to the reporter). Read the question.

The reporter read as follows:

“Mr. TAYLER. The fact that a man says he is violating the law, but that he does it with the approval of God, that he will be damned—using the word in its strict sense—if he obeys the law of man, is, in your judgment, the same kind of offense against society, against government, and against morals, as if a man committed the ordinary offense of unlawfully cohabiting with a woman? Is that your view?”

Mr. MINER. Of course I do not like the proposition.

Mr. TAYLER. I have not made it. It is made here in the case.

Mr. MINER. I do not myself believe in the practice of polygamy, nor in the violation of the seventh commandment.

Mr. TAYLER. Nobody assumes that you do, but I think my question is susceptible of a categorical answer. [A pause.]

The CHAIRMAN. Let the reporter read the question again.

The reporter again read the question.

Mr. MINER. That is the moral, but it is not the legal view of it.

Mr. TAYLER. What is the moral view of it?

Mr. MINER. The fact that a man, as you put the question, is obeying, or thinks he is obeying, the law of God when he commits an offense that is considered immoral in the sight of the law of man.

Mr. TAYLER. The law—you ought to know—does not necessarily involve morality or immorality in the acts which it prohibits. Do you not understand that the Government is founded on law?

Mr. MINER. Oh, certainly.

Mr. TAYLER. And when law is proclaimed by proper authority government can only follow upon obedience to that law?

Mr. MINER. That is true.

Mr. TAYLER. Now, if one violates the law, as men ordinarily violate it, and we undertake to punish them, there is no undermining of society by that fact, unless it is universally prevalent, is there?

Mr. MINER. No, probably not.

Mr. TAYLER. But if that law, upon which government is based, is violated upon the proclaimed reason that the law, as to that party, is invalid, or rather that God permits that violation, that God will damn him if he obeys that law, if he conforms to the customs of society in respect to such matter, do you not understand that that is infinitely deeper seated in its menace to the Government and society than the mere violation of law as we see it every day everywhere?

Mr. MINER. I do not see much difference.*

Mr. TAYLER. You do not see any difference?

Mr. MINER. They are both wrong.

Mr. TAYLER. Do you not think your association with those people and in that atmosphere has brought you to that sort of a distorted view of what society and government are?

Mr. MINER. The atmosphere of Salt Lake and the society of Salt Lake are quite as good as those that surround any other well-governed community.

Mr. TAYLER. I do not believe that you have not a discriminating intelligence, nor that you want to misunderstand me——

Mr. WORTHINGTON. Just a moment.

Mr. TAYLER. Twenty moments.

Mr. WORTHINGTON. I am addressing myself to the chairman of the committee.

Mr. TAYLER. Give your witness time to think.

Mr. WORTHINGTON. If you think that I am giving the witness time to think, you are making a statement that is untrue, and that you have no right to intimate against me.

Mr. TAYLER. Are you not giving him time?

Mr. WORTHINGTON. I am not here trying this case as a pettifogger.

Mr. TAYLER. You are giving him time whether you mean to do it or not.

Mr. WORTHINGTON. If I am giving him time it is because you have gone into an argument at this point instead of examining the witness.

The CHAIRMAN. Proceed.

Mr. WORTHINGTON. I am objecting to this line of argument.

Mr. TAYLER. I asked as pertinent a question as has been asked in this investigation. This is an expert witness upon the philosophy of society in Utah.

The CHAIRMAN. Read the question.

The reporter read as follows:

"Mr. TAYLER. Do you not think your association with those people and in that atmosphere has brought you to that sort of a distorted view of what society and government are?"

"Mr. MINER. The atmosphere of Salt Lake and the society of Salt Lake are quite as good as those that surround any other well-governed community.

"Mr. TAYLER. I do not believe that you have not a discriminating intelligence, nor that you want to misunderstand me——"

Mr. MINER. No, sir; I do not.

Mr. TAYLER. That is the kind of answer I like.

Mr. MINER. I think I am judging impartially in regard to this matter. I find evils there, as I find them everywhere else, only in that line perhaps they have been excessive.

* See Mr. Miner's testimony on Wednesday following as to this answer,

Mr. VAN COTT. Before the manifesto of 1890 prosecutions were carried along against this class of offenses, because they were against the law?

Mr. MINER. Yes, sir.

Mr. VAN COTT. Among the Gentiles there, was there not another reason, and that is they strongly objected to these offenses on account of the fact that the Mormons claimed it was a part of their religion? State whether or not that was an objection.

Mr. MINER. Yes, sir.

Mr. VAN COTT. Since the manifesto—

Mr. MINER. I think one of the decisions of the court was based upon that line that you suggest. But that, of course, was before I was associated with that court.

Mr. VAN COTT. Since the manifesto, has there or has there not been a change in that sentiment?

Mr. MINER. Just repeat the question. Let me get the idea a little better.

Mr. VAN COTT. Since then has there been or not a change in that sentiment; that is, do the Mormons and Gentiles unite that this should be stopped, or do they not?

Mr. MINER. Yes, they want it stopped; and I think the Mormons are quite as anxious about it as are the Gentiles, with the exception, perhaps, of a certain few. I speak of the younger class.

Mr. TAYLER. Do they stop it?

Mr. MINER. Almost entirely.

Mr. TAYLER. Do they stop it?

Mr. MINER. I do not think it has entirely ceased.

Mr. TAYLER. Oh, no; that is not my question at all. You say they want it stopped. I am not speaking about individuals who are or who were in polygamy and have stopped it, and that was not the meaning that you gave to your answer. You say that the Mormons and the Gentiles want it stopped.

Mr. MINER. Want the practice of polygamy stopped.

Mr. TAYLER. What do you mean by polygamy—living in polygamy or taking new polygamous wives?

Mr. MINER. Both.

Mr. TAYLER. Do they stop it?

Mr. MINER. I say—

Mr. TAYLER. Who has taken a step toward stopping it?

Mr. MINER. The courts, as long as I was connected with them, did.

Mr. TAYLER. Did they quit when you ceased to have connection with the courts?

Mr. MINER. I did not say that.

Mr. TAYLER. Do you know whether they have stopped polygamous cohabitation?

Mr. MINER. I think there have been prosecutions there during the last three years.

Mr. TAYLER. Instituted by whom?

Mr. MINER. I could not tell who commenced the suits.

Mr. TAYLER. How long have you been in Utah?

Mr. MINER. Since 1890.

Mr. TAYLER. That is all.

The CHAIRMAN. I was not here during the whole course of your examination. Are you still on the bench?

Mr. MINER. I am not.

The CHAIRMAN. When did you retire?

Mr. MINER. It is about two years ago; two years ago last January.

Mr. VAN COTT. This January?

Mr. MINER. This January.

The CHAIRMAN. You are not holding any official position now?

Mr. MINER. None.

The CHAIRMAN. Nor are you a candidate for any position?

Mr. MINER. No; I am not a candidate, and I hope I shall not be. I do not expect to be a candidate for political honors in the future.

The CHAIRMAN. Utah was admitted in 1896, I believe?

Mr. MINER. 1895, was it not?

Mr. WORTHINGTON. January, 1896. The enabling act was in 1894.

The CHAIRMAN. You went to Utah in 1890?

Mr. MINER. In 1890.

The CHAIRMAN. It is a matter of history that Utah several times applied for admission into the Union previous to her successful application.

Mr. MINER. Yes, Senator.

The CHAIRMAN. And it was denied. Do you know why it was denied?

Mr. MINER. I think the principal reason, as I understood it, was that the practice of polygamy had been too general in that State.

The CHAIRMAN. Is it your understanding that polygamy was practiced generally before 1890?

Mr. MINER. It was not generally practiced, but it was practiced to a considerable extent.

The CHAIRMAN. In what organization?

Mr. MINER. In the Mormon organization.

The CHAIRMAN. You do not know how generally?

Mr. MINER. Well, it was not general, so to speak; but there was a great deal of polygamy in the State, and unlawful cohabitation at that time.

The CHAIRMAN. You tried some cases?

Mr. MINER. Yes, sir; a great many.

The CHAIRMAN. Did you not get some idea from them with respect to what extent the crime existed in that Territory or State?

Mr. MINER. As to numbers, I could not tell.

The CHAIRMAN. I do not speak of the numbers.

Mr. MINER. It was practiced throughout the State by a portion of the population.

The CHAIRMAN. Throughout the State?

Mr. MINER. Yes.

The CHAIRMAN. But to what extent you can not tell?

Mr. MINER. Of course, it is very difficult for me to do that; but I have heard it stated there were not to exceed 3,000 in the State at that time. I do not know how true that is, of course.

The CHAIRMAN. Now, let me ask you, Judge, whether you know the head of the church, Joseph F. Smith?

Mr. MINER. The present head? Yes.

The CHAIRMAN. Personally?

Mr. MINER. I have met him five or six times; I am not well acquainted with him, but I know him by sight and by conversation with him.

The CHAIRMAN. Do you know personally or by reputation whether he is living in polygamy?

Mr. MINER. I do not personally, but by reports, by reputation.

The CHAIRMAN. What is that reputation?

Mr. MINER. It is said he has plural wives.

The CHAIRMAN. How many?

Mr. MINER. Well, I only know of one, but there may be two.

The CHAIRMAN. You do not know about that, then, personally?

Mr. MINER. No.

The CHAIRMAN. But he is reputed to be living in polygamy?

Mr. MINER. Now, I can not say whether he is still living in polygamy, but that he has been.

The CHAIRMAN. Have you read his testimony before this committee?

Mr. MINER. I have not.

The CHAIRMAN. You have not heard anything about it?

Mr. MINER. I have heard about it in a general way; I have heard that he testified that he had plural wives and had had children by them.

The CHAIRMAN. Five plural wives, did you hear, or five wives?

Mr. MINER. It may have been.

The CHAIRMAN. He is the recognized head of the church?

Mr. MINER. He is.

The CHAIRMAN. And the reputation and general understanding is that he is living in polygamy?

Mr. MINER. I think it is so understood.

The CHAIRMAN. He is not obeying the law of the country, then?

Mr. MINER. I do not think he is, then.

The CHAIRMAN. And he is not disturbed?

Mr. MINER. I have heard of no prosecutions against him.

The CHAIRMAN. Do you know by reputation how many of the apostles are living in polygamy?

Mr. MINER. I have heard of—well, I do not know what you mean to include in the term “apostle.”

The CHAIRMAN. I mean to include those who are living with plural wives.

Mr. WORTHINGTON. He said he does not know what you mean to include by the term “apostle.”

The CHAIRMAN. You know what “apostle” means?

Mr. MINER. There are three heads of the church—

The CHAIRMAN. They are the head of the church and the two counselors. Then there are twelve apostles.

Mr. MINER. Yes.

The CHAIRMAN. Do you know how many of the apostles—

Mr. MINER. I have heard that several of the apostles are, or had been, living in polygamy.

The CHAIRMAN. “Had been.” You have not heard that they are living in polygamy now?

Mr. MINER. I do not think that idea prevails, that they are now doing so, to as great an extent as formerly.

The CHAIRMAN. I am not asking the number of times that they visit their different wives. Have you heard that the apostles are living in polygamy?

Mr. MINER. I have.

The CHAIRMAN. Who?

Mr. MINER. I think one is John Henry Smith.

The CHAIRMAN. Can you name another?

Mr. MINER. I do not know about Mr. Winder. I could not say about him. I have heard some remarks about him that he was and some that he was not. I could not say. But, now, there are other members of the twelve that I have heard statements about as having plural wives.

The CHAIRMAN. What others?

Mr. MINER. I could not for the moment mention the names.

The CHAIRMAN. How about Heber J. Grant?

Mr. MINER. Yes; it is said that he is a polygamist.

The CHAIRMAN. How about Merrill?

Mr. MINER. Merrill. I understand that he has plural wives. He lives in Cache County.

The CHAIRMAN. How about Francis M. Lyman?

Mr. MINER. Well, I have not heard anything about him for four or five years. He has been away a good deal. But it was understood at that time that he was a polygamist.

The CHAIRMAN. And Teasdale?

Mr. MINER. I do not know about Mr. Teasdale.

The CHAIRMAN. Do you know about Cowley?

Mr. MINER. I know nothing of him, except as I have read in this investigation.

The CHAIRMAN. What is your understanding about Mr. Penrose?

Mr. MINER. I did not know that he was a polygamist until I read it from the same proceedings.

The CHAIRMAN. Now, is it a matter of general notoriety that the first president and these apostles are living in violation of the law?

Mr. MINER. It has not been understood until this investigation that they were then living or are now living in that relation.

The CHAIRMAN. How is it now understood?

Mr. MINER. Since this testimony came out, of course, it throws some light upon it.

The CHAIRMAN. What is the understanding now?

Mr. MINER. That they have been living in polygamy.

The CHAIRMAN. And that they are now?

Mr. MINER. And that some of them are now.

The CHAIRMAN. Is it the general understanding, the general reputation, that the head of the church has ceased to live in polygamous cohabitation? Is there any such reputation?

Mr. MINER. I did not know that he was so living until this testimony was brought out.

The CHAIRMAN. That is all.

Mr. MINER. Of course it has been talked of for years that he was a polygamist, but the present condition I did not know of until this testimony brought it up.

Mr. VAN COTT. You refer to John R. Winder as probably living in polygamous cohabitation and as an apostle. Is it not a fact that John R. Winder never has been an apostle, although he is one of the first presidency?

Mr. MINER. I do not know about that. I supposed he was one of the twelve.

Mr. VAN COTT. Is it not a fact also, if you know, that he is not even a polygamist; that he is a monogamist?

Mr. MINER. I do not know about that.

Mr. VAN COTT. You do not know?

Mr. MINER. No.

Mr. VAN COTT. All right.

TESTIMONY OF ELIAS A. SMITH.

ELIAS A. SMITH, being duly sworn, was examined and testified as follows:

Mr. VAN COTT. What is your age?

Mr. SMITH. Forty-seven years.

Mr. VAN COTT. Where were you born?

Mr. SMITH. Salt Lake City.

Mr. VAN COTT. You have always lived there?

Mr. SMITH. Yes, sir.

Mr. VAN COTT. What position do you now hold in a business way?

Mr. SMITH. Cashier of the Deseret Savings Bank.

Mr. VAN COTT. Is that a bank in Salt Lake City?

Mr. SMITH. Yes, sir.

Mr. VAN COTT. How long have you been cashier of that bank?

Mr. SMITH. Fifteen years, since its organization.

Mr. VAN COTT. Referring to the People's Party, were you a member of that party?

Mr. SMITH. I was.

Mr. VAN COTT. And for about how many years?

Mr. SMITH. From the time I was old enough to vote until its dissolution.

Mr. VAN COTT. Were you active in it?

Mr. SMITH. I was.

Mr. VAN COTT. I assume, then, that you belong to the Mormon Church, as being a member of that party?

Mr. SMITH. I do.

Mr. VAN COTT. And you are now?

Mr. SMITH. I am.

Mr. VAN COTT. Was your father?

Mr. SMITH. He was.

Mr. VAN COTT. Are you a polygamist?

Mr. SMITH. No, sir.

Mr. VAN COTT. Have you ever been?

Mr. SMITH. No, sir.

Mr. VAN COTT. Calling your attention to the People's Party, were you present when the leaders of that party met to dissolve the organization and to organize national parties?

Mr. SMITH. I was. I was the secretary of the People's Party at that time.

Mr. VAN COTT. About how many persons attended that meeting?

Mr. SMITH. About 200 people.

Mr. VAN COTT. And the matter was discussed, I assume?

Mr. SMITH. It was.

Mr. VAN COTT. Where was that meeting held?

Mr. SMITH. It was held in the Social Hall, on State street.

Mr. VAN COTT. Was the matter fully discussed?

Mr. SMITH. It was.

Mr. VAN COTT. State whether or not that was the meeting where the People's Party was officially dissolved, or where it was resolved officially to dissolve it.

Mr. SMITH. It was.

Mr. VAN COTT. In that meeting was there anything said, directly or indirectly, or anything voted to that effect, directly or indirectly, that certain persons should belong to the Democratic party and certain persons to the Republican party, or that certain persons were to remain neutral, to vote either party ticket, as circumstances might dictate?

Mr. SMITH. There was not. It was distinctly stated and understood and discussed at that time—in fact, some parties conceived the idea that it was a plan to turn the People's Party holus-bolus over to the Democratic party (the Democratic party to be organized), and some warm debate was entered into. The vote was that every member there was free and instructed to affiliate himself with such of the national parties as he saw fit.

Mr. VAN COTT. When was that meeting held?

Mr. SMITH. It was held in the early part of the year 1891.

Mr. VAN COTT. In politics, what are you?

Mr. SMITH. I am a Democrat.

Mr. VAN COTT. Have you always been?

Mr. SMITH. I have.

Mr. VAN COTT. Have you been active in the Democratic party since its organization?

Mr. SMITH. I have.

Mr. VAN COTT. Did the manifesto lead up to this discussion of the parties?

Mr. SMITH. It did.

Mr. VAN COTT. Calling attention to the manifesto, did you support that?

Mr. SMITH. I did.

Mr. VAN COTT. In its letter and spirit?

Mr. SMITH. In its letter and spirit.

Mr. VAN COTT. Do you know whether any polygamists; and if so, to what general extent, conformed to and obeyed the manifesto as to unlawful cohabitation?

Mr. SMITH. I believe the majority of them conformed to the spirit of the manifesto in regard to that matter.

Mr. VAN COTT. Some did not?

Mr. SMITH. Some did not.

Mr. VAN COTT. When that manifesto was first issued, was it understood by the Mormon people that it applied to unlawful cohabitation?

Mr. SMITH. I did not so understand at that time, and the first intimation I had that it did conform to that condition was the interpretation made by President Wilford Woodruff.

Mr. VAN COTT. How long was that after the manifesto was issued?

Mr. SMITH. Some two years, I believe.

Mr. VAN COTT. Have you been active in business affairs in Salt Lake City?

Mr. SMITH. I have.

Mr. VAN COTT. Have you had occasion to travel over different parts of the State?

Mr. SMITH. I have.

Mr. VAN COTT. In what way, generally?

Mr. SMITH. Do you mean in recent years or previous to then?

Mr. VAN COTT. Both.

Mr. SMITH. At the inception of what is termed the territorial board of equalization, I was chairman, and traveled from one end of the State to the other, visited almost every county in it; and in the capacity of one of the members of the loan committee of our bank I travel around through the State looking at properties.

Mr. VAN COTT. During the People's Party time were you a member of the legislature?

Mr. SMITH. I was.

Mr. VAN COTT. How many times?

Mr. SMITH. Twice. I was twice a member of the upper house of the Utah legislature, and twice its presiding officer.

Mr. VAN COTT. You were president of what they called the council?

Mr. SMITH. The legislative council.

Mr. VAN COTT. What is now the State senate?

Mr. SMITH. Yes, sir; now the State senate.

Mr. VAN COTT. Does the Mormon Church hold a control in any business institution in Utah?

Mr. SMITH. As a church?

Mr. VAN COTT. Yes; as a church?

Mr. SMITH. Not that I know of.

Mr. VAN COTT. Does it in the Z. C. M. I.—the Zion Cooperative Mercantile Institution?

Mr. SMITH. It does not.

Mr. VAN COTT. Does it in the Zion Savings Bank and Trust Company?

Mr. SMITH. It does not.

Mr. VAN COTT. Does it in any of the sugar factories?

Mr. SMITH. It does not.

Mr. VAN COTT. Does it in any of the sugar factories in Idaho?

Mr. SMITH. No, sir.

Mr. VAN COTT. It has some interests in those corporations?

Mr. SMITH. I think it has some in all of them.

Mr. VAN COTT. I mean as a church.

Mr. SMITH. As a church.

Mr. VAN COTT. Mormons are stockholders in the corporations I have mentioned, and others?

Mr. SMITH. They are. The stock is freely bought and sold upon the public market there.

Mr. VAN COTT. Do the Mormons, for instance, own a control of the Z. C. M. I.?

Mr. SMITH. I think they do.

Mr. VAN COTT. As individuals?

Mr. SMITH. As individuals.

Mr. VAN COTT. I was about to ask whether those stocks are sold in the open market in Salt Lake, at public sale, the same as stocks are sold in other cities?

Mr. SMITH. They are sold upon the market, but not the same as in

other cities—that is, there is no stock exchange at which they are offered for sale. But the brokers of the city have them for sale to any purchaser who wishes them.

Mr. VAN COTT. They are not offered on the floor of the exchange?

Mr. SMITH. Not on the floor of the exchange.

Mr. VAN COTT. There is a stock exchange there?

Mr. SMITH. Yes, sir; but they are not quoted there.

Mr. VAN COTT. That handles mining stocks only?

Mr. SMITH. Mining stocks only.

Mr. VAN COTT. But these stocks are freely sold in the market?

Mr. SMITH. They are.

Mr. VAN COTT. Do you know, for instance, whether Gentiles own a considerable portion of the stock in the Z. C. M. I.?

Mr. SMITH. They do; about 30 per cent.

Mr. VAN COTT. Thirty per cent?

Mr. SMITH. Yes, sir.

Mr. VAN COTT. Calling attention to the Deseret National Bank, have you been closely affiliated with that?

Mr. SMITH. I have.

Mr. VAN COTT. Is that in any sense a Mormon institution?

Mr. SMITH. It is not.

Mr. VAN COTT. Or the Deseret Savings Bank, with which you are connected?

Mr. SMITH. It is not.

Mr. VAN COTT. Do Gentiles hold stock in those corporations?

Mr. SMITH. They do.

Mr. VAN COTT. Are they on the board of directors?

Mr. SMITH. They are.

Mr. VAN COTT. Are any Gentiles on the board of directors of the Z. C. M. I.?

Mr. SMITH. Yes, sir.

Mr. VAN COTT. Calling attention to the Zion Savings Bank and Trust Company, is that closely connected with the church?

Mr. SMITH. It is.

Mr. VAN COTT. Does the church own a majority of stock in that institution?

Mr. SMITH. It does not.

Mr. VAN COTT. Who control the great majority of business in Salt Lake City, Gentiles or Mormons?

Mr. SMITH. Do you refer to business houses?

Mr. VAN COTT. Yes.

Mr. SMITH. Gentiles.

Mr. VAN COTT. Calling attention to business enterprises, is there any distinction made there, so far as you know, in organizing and in executing them between Mormons and Gentiles?

Mr. SMITH. There is not.

Mr. VAN COTT. Is there a union?

Mr. SMITH. There is none.

Mr. VAN COTT. I say, is there a union?

Mr. SMITH. Of interests?

Mr. VAN COTT. Yes.

Mr. SMITH. Yes, sir; there is.

Mr. VAN COTT. Calling attention to the social clubs, are they united there, and so on?

Mr. SMITH. At the present time they are.

Mr. VAN COTT. How was it before the manifesto?

Mr. SMITH. There were very few Mormon members admitted to any social clubs in the city. In fact, there was only one there.

Mr. VAN COTT. The line was drawn sharply?

Mr. SMITH. Very sharply.

Mr. VAN COTT. Socially?

Mr. SMITH. Socially.

Mr. VAN COTT. Politically?

Mr. SMITH. Politically.

Mr. VAN COTT. And religiously?

Mr. SMITH. Yes, sir; and religiously.

Mr. VAN COTT. How is it now in all those particulars?

Mr. SMITH. There is a decided difference now. Mormons and non-Mormons mingle and associate together in social and business pursuits.

Mr. VAN COTT. Calling attention to the politics of the State, what is your opinion as to whether the Mormon people are independent in politics?

Mr. SMITH. I believe they are as independent as any people on the face of the earth.

Mr. VAN COTT. Does there exist there what are called "whisperings;" that is, that it is mentioned that So-and-so desires that a certain result shall be accomplished? Have you heard such things as those?

Mr. SMITH. I have.

Mr. VAN COTT. And what is the position of the Mormon voters when such things are circulated?

Mr. SMITH. They resent it.

Mr. VAN COTT. As a matter of fact, do some men who hold minor positions in the Mormon Church undertake to do such things?

Mr. SMITH. They do.

Mr. VAN COTT. And what is the effect on the vote where they have tried to do those things—whether it is resented or not?

Mr. SMITH. It is resented. I do not believe it has ever had any effect.

Mr. VAN COTT. Are you personally acquainted with Moses Thatcher?

Mr. SMITH. Yes, sir.

Mr. VAN COTT. How long have you known him?

Mr. SMITH. Twenty-five years.

Mr. VAN COTT. Intimately?

Mr. SMITH. Yes. He is vice-president of the bank of which I am cashier.

Mr. VAN COTT. Do you know whether the differences between him and the church was on account of his being a candidate for the United States Senate, or whether it was on account of other matters?

Mr. SMITH. It was on account of other differences that existed between him and the members of the quorum of which he was one.

Mr. VAN COTT. Pertaining to religious matters or to political matters?

Mr. SMITH. Pertaining to religious matters.

Mr. VAN COTT. Are you personally cognizant of those things?

Mr. SMITH. I am.

Mr. VAN COTT. Are you any relation to Joseph F. Smith?

Mr. SMITH. I am; yes, sir.

Mr. VAN COTT. In what way?

Mr. SMITH. We are second cousins.

Mr. VAN COTT. And the same, I suppose, of John Henry Smith?

Mr. SMITH. Yes, sir.

Mr. VAN COTT. Do you know the reputation of Angus M. Cannon, jr., for veracity in the community in which he lives?

Mr. SMITH. I do.

Mr. VAN COTT. Is it good or bad?

Mr. SMITH. Bad.

Mr. VAN COTT. Would you believe him under oath?

Mr. SMITH. I would not.

Mr. VAN COTT. How long has it been bad?

Mr. SMITH. For the last twenty-five years.

Mr. VAN COTT. Calling attention——

Mr. SMITH. Excuse me. Not twenty-five years; I will say for the last twenty years. I would not put it twenty-five.

Mr. VAN COTT. Calling attention to any rumors that you may have heard regarding alleged plural marriages since the manifesto, I should like to know what is your position, and the position generally taken by the young Mormons on that question, and by all the Mormons on that question?

Mr. SMITH. The position of the members of the Mormon Church is that it is in violation of the spirit of the manifesto and contrary to the law.

The CHAIRMAN. What is?

Mr. WORTHINGTON. Having plural wives.

Mr. SMITH. Taking plural wives; and I have yet to talk with a Mormon who approves of it; and in every instance where I have talked with them it has been disapproved of in very strong terms.

Mr. VAN COTT. I suppose you have heard rumors of that kind?

Mr. SMITH. I have.

Mr. VAN COTT. Calling attention to a type of case, illustrated by Charles E. Merrill's case, for instance, who had a plurality of wives before the manifesto. His legal wife died, and after the manifesto he did not marry a plural wife, or one of his plural wives, but he married a woman outside of his family. I will ask what is the position generally and the sentiment of the Mormons on that question?

Mr. SMITH. Disapproval.

Mr. VAN COTT. What is the sentiment as to what they should do?

Mr. SMITH. The sentiment is, in case a man has more than one wife, and his legal wife dies, that he should marry one of the other women, first in the order of their marriage subsequent.

Mr. VAN COTT. I suppose there are instances where that has been done?

Mr. SMITH. Yes, sir.

Mr. VAN COTT. And there have been instances where it has been violated?

Mr. SMITH. There have been.

Mr. WORTHINGTON. Mr. Smith, if you have no objection, I should like to ask you a question on a line different from anything Mr. Van Cott has asked you. It appears that you are still a member of the Mormon Church?

Mr. SMITH. I am.

Mr. WORTHINGTON. Have you taken the endowments; have you gone through the endowment ceremony at any time?

Mr. SMITH. I have.

Mr. WORTHINGTON. Once or more than once?

Mr. SMITH. But once; well, for myself, but once.

Mr. WORTHINGTON. When was that?

Mr. SMITH. That was in 1882.

Mr. WORTHINGTON. Have you gone through since on behalf of some dead relative?

Mr. SMITH. I have.

Mr. WORTHINGTON. How often?

Mr. SMITH. Twice.

Mr. WORTHINGTON. How recently?

Mr. SMITH. Within the last two years.

Mr. WORTHINGTON. I presume you would make the same objection to telling what that ceremony is, or any part of it, that other members of your church have?

Mr. SMITH. I would.

Mr. WORTHINGTON. Have you any objection to stating whether or not any such obligation is taken as is alleged here by a man named Wallis, in substance as follows. Those who take it agree to something like this:

"That you and each of you do promise and vow that you will never cease to importune high heaven to avenge the blood of the prophets upon this nation?"

Mr. SMITH. I should object to stating anything that occurred there, for or against, in that respect.

Mr. WORTHINGTON. You would object to stating whether that obligation was taken?

Mr. SMITH. I should object to stating. If I should state that or any other it would only lead up to other questions which I should decline to answer.

Mr. WORTHINGTON. Your objection, then, to answering is that you would have to go into it in full?

Mr. SMITH. It is.

Mr. WORTHINGTON. At this meeting when it was decided that the People's Party should be dissolved, do you remember any leading men who were there?

Mr. SMITH. I do.

Mr. WORTHINGTON. Who?

Mr. SMITH. George Q. Cannon was present, John Henry Smith was present, F. S. Richards was present. There were so many I can not remember. Mr. F. S. Richards was presiding officer.

Mr. WORTHINGTON. Was the agreement which you say was reached agreed upon by everybody?

Mr. SMITH. It was; and there was an immediate activity for proselyting among the members as to the political parties, Republican and Democratic.

Mr. WORTHINGTON. That is all.

Mr. TAYLER. Mr. Smith are you an officer in all these corporations concerning which you have testified as to the activity and interest of the Mormon Church?

Mr. SMITH. I am not.

Mr. TAYLER. Who is the president of the Zion's Cooperative Mercantile Institution?

Mr. SMITH. Joseph F. Smith.

The CHAIRMAN. The president of the church?

Mr. SMITH. He is president.

Mr. TAYLER. Is a majority of the board of directors made up of apostles of the church?

Mr. SMITH. I could not say that without looking it over, but I think possibly it is.

Mr. TAYLER. You think likely that is true?

Mr. SMITH. I think likely that is true.

Mr. TAYLER. I will read the list of directors and you name the apostles, or one of the presidency, as the case may be. The directors are Joseph F. Smith, H. J. Grant—

Mr. SMITH. He is.

Mr. TAYLER. J. R. Winder?

Mr. SMITH. Not an apostle. He is a member of the first presidency.

Mr. TAYLER. John Henry Smith?

Mr. SMITH. He is.

Mr. TAYLER. F. M. Lyman?

Mr. SMITH. He is.

Mr. TAYLER. Anthon H. Lund?

Mr. SMITH. Yes, sir.

Mr. TAYLER. Reed Smoot?

Mr. SMITH. Yes, sir.

Mr. TAYLER. How many is that?

Mr. SMITH. I did not count them.

Mr. TAYLER. H. Dinwoodey?

Mr. SMITH. He is not.

Mr. TAYLER. A Mormon?

Mr. SMITH. Yes, sir.

Mr. TAYLER. P. T. Farnsworth?

Mr. SMITH. A Mormon, but not an apostle.

Mr. TAYLER. J. R. Barnes?

Mr. SMITH. A Mormon, not an apostle.

Mr. TAYLER. William H. McIntyre?

Mr. SMITH. Non-Mormon.

Mr. TAYLER. T. G. Weber?

Mr. SMITH. Mormon.

Mr. TAYLER. Who is president of the State Bank of Utah?

Mr. SMITH. Joseph F. Smith.

Mr. TAYLER. Who is president of the Utah Sugar Company?

Mr. SMITH. Joseph F. Smith.

Mr. TAYLER. Who is president of the Consolidated Wagon and Machine Company?

Mr. SMITH. Joseph F. Smith.

Mr. TAYLER. Who is president of the Salt Lake and Los Angeles Railroad Company?

Mr. SMITH. I do not know that.

Mr. TAYLER. Who is president of the Salt Air Beach Company?

Mr. SMITH. I do not know that.

Mr. TAYLER. Who is president of the Consolidated Light and Railway Company?

Mr. SMITH. Joseph F. Smith.

Mr. TAYLER. Does that control all the light and internal traffic of Salt Lake?

Mr. SMITH. It does.

Mr. TAYLER. Who is president of the Idaho Sugar Company?

Mr. SMITH. Joseph F. Smith.

Mr. TAYLER. Of the Inland Crystal Salt Company?

Mr. SMITH. I do not know that.

Mr. TAYLER. Of the Salt Lake Dramatic Association?

Mr. SMITH. Joseph F. Smith.

Mr. TAYLER. Of the Salt Lake Knitting Company?

Mr. SMITH. I did not know it was a corporation; I thought it was a private concern.

Mr. TAYLER. Joseph F. Smith is a director of the Union Pacific Railway?

Mr. SMITH. I believe he is.

Mr. TAYLER. Who owns the Deseret News, the newspaper?

Mr. SMITH. The Mormon Church.

Mr. TAYLER. Do you know whether Mr. Smith is an officer of the Bullion, Beck and Champion Mining Company?

Mr. SMITH. I do not know.

Mr. TAYLER. What did you say was the reason why Moses Thatcher had trouble? I forget just the form of the question and of the answer.

Mr. SMITH. Whether it was political or religious.

Mr. TAYLER. Yes.

Mr. SMITH. I said it was religious; the starting of it.

Mr. TAYLER. You said it was religious?

Mr. SMITH. Religious differences.

Mr. TAYLER. You stated that you made that statement as of personal knowledge?

Mr. SMITH. Yes, sir.

Mr. TAYLER. That it was religious?

Mr. SMITH. Yes, sir.

Mr. TAYLER. If there is any politics in it you denominate that politics as religion?

Mr. SMITH. I do not.

Mr. TAYLER. Was there any politics in it?

Mr. SMITH. Politics entered into it later on.

Mr. TAYLER. Entered into it later on?

Mr. SMITH. Yes, sir.

Mr. TAYLER. He had only one trial?

Mr. SMITH. That is all.

Mr. TAYLER. Let me see if I can refresh your memory.

Mr. WORTHINGTON. From what page are you about to read?

Mr. TAYLER. Page 570, volume 1. He was tried before Angus M. Cannon, Joseph E. Taylor, and Charles W. Penrose.

Mr. SMITH. Yes, sir.

Mr. TAYLER. High officials of the Mormon Church?

Mr. SMITH. The presidency of the Salt Lake stake.

Mr. TAYLER. Exactly. That was the trial?

Mr. SMITH. It was.

Mr. TAYLER. That was where the issue was raised?

Mr. SMITH. It was.

Mr. TAYLER. I want to know whether you recall that this appeared in their decision:

"We therefore decide that the charges against Brother Moses Thatcher have been sustained, and that in order to retain his standing and fellowship in the Church of Jesus Christ of Latter-Day Saints he publish a statement to the satisfaction and approval of the presidency of this stake of Zion fully covering the following points, viz:

"That in taking the position that the authorities of the church, by issuing the declaration of principles on April 6, 1896, acted in violation of pledges previously given and contrary to what they had published in the Deseret News and given to the Salt Lake Times, he was in error and in the dark."

Mr. SMITH. Yes, sir.

Mr. TAYLER. Now that manifesto of April 6, 1896, is the so-called political manifesto?

Mr. SMITH. It is.

Mr. TAYLER. So that you understand that?

Mr. SMITH. Yes; I do.

Mr. TAYLER. I continue:

"That he now sees there is no conflict between that declaration and their former utterances in reference to political affairs."

Do you remember that?

Mr. SMITH. I do.

Mr. TAYLER. (Reading:)

"That he was mistaken in conveying the idea that the church authorities desired and intended to unite church and state or to exercise undue influence in political affairs."

Do you remember that?

Mr. SMITH. I do.

Mr. TAYLER. (Reading:)

"That wherein the public have been led to believe through his utterances that the leaders of the church were forging chains to bind the members of the church an impression was created which he did not intend and does not wish to prevail."

Do you remember that?

Mr. SMITH. I do.

Mr. TAYLER (reading):

"That wherein he has placed the authorities of the church in a false position, however unintentionally, he has done them an injustice, and is ready to make such amends as lie in his power."

Do you recall that?

Mr. SMITH. I do.

Mr. TAYLER (reading):

"That he acknowledges the first presidency and council of the apostles as God's servants, as prophets, seers, and revelators, and their authority as supreme in the church."

Do you recall that?

Mr. SMITH. Yes, sir.

Mr. TAYLER (reading):

"That when one man is out of harmony with them in the enuncia-

tion of a rule for the guidance of the church he must submit to the rule or be regarded as not in full fellowship."

Mr. SMITH. Yes, sir.

Mr. TAYLER. Now, did not the whole controversy rage around this political manifesto?

Mr. SMITH. Not entirely so.

Mr. TAYLER. Not entirely so?

Mr. SMITH. No, sir.

Mr. TAYLER. I gathered from what you said that it did not rage at all around that?

Mr. SMITH. I did not say so, Mr. Tayler.

Mr. TAYLER. But the question was purely religious?

Mr. SMITH. No, sir; I did not say that. What led up to it was religious.

Mr. TAYLER. What led up to it was purely religious?

Mr. SMITH. Yes, sir.

Mr. TAYLER. Are you a member of the twelve apostles?

Mr. SMITH. I am not.

Mr. TAYLER. You said you spoke of your own knowledge?

Mr. SMITH. I did.

Mr. TAYLER. Let us see what Moses Thatcher said. He replied, as shown on page 572, leaving out the introductory paragraphs:

"My case has proven no exception to this general rule."

This is the reply of Moses Thatcher to the high council or the council of the stake?

Mr. SMITH. I do not remember.

Mr. WORTHINGTON. That is what it is.

Mr. TAYLER. Cannon, Taylor, and Penrose.

"When it came before the council for a hearing, I informed you that I was seeking light and believed that the Lord would manifest it in the findings of that tribunal, having well-defined powers and competent jurisdiction.

"So when it determined and definitely decided that there existed no disagreement or conflict as between the former authoritative public announcements respecting the individual liberty and personal political freedom of the members of the church and the announcements contained in the 'declaration of principles' on the same subject (except as defined in the latter document wherein certain prominent church officials are required to seek counsel before accepting political office or entering into other engagements that would interfere with obligations already made) there appeared to my mind the light earnestly prayed for, and under the guidance of which I can accept the 'declaration of principles' without stultifying myself. In accepting it, as defined by the council, I need violate none of the engagements heretofore entered into under the requirements of party pledges respecting the political independence of the citizen who remains untrammelled as contemplated in the guaranties of the State constitution.

"Having repeatedly affirmed willingness to make amends where I have wronged my brethren in public utterances or otherwise while under misapprehension as to the true situation, and as you have informed me that I may do this by accepting your decision, and as that course would prevent arguments and disputes as to whether or

not I had complied in full with all requirements, I make the decision, just as you rendered it, a part of this communication, accept it by attaching my signature, affix it hereto, and authorize you to make it public in any manner you may deem proper."

Now, that is the whole letter, except the introductory sentences.

Mr. SMITH. That is Mr. Thatcher's letter.

Mr. TAYLER. That is Thatcher's letter?

Mr. SMITH. Yes, sir.

Mr. TAYLER. Do you agree with Thatcher as to what was the controversy?

Mr. SMITH. I do not, entirely, in there.

Mr. TAYLER. You do not?

Mr. SMITH. No, sir. It simmered down to that in the end.

Mr. TAYLER. Oh, it simmered down to that in the end?

Mr. SMITH. Other matters were explained and settled before that decision was rendered.

Mr. TAYLER. Then this matter over which the conflict really did rage to the point of a judgment by the court was inferior in importance to the others. Is that it?

Mr. SMITH. They were explained——

Mr. TAYLER. No; was it inferior to the others which were explained?

Mr. SMITH. I do not think so.

Mr. TAYLER. You do not think so?

Mr. SMITH. No, sir.

Mr. TAYLER. Then when you say that the controversy—or, as you originally said—the controversy between Thatcher and the church was not political, but religious, you spoke the truth, and you still adhere to it?

Mr. SMITH. I do.

Mr. TAYLER. I suppose so.

And this, therefore, gives your interpretation of what is religious and what is political?

Mr. SMITH. It does not.

Mr. TAYLER. What is this that is recited by this court, which I read to you, and that is recited by Thatcher—political or religious?

Mr. SMITH. Religious; leading up to it.

Mr. TAYLER. Now, then, you say, in the case of a marriage like Merrill's, where he had a plural wife and his legal wife died, and he subsequently married another, not the plural wife—did not legalize that marriage—that that to you is objectionable?

Mr. SMITH. It is.

Mr. TAYLER. Is it any more objectionable to you because that marriage was performed by an apostle of the church?

Mr. SMITH. No, sir.

Mr. TAYLER. Not a bit more?

Mr. SMITH. No, sir.

Mr. TAYLER. You do not think it ought to occasion any more criticism of the church because the marriage was performed by an apostle of the church than if it had been performed by some stranger?

Mr. SMITH. It could not be performed by some stranger.

Mr. TAYLER. It could not be performed by anybody but an apostle?

Mr. SMITH. No; I did not say that. I said a stranger.

Mr. TAYLER. I will have to blueprint my words and explain them.

Mr. VAN COTT. Oh, no. You are indefinite in your questions—

Mr. TAYLER. No, no.

Mr. VAN COTT. When you say "a stranger?"

Mr. TAYLER. I will have to diagram it for you also, Mr. Van Cott.

Mr. VAN COTT. I think I understand.

Mr. TAYLER. I mean by a stranger some one who is not full of knowledge of the fact; who is not an apostle of the church; who is not a parent of one of the parties contracting the marriage; but by any person who may perform a marriage ceremony.

Mr. SMITH. I disapprove of it if performed by an apostle or any other person.

Mr. TAYLER. Yes, but you equally disapprove of it whether performed by one who is not an apostle or by an apostle?

Mr. SMITH. Yes, sir.

Mr. TAYLER. It is exactly of the same quality?

Mr. SMITH. It is so far as I am concerned.

Mr. TAYLER. The fact, then, that it is performed by a high official of the church is not more important than if performed by some one else?

Mr. SMITH. It is not.

Mr. TAYLER. If Joseph F. Smith performed a plural marriage ceremony to-day, it would be no worse than if an elder of the church, authorized to solemnize marriages, performed it?

Mr. SMITH. I do not believe it would.

Mr. TAYLER. You do not believe it would be?

Mr. SMITH. No, sir.

Mr. TAYLER. As a public act it would not be any worse?

Mr. SMITH. I do not think so; not in my eyes.

Mr. TAYLER. You say that after the manifesto the interpretation was given to it that unlawful cohabitation should cease?

Mr. SMITH. Yes, sir.

Mr. TAYLER. And many men obeyed it?

Mr. SMITH. They did.

Mr. TAYLER. Do you mean it?

Mr. SMITH. Yes, sir; I do.

Mr. TAYLER. What did they do—desert their wives?

Mr. SMITH. So far as cohabitation is concerned I believe they did.

Mr. TAYLER. Has any social cataclysm occurred on that account?

Mr. SMITH. Not that I know of.

Mr. TAYLER. Are they ostracized?

Mr. SMITH. No, sir.

Mr. TAYLER. Were they unchurched?

Mr. SMITH. No, sir.

Mr. TAYLER. Were they held to be infamous?

Mr. SMITH. No, sir.

Mr. TAYLER. That is all.

Mr. VAN COTT. Calling your attention first to the Consolidated Wagon and Machine Company, is a majority of that stock owned in Utah or the East?

Mr. SMITH. I think it is held in Utah.

Mr. VAN COTT. Calling attention to the Union Pacific Railway, what is the case there?

Mr. SMITH. I do not believe there are 500 shares held in Utah.

Mr. VAN COTT. Calling attention to the Utah Light and Railroad Company, is the majority of the stock held in Utah or in the East?

Mr. SMITH. I am not informed on that, but the company is so heavily bonded, and the bonds are held by eastern people and people in Europe, that the stock itself is practically worthless.

Mr. VAN COTT. Calling attention to the different sugar companies, is a majority of the stock owned by Gentiles?

Mr. SMITH. It is.

Mr. TAYLER. I am perfectly willing to admit that all the stock, except the qualifying share of Joseph F. Smith, is owned by Gentiles or outsiders.

Mr. VAN COTT. I will accept the statement of Mr. Tayler as to that fact, Mr. Smith.

Mr. TAYLER. Of course I can not admit a thing to be true which is not true, but so far as the effect of it is concerned I have no objection to it, but I know nothing about it.

Mr. VAN COTT. Calling attention now to Moses Thatcher, in your opinion, is he a bright, intelligent, well-informed man?

Mr. SMITH. He is.

Mr. VAN COTT. He has reached years of discretion?

Mr. SMITH. He has.

Mr. VAN COTT. He has had much experience in the world?

Mr. SMITH. He has, indeed.

Mr. VAN COTT. After the matter was fought out between him and the church, do you know whether or not he signed willingly his statement?

Mr. SMITH. He did; very willingly.

Mr. VAN COTT. And after he did so, I will ask you whether or not he stated in substance that it was in accordance with his reason and judgment?

Mr. SMITH. He did.

Mr. VAN COTT. And after Moses Thatcher so stated and so signed under such circumstances, did a few Gentiles still keep up the fight, claiming that he had not yielded according to his reason?

Mr. SMITH. They did.

Mr. VAN COTT. That is all.

Mr. TAYLER. Have you ever heard a rumor floating around Utah the last few months that Moses Thatcher had himself testified very fully before this committee?

Mr. SMITH. I knew he had.

Mr. TAYLER. That is all.

The CHAIRMAN. Mr. Smith, just a question. You say it was generally understood that the so-called manifesto prohibited polygamous cohabitation?

Mr. SMITH. I say I did not understand it until President Wilford Woodruff put that interpretation upon it.

The CHAIRMAN. Since that time you have so understood it?

Mr. SMITH. Yes, sir; I have.

The CHAIRMAN. You say there are no plural marriages now being consummated and that they have not been consummated since 1890?

Mr. SMITH. Not to my knowledge.

The CHAIRMAN. When the young people protest against polygamy,

their protest does not refer, of course, to new marriages, but to polygamous cohabitation by those already living in polygamy?

Mr. SMITH. I stated that the young people protested against any new polygamous marriages. If you understood me otherwise, I do not wish to be understood that way.

The CHAIRMAN. They protest against new polygamous marriages?

Mr. SMITH. They do.

The CHAIRMAN. But they do not protest against those who were in polygamy in 1890 continuing to cohabit with their wives?

Mr. SMITH. They realize that a condition exists there that exists in no other part of the world—

The CHAIRMAN. I say they do not protest against that?

Mr. SMITH. And they are perfectly willing that death and time, which will eradicate all those things, shall take its course, and it will do so.

The CHAIRMAN. Then, living in polygamy is not opposed by the young Mormons?

Mr. SMITH. The young Mormons would be ungrateful to condemn a condition in which their parents had entered, and where it exists to-day.

The CHAIRMAN. Now, Mr. Reporter, will you repeat the question?

The reporter read as follows:

“The CHAIRMAN. Then, living in polygamy is not opposed by the young Mormons?”

Mr. SMITH. The young Mormons are not opposed to a continuation of the marriages that were performed prior to the manifesto.

The CHAIRMAN. They are not opposed to persons who entered into that relation previous to 1890 continuing to cohabit with their several wives?

Mr. SMITH. I think there is a division of sentiment on that. I think the majority would be opposed to that. There are some who are not opposed to it.

The CHAIRMAN. Yourself among the number?

Mr. SMITH. Myself among the number.

The CHAIRMAN. Have you ever made a protest to the president of the church against his living in polygamy?

Mr. SMITH. I have not.

The CHAIRMAN. You are one of the young Mormons, I should judge?

Mr. SMITH. I would be classed as among the middle-aged.

The CHAIRMAN. Do you know of any movement on the part of the young Mormons to protest against this polygamous cohabitation by the head of the church and the apostles?

Mr. SMITH. I do not.

The CHAIRMAN. You know of no movement of that kind?

Mr. SMITH. I do not.

The CHAIRMAN. You are aware of the fact that the president of the church is living in polygamous cohabitation, I suppose?

Mr. SMITH. I believe that to be a fact.

The CHAIRMAN. And you have never protested to him that he ought not to do that?

Mr. SMITH. I have not.

The CHAIRMAN. I understood you to say that you had taken the endowments, but that you declined to state their character?

Mr. SMITH. I do.

The CHAIRMAN. Why?

Mr. SMITH. I have conscientious scruples against it.

The CHAIRMAN. Is there anything in that ceremony which the world ought not to know?

Mr. SMITH. There is nothing in that ceremony, so far as I am concerned, that the world could not know.

The CHAIRMAN. Why is it concealed?

Mr. SMITH. I am under obligations not to reveal it, and I have conscientious scruples against it.

The CHAIRMAN. I will not press the question. I suppose you would not feel at liberty to state anything in relation to that ceremony?

Mr. SMITH. I prefer not to.

The CHAIRMAN. There is no distinction in business matters between the Mormons and Gentiles out there?

Mr. SMITH. There is not. I will say this, so far as the bank of which I am cashier is concerned, that at least 40 per cent of the stock is held by non-Mormons, and at least one-half of my depositors are non-Mormons.

The CHAIRMAN. It is worth while, I suppose, to secure the support of Mormons in business matters?

Mr. SMITH. I have never sought it.

The CHAIRMAN. Is it worth while?

Mr. SMITH. I do not believe it is.

The CHAIRMAN. So that they could be ignored entirely?

Mr. SMITH. They could.

The CHAIRMAN. I suppose Gentiles out there like to make money as well as Gentiles elsewhere?

Mr. SMITH. They do. Human nature exists all over the world the same.

The CHAIRMAN. Do you know of the church, as a church, making any protest or taking any action against polygamous cohabitation?

Mr. SMITH. I was not present, but I believe a resolution was offered by Joseph F. Smith at a late conference to that effect.

The CHAIRMAN. Against polygamous cohabitation?

Mr. SMITH. I would not say polygamous cohabitation. I do not recall the article. I was not present and did not hear it.

The CHAIRMAN. It would hardly be that—

Mr. SMITH. Whatever it was—

The CHAIRMAN. Inasmuch as he is living in polygamy himself?

Mr. SMITH. I do not myself think it was that.

The CHAIRMAN. No, I suppose not.

Mr. TAYLER. Did you say you were related to John Henry Smith?

Mr. SMITH. Yes, sir.

Mr. TAYLER. You are his half brother?

Mr. SMITH. I am his second cousin.

Mr. TAYLER. Whose son are you?

Mr. SMITH. Elias Smith. My father, John Henry Smith's father,

and Joseph F. Smith's father were three cousins, sons of three brothers.

Mr. TAYLER. And Joseph Smith was what relation to your grandfather?

Mr. SMITH. The prophet Joseph?

Mr. TAYLER. Yes.

Mr. SMITH. He was his nephew.

Mr. TAYLER. Your father's cousin?

Mr. SMITH. My father's cousin.

Mr. TAYLER. Is Joseph F. Smith connected with your bank?

Mr. SMITH. No, sir.

Mr. TAYLER. As a stockholder or director?

Mr. SMITH. No, sir.

Mr. TAYLER. That is all.

Mr. VAN COTT. You spoke, Mr. Smith, of Mormons not protesting against unlawful cohabitation. I will ask you whether Gentiles generally in the State, since the manifesto, have protested against the continuance of those relations?

Mr. SMITH. They have not.

Mr. VAN COTT. Some few have?

Mr. SMITH. Some few have.

Mr. VAN COTT. And have a few Mormons also done so?

Mr. SMITH. I can not recall them.

Mr. VAN COTT. Outside of the actual protests of some Mormons against the continuance of these relations, I will ask you if there is a sentiment among some of the Mormons against the continuation of unlawful cohabitation?

Mr. SMITH. There decidedly is.

Mr. VAN COTT. That is all.

Senator FORAKER. Is there anything in any obligation of the church which it imposes upon its members, in connection with marriage or any other occasion, inconsistent with fidelity as citizens to the national Government and the State government?

Mr. SMITH. There is not.

The CHAIRMAN. Now, Mr. Smith, having stated that there is nothing in the obligation that is inconsistent with one's duty to the State and nation, will you state what the obligation is?

Mr. SMITH. There is a decided difference between stating what does occur and what does not occur, in my judgment.

The CHAIRMAN. Will you state what does occur, and let the committee judge?

Mr. SMITH. No, sir; I can not.

Senator FORAKER. Is there anything at all on that subject?

Mr. SMITH. I decline to answer.

Mr. VAN COTT. I will ask you—

Mr. SMITH. I may have misunderstood the Senator.

Mr. VAN COTT. I thought you did, and that is the reason why I called your attention to Senator Foraker's question. I will ask the stenographer to read it.

The reporter read as follows:

"Senator FORAKER. Is there anything at all on that subject?"

Senator FORAKER. As to the duties of citizenship?

Mr. SMITH. No, sir.

Mr. TAYLER. Did you hear Mr. Dougall testify here?

Mr. SMITH. I did.

Mr. TAYLER. Did you hear him say that the vow was that they should avenge the blood of the prophets, or something of that kind, against this generation?

Mr. SMITH. I heard Mr. Dougall testify to it.

Mr. TAYLER. You heard him?

Mr. SMITH. I did.

Mr. TAYLER. Is there any such thing as that in the obligation?

Mr. SMITH. I decline to state.

Mr. TAYLER. What?

Mr. SMITH. I decline to state.

Mr. TAYLER. You decline to state whether there is anything of that kind in it?

Mr. SMITH. Yes, sir.

Mr. TAYLER. That is what I thought.

The CHAIRMAN. Did I understand you to say something to the effect that the general sentiment in Utah is in favor of the continuance of the practice of polygamous cohabitation?

Mr. SMITH. I did not. I said I thought it was against it, so far as I am concerned.

The CHAIRMAN. Is it the general sentiment not to interfere with it?

Mr. SMITH. I do not think it is.

The CHAIRMAN. You do not think there is such a sentiment?

Mr. SMITH. I think the sentiment is that it should be stopped.

The CHAIRMAN. Is there any sentiment against prosecuting for that offense?

Mr. SMITH. I do not know as to that. I know there are a great many officials of the State who are cognizant of the facts, and they do not proceed against it.

The CHAIRMAN. Do you know within your own knowledge of instances where prosecutions have been instituted for polygamous cohabitation against those who entered into the marriage before 1890?

Mr. SMITH. Not of recent years.

Mr. VAN COTT. Do you know of Angus M. Cannon being fined in the district court in Salt Lake City?

Mr. TAYLER. When?

Mr. VAN COTT. I was going to ask him that next.

Mr. SMITH. I can not recall it definitely.

Mr. VAN COTT. Do you know that down in Judge McCarty's district within the last few years men have been fined for unlawful cohabitation?

Mr. SMITH. I do not.

Mr. VAN COTT. You do not say it is not a fact?

Mr. SMITH. I would not say it is not a fact.

Mr. VAN COTT. You do not say that it is not a fact that within the last few years, too, Angus M. Cannon and quite a number of others were fined for unlawful cohabitation?

Mr. SMITH. I would not. I do not just recall it.

TESTIMONY OF WILLIAM P. O'MEARA.

WILLIAM P. O'MEARA, being duly sworn, was examined, and testified as follows:

Mr. VAN COTT. Were you born in Utah?

Mr. O'MEARA. No, sir; I am a Sucker. I was born in Illinois.

Mr. VAN COTT. Did you live to manhood in Illinois?

Mr. O'MEARA. Yes, sir.

Mr. VAN COTT. Engaged in business there?

Mr. O'MEARA. Yes, sir.

Mr. VAN COTT. When did you go to Utah?

Mr. O'MEARA. I went to Utah in 1890.

Mr. VAN COTT. Has that been your home since?

Mr. O'MEARA. Yes, sir.

Mr. VAN COTT. Do you belong to the Mormon Church?

Mr. O'MEARA. No, sir.

Mr. VAN COTT. Have you ever been a member of that church?

Mr. O'MEARA. No, sir.

Mr. VAN COTT. Do you belong to some other church?

Mr. O'MEARA. Yes, sir; I am a Catholic.

Mr. VAN COTT. Have you been in business in Salt Lake?

Mr. O'MEARA. Yes, sir.

Mr. VAN COTT. When you went to Utah in 1890, did you or not find the Mormons and the Gentiles separated religiously, socially, and politically by sharp dividing lines?

Mr. O'MEARA. I went there the 1st of March, just at the time of the Liberal victory, as it was known, when the Gentiles got control of the city of Salt Lake. That was the last election of the People's Party I believe.

Mr. VAN COTT. Could you answer my question as to what you found there in the particulars mentioned?

Mr. O'MEARA. I found the Mormons in what is known as the People's Party and the Gentiles in what is called the Liberal party when I first went there.

Mr. VAN COTT. Did you find that good feeling existed, or bitter animosity?

Mr. O'MEARA. More so than I found in political organizations at the time anywhere.

Mr. VAN COTT. How was the feeling there, whether it was friendly or bitter?

Mr. O'MEARA. No, sir; very bitter toward one another.

Mr. VAN COTT. Were you there when the manifesto was issued?

Mr. O'MEARA. I believe I was.

Mr. VAN COTT. I wish you would indicate in just a general way how rapidly, if at all, conditions changed?

Mr. O'MEARA. Since the division on party lines, and also since the school question has been settled, the Mormons, the younger Mormons with whom I associate, have divided and are trying, as I see, to live up to the law, and so far as I know, so far as the manifesto is concerned, I believe they take it as a commandment from the church and are keeping it.

Mr. VAN COTT. What do you find their sentiment to be as to contracting new plural marriages since the manifesto?

Mr. O'MEARA. Since this trial has commenced I have talked with considerable of the younger members, especially my bookkeeper, who is a young Mormon, and they would be willing, as they say themselves, to have a law passed making it an offense to be punished by the United States Government itself. They are opposed to it.

Mr. VAN COTT. Is that the general sentiment among the younger Mormons?

Mr. O'MEARA. Yes, sir; among the ones I associate with; a good many of them.

Mr. VAN COTT. Calling attention to rumors of polygamous marriages since the manifesto, have you heard such rumors?

Mr. O'MEARA. Those things, of course, appear in the papers and are talked of on the street corners, and so on; but generally we do not pay any attention to them.

Mr. VAN COTT. Why—because they are generally found to be true or untrue?

Mr. O'MEARA. So far as I am concerned, I never bother about it; I never look into it. It is the same way with most all the Gentiles there in business. As I have not been there for missionary purposes, I do not investigate anything of the kind.

Mr. VAN COTT. Calling attention to the sentiment that has been testified to as against prosecuting men who live in unlawful cohabitation, where the marriages were contracted prior to the manifesto, do you know of such sentiment amongst the Gentiles?

Mr. O'MEARA. Generally speaking, from what the old Gentiles that I have talked with say, they have taken it that they are older men, men about to pass away now, men who went there as pioneers, and who went through a great deal of hardship, and so on, and who have had a great deal to contend with in their early lives—they believe that by letting them alone they would sooner die out than to make more trouble.

Mr. VAN COTT. Do you know Joseph F. Smith personally?

Mr. O'MEARA. Yes, sir.

Mr. VAN COTT. Do you know some members prominent in the Mormon Church?

Mr. O'MEARA. Yes, sir.

Mr. VAN COTT. What is the sentiment there, and your own opinion, as to the sincerity of Joseph F. Smith to keep the church out of politics, to do away with new polygamous marriages and to prohibit them, and also of his resolution and ability to execute what you believe is his good faith in the matter?

Mr. O'MEARA. So far as Joseph F. Smith is concerned interfering in politics, I think it is generally understood that when Gentiles, or even Mormons, go to him for support they get anything but encouragement; and as far as carrying out his own intentions is concerned, I have always found him in a business way—in the business I have had to do with him—a very fair, honest, and conscientious man. So far as carrying out the mandates of the church, of course I know nothing about that.

MR. VAN COTT. In politics have you been active?

MR. O'MEARA. Well, I thought so, all the time; I tried to be.

MR. VAN COTT. In what district in Utah?

MR. O'MEARA. In what precinct?

MR. VAN COTT. No; whether in Salt Lake City or not?

MR. O'MEARA. In Salt Lake City; yes, sir.

MR. VAN COTT. What have you observed regarding the constancy of Mormon voters in adhering to their party lines?

MR. O'MEARA. I find in my precinct that they are very strong on both sides. I find also that among the young Republicans with whom I associate, if they line up one way or the other, either against a man or for him, they just stay with him as long as the Gentiles do, or against him, as the case may be. I have been with young Mormons and have defeated Mormons for delegates to the convention and also defeated them in the convention; also the same with Gentiles. My precinct, the precinct in which I live, though, is of course considerably Gentile.

MR. TAYLER. What is that?

MR. O'MEARA. There are a great many more Gentiles in my voting precinct; only a couple, three blocks. That was on account of Mr. Heath living there with me—right next to us.

MR. VAN COTT. Do you know Reed Smoot?

MR. O'MEARA. Yes, sir; I do, personally.

MR. VAN COTT. How long have you known him?

MR. O'MEARA. About eight or ten years.

MR. VAN COTT. Have you known him by reputation also in the State?

MR. O'MEARA. Yes, sir.

MR. VAN COTT. State whether or not he has been prominent in Republican politics in Utah since the division on party lines.

MR. O'MEARA. He has been most decidedly so.

MR. VAN COTT. Can you say, in a general way—

MR. O'MEARA. Especially now, during what he called, or some other people called, "the silver craze." Mr. Smoot was a decided Republican, maintained it, and kept with it, and kept up the Republican principles; and a Republican in Utah at that time was not very popular, and he did not go off on the craze—what they called "the silver craze"—like the men who are now running this fight and other fights, presenting these silver loving cups to William J. Bryan and others. He remained in the Republican party.

MR. VAN COTT. He was then what was unpopular in Utah—a Gold-bug?

MR. O'MEARA. Yes, sir; to the masses, you might say. The Silver or Democratic party carried about 50,000 majority at the time. It generally does not go only about 2,500.

MR. VAN COTT. Before Mr. Smoot became a candidate for United States Senator, at that time and just before, was he prominent in Republican politics for that position?

MR. O'MEARA. Yes, sir.

MR. VAN COTT. What do you know about some of the men who are now opposing him supporting him at that time for United States Senator when he was an apostle?

Mr. O'MEARA. Of course I do not know who is opposing. I do not know really whom you refer to. But I know he was conceded to be the candidate during the entire election that fall, and even two years before he was talked of as a candidate, but for reasons withdrew and did not appear, with the distinct understanding among the party workers that he would the following two years become a candidate. And I know this, that men who were prominent in the Republican party worked in the primaries to elect delegates to the county convention that nominated the legislators, and also prominent in the convention to elect men to the legislature, with the understanding at that time that that party or slate, as you might call it, would vote for Mr. Smoot for United States Senator, and those people, too, were prominent Gentiles. I worked with Mr. Perry Heath, who lived next door to me. We both worked for the same delegate.

Mr. VAN COTT. He is a Gentile?

Mr. O'MEARA. He is reputed to be so; yes, sir.

Mr. VAN COTT. Anyone else?

Mr. O'MEARA. All around my precinct there.

Mr. VAN COTT. Did other prominent Gentile Republicans work along for that ticket?

Mr. O'MEARA. I saw Mr. Critchlow in the convention. I saw Mr. Lipman, who is now the manager of the Tribune, a very prominent man in that convention. It was conceded in almost all the conventions at that time that there was a slate, and the slate went through.

The CHAIRMAN. Did Mr. Critchlow support Mr. Smoot?

Mr. O'MEARA. He supported the majority of that legislative ticket. He may have opposed one or two men, but I do not think he made such a very big objection to the slate as it went along.

Mr. VAN COTT. Were you in the convention that nominated the Republican legislators in Salt Lake County?

Mr. O'MEARA. Yes, sir.

Mr. VAN COTT. And Mr. Critchlow moved to make the nomination of the legislators unanimous?

Mr. O'MEARA. I forget now. I do not remember.

Mr. VAN COTT. He so testified.

Mr. O'MEARA. If he so testified, it is a fact. He was there, I know. He made a speech or two. I do not remember the motions he made.

Mr. VAN COTT. In that convention some supported George Sutherland for United States Senator?

Mr. O'MEARA. Yes, sir. Before I came away I noticed an article in the Tribune of an occurrence at the State convention at Ogden, that met to nominate the supreme judge and the Congressman. That was, I think, in August or September.

Mr. WORTHINGTON. What year?

Mr. O'MEARA. That was two years ago, the year that the legislature was nominated.

Mr. WORTHINGTON. 1902?

Mr. O'MEARA. Yes, sir. The Democratic paper, the Herald, referred to what was known as the two classes, the Kearns-Smootites against the Sutherland-Howellites. There were two classes. It went on also to refer to Mr. Smoot opening headquarters in Ogden during that convention.

By the way, Senator Beveridge was there at the time and delivered an address at the convention. I suppose he knew that fact, also.

Mr. VAN COTT. I will ask you as to the Democratic party in that campaign, whether it was understood that Mr. Smoot, who was an apostle, would be a candidate for United States Senator. What did the Democrats make the most prominent part of their campaign in the State?

Mr. O'MEARA. I think it was opposition to Mr. Smoot, if I am not mistaken. I do not remember—

Mr. VAN COTT. It was Smoot and anti-Smoot?

Mr. O'MEARA. Yes, sir; Smoot and anti-Smoot. That was all there was in the county convention. It was Smoot and anti-Smoot. That is all.

Mr. VAN COTT. So that that point was well understood when Mr. Critchlow moved to make the nominations unanimous?

Mr. O'MEARA. Yes, sir.

Mr. VAN COTT. Did Mr. C. E. Allen speak on the stump for the Republican ticket?

Mr. O'MEARA. I am almost certain he did.

Mr. VAN COTT. Did Mr. Critchlow?

Mr. O'MEARA. I think he did also.

Mr. VAN COTT. I call your attention to a petition which I hand you, and ask you to just glance down the list of names of those who have signed it.

(Mr. O'Meara examined the petition.)

Mr. VAN COTT. We should like to have the reporter mark this as an exhibit for identification.

The petition was marked "Exhibit O'Meara."

Mr. VAN COTT. I desire to call your attention to a few of the names on the exhibit. The first is that of R. N. Baskin.

Mr. O'MEARA. Yes, sir.

Mr. VAN COTT. Up to the first Monday in this month was he chief justice of the supreme court of Utah?

Mr. O'MEARA. Yes, sir; also formerly, when I was in the city council, mayor of the city for two years.

Mr. TAYLER. I hope you will not keep us in suspense about what this petition is. Why do you not read it first and then go on? I make no objection, however.

Mr. WORTHINGTON. The paper probably ought to be presented to the Senate first.

Mr. VAN COTT. That is the reason we had it marked. It is in substance a petition to seat Reed Smoot in the Senate. But I want to call attention to the character of the men who signed it.

Mr. TAYLER. I wanted to get the character of the paper.

The petition referred to is as follows:

"To the President and Members of the Senate of the United States:

"We, the undersigned, resident citizens and qualified electors of the State of Utah, do hereby respectfully represent—

"That Hon. Reed Smoot was duly elected a Senator of the United States to represent Utah, and is fully qualified for the office.

"That he is the undoubted choice of the electors of Utah for the position.

"We therefore respectfully request that he be permitted to remain a member of your honorable body.

"Salt Lake City, Utah, February 11, 1903.

Heber M. Wells, governor; R. N. Baskin, chief justice supreme court; W. M. McCarty, associate justice supreme court; M. A. Breedon, attorney-general; Samuel W. Stewart, judge district court; C. W. Morse, judge district court; W. H. Dickson, former United States district attorney; J. R. Walker, banker and merchant; W. J. McCormick, banker; C. E. Loose, manager Grand Central Mining Company; Dennis C. Eichnor, district attorney; Arthur Pratt, supervisor of census; Geo. T. Odell, manager Consolidated Wagon and Machine Company; J. T. Kingsbury, president University of Utah; John E. Bagley, attorney at law; Arnold G. Giaugue, president board of education, Salt Lake City, Utah; D. H. Peery, broker and capitalist; J. K. Gillespie, real estate broker; Ralph Guthrie, broker; Jacob Moritz, president Salt Lake Brewing Company; W. H. Bancroft, vice-president and manager Oregon Short Line Railroad; Charles De Moisy, State statistician; Arthur Brown, ex-Senator United States; Geo. Y. Wallace, capitalist; J. J. Thomas, city councilman; F. H. Officer, assayer; R. H. Officer, assayer; J. W. Hatfield, mining broker; William Hatfield, mining broker; Hiram E. Booth, attorney; M. L. Ritchie, former judge district court; D. H. Wenger, attorney; M. R. Brothers, former deputy collector of customs at Washington, D. C.; W. J. Meeks, county recorder; J. L. May, former city treasurer; J. O. Nystrom, city recorder; C. M. Wood, insurance; James Devine, chief fire department; H. N. Mayo, physician; James Chipman, banker; R. B. Whittemore, fire insurance; P. P. Christensen, former Republican State chairman; Axel H. Steele, deputy sheriff; L. R. Rogers, lawyer, former Republican national committeeman; W. R. White, assistant attorney-general; Fred. J. Leonard, former county collector of taxes.

Mr. VAN COTT. Do you know Mr. Baskin personally?

Mr. O'MEARA. I do.

Mr. VAN COTT. Have you known him for many years?

Mr. O'MEARA. For ten years, anyway.

Mr. VAN COTT. What is his reputation as to being weak-backed and weak-kneed on the Mormon question?

Mr. O'MEARA. It is anything but that.

Mr. VAN COTT. Calling attention to William H. Dickson, formerly United States district attorney, I will ask you who conducted the great majority of the prosecutions against polygamy and unlawful cohabitation in the Territory of Utah?

Mr. O'MEARA. When I went to Utah Judge Dickson was then prosecuting attorney, with Mr. Varian as assistant. He was very vigorous, as in other things that he undertakes.

Mr. VAN COTT. I do not think it is worth while to pursue these names in detail.

Mr. O'MEARA. One prominent man whose name I see there is Mr. McCormick, considered to be the greatest banker in the West—in Salt Lake City or anywhere else.

Mr. VAN COTT. Do you see any Mormon names there?

Mr. O'MEARA. I see the name of Governor Wells at the head of it.

Mr. VAN COTT. Calling attention to the Gentiles, I will ask you whether they stand high in the estimation of the community of Utah?

Mr. O'MEARA. They do, and everywhere else with people who come in contact with them.

At 11 o'clock and 50 minutes a. m. the committee took a recess until 1.30 o'clock p. m.

AFTER RECESS.

The committee reassembled at the expiration of the recess.

TESTIMONY OF WILLIAM P. O'MEARA—Continued.

WILLIAM P. O'MEARA, having been previously sworn, was examined and testified as follows:

Mr. VAN COTT. Mr. O'Meara, are the stocks of the Z. C. M. I. and other corporations in Salt Lake City, in which Mormons own considerable interest or a controlling interest, sold in open market?

Mr. O'MEARA. Yes, sir.

Mr. VAN COTT. And bought and dealt in by Gentiles the same as other stocks?

Mr. O'MEARA. Well, the Z. C. M. I. is considered the best investment in the way of a mercantile stock in that country, as it generally pays a dividend of 8 per cent. That is picked up by Gentiles whenever it can be bought—whenever it is offered.

Mr. VAN COTT. In a general way, were you familiar with the last city election in Salt Lake City?

Mr. O'MEARA. Yes, sir.

Mr. VAN COTT. Was the result there, namely, the election of the Democratic ticket, in any way attributable, in your opinion, to the Mormon Church?

Mr. O'MEARA. No, sir; none whatever.

Mr. VAN COTT. Do you know the retiring governor of the State of Utah?

Mr. O'MEARA. Governor Wells? Yes, sir; personally.

Mr. VAN COTT. He is a Mormon?

Mr. O'MEARA. Yes, sir; so I believe.

Mr. VAN COTT. Calling attention to the sentiment expressed by all of the Gentile papers with which you are familiar, and with all the Gentiles, I wish you to state briefly what is the sentiment and opinion regarding Governor Wells's administration?

Mr. O'MEARA. Well, sir, he was admired by everyone, both Democrats and Republicans, and he is universally liked by all. The principal opposition was, I think, of most people—of the ones that were against him—on the ground of a third term. That was one of the principal reasons, and I think the only reason, he was opposed.

ever since Utah became a State and up until the last January or February month?

Mr. O'MEARA. Yes, sir—nine years.

Mr. VAN COTT. Take the witness, Mr. Tayler.

Mr. TAYLER. I have nothing to ask.

Mr. VAN COTT. That is all, Mr. O'Meara.

The CHAIRMAN. Who is your next?

Mr. VAN COTT. Judge Morse.

TESTIMONY OF CHARLES W. MORSE.

CHARLES W. MORSE, being duly sworn, was examined and testified as follows:

Mr. VAN COTT. What is your name, Mr. Morse?

Mr. MORSE. Charles W. Morse.

Mr. VAN COTT. Where do you reside?

Mr. MORSE. At Salt Lake City, Utah.

Mr. VAN COTT. How long have you resided there?

Mr. MORSE. Sixteen years.

Mr. VAN COTT. And what is your home State?

Mr. MORSE. I am a native of Illinois.

Mr. VAN COTT. And you lived there until about when?

Mr. MORSE. 1870.

Mr. VAN COTT. Since you have been in Utah have you followed any profession?

Mr. MORSE. Yes, sir; I have been a practicing lawyer.

Mr. VAN COTT. Are you a member of the Mormon Church?

Mr. MORSE. No, sir.

Mr. VAN COTT. Have you ever been?

Mr. MORSE. I have never been.

Mr. VAN COTT. Are you a member of any church?

Mr. MORSE. I am.

Mr. VAN COTT. Which one?

Mr. MORSE. The Methodist Church.

Mr. VAN COTT. Do you also hold some official position in Utah?

Mr. MORSE. I have been one of the judges of the third judicial district for the last four years.

Mr. VAN COTT. That is a court of general jurisdiction next to the supreme court of the State, is it?

Mr. MORSE. It is.

Mr. VAN COTT. And it embraces what counties?

Mr. MORSE. The counties of Salt Lake, Tooele, and Summit.

Mr. VAN COTT. Did you know Dennis C. Eichnor in his lifetime?

Mr. MORSE. I did, very well.

The CHAIRMAN. Does the Judge hold that position now?

Mr. VAN COTT. Do you hold that position now?

Mr. MORSE. Yes, sir.

Mr. VAN COTT. Is this your second term?

Mr. MORSE. It is.

Mr. VAN COTT. What was the length of your first term?

Mr. MORSE. Four years.

Mr. VAN COTT. When did it begin?

Mr. MORSE. It began the first Monday in January, 1901.

Mr. VAN COTT. And it lasted until the first Monday in January of this year?

Mr. MORSE. Yes, sir.

Mr. VAN COTT. And now you are serving the second term?

Mr. MORSE. Yes, sir.

Mr. VAN COTT. And it will extend to the first Monday in January, nineteen hundred and——

Mr. MORSE. And nine.

Mr. VAN COTT. 1909?

Mr. MORSE. Yes, sir.

Mr. VAN COTT. Did you know Dennis C. Eichnor in his lifetime?

Mr. MORSE. Yes, sir; very well.

Mr. VAN COTT. Was he a Gentile?

Mr. MORSE. He was.

Mr. VAN COTT. And always had been?

Mr. MORSE. Yes, sir.

Mr. VAN COTT. Was he a practicing lawyer?

Mr. MORSE. He was.

Mr. VAN COTT. Did he hold any official position at the time of his death?

Mr. MORSE. He was the district attorney for that district.

Mr. VAN COTT. And that is the——

Mr. MORSE. The third judicial district.

Mr. VAN COTT. As prosecutor of criminal cases for the three counties you have mentioned?

Mr. MORSE. Yes.

Mr. VAN COTT. Were you one of the judges of the district court at the time a grand jury was called to investigate certain rumors in regard to new polygamous marriages?

Mr. MORSE. I was. There was a special grand jury called during the time I have been on the bench.

The CHAIRMAN. We can not quite hear you.

Mr. MORSE. There was a special grand jury called in 1903, but not for the special purpose of investigating that question, Mr. Van Cott.

Mr. VAN COTT. Oh. It was that among other things?

Mr. MORSE. Yes, sir.

Mr. VAN COTT. Had there ever been a grand jury called in Salt Lake County since statehood before this grand jury?

Mr. MORSE. Yes, sir; I think so—at the time of the Bacon Bank failure. I think that was since statehood.

Mr. VAN COTT. Yes; that is right. Do you know of any other instance?

Mr. MORSE. No other, I think.

Mr. VAN COTT. It is a rare thing, then?

Mr. MORSE. Yes, sir.

Mr. VAN COTT. Was the grand jury that investigated the later matters that have been referred to, impaneled under your immediate supervision?

Mr. MORSE. Yes, sir. I was presiding in the criminal division at that time.

Mr. VAN COTT. I call your attention to a certified copy of what purports to be a report of the grand jury. Do you remember the names attached to that as grand jurors?

Mr. MORSE. Yes, sir.

Mr. VAN COTT. Who was foreman of the grand jury?

Mr. MORSE. Mr. L. E. Hall.

Mr. VAN COTT. Do you know him personally?

Mr. MORSE. I do.

Mr. VAN COTT. Is he a Mormon or a Gentile?

Mr. MORSE. He is a Gentile.

Mr. VAN COTT. And what is his standing in the community as to being fearless, independent, and honest?

Mr. MORSE. His standing is very high in the community.

Mr. VAN COTT. Take the next gentleman.

Mr. MORSE. Mr. C. F. Keith was the clerk of the grand jury. His name is the next on the report.

Mr. VAN COTT. Was he a Mormon or a Gentile?

Mr. MORSE. He was a Gentile.

Mr. VAN COTT. What would you say as to his standing?

Mr. MORSE. His standing was good in the community.

Mr. VAN COTT. Yes. The next gentleman?

Mr. MORSE. Mr. B. F. Ontman.

Mr. VAN COTT. Do you know what he was?

Mr. MORSE. He was a Gentile.

Mr. VAN COTT. And the next?

Mr. MORSE. P. Pugsley, jr.

Mr. VAN COTT. What was he?

Mr. MORSE. He was a man of a Mormon family, but my understanding is that he had not been a member of the Mormon Church for some time prior to that.

Mr. VAN COTT. And the next gentleman?

Mr. MORSE. Mr. Charles V. Anderson. He is a Mormon.

Mr. VAN COTT. And the next?

Mr. MORSE. John T. Gabbott—a Mormon.

Mr. VAN COTT. Does that end it?

Mr. MORSE. J. M. Weiler—a Mormon. I have, since the impaneling of the grand jury, learned that these gentlemen were Mormons. I did not know at the time what their religious views were.

Mr. VAN COTT. At that time?

Mr. MORSE. At that time, except in the case of Mr. Hall. I knew him well.

Mr. VAN COTT. Were any of them reputed to be polygamists at the time?

Mr. MORSE. No, sir.

Mr. VAN COTT. Now, Judge, without going too much into detail, but to state it so as to give a concise view, will you state what you instructed the grand jury to do, particularly in regard to polygamy? I do not care for the other matters you may have mentioned.

Mr. MORSE. The instructions to the grand jury, as I remember them, were more general than specific. The grand jury was instructed to carefully consider and investigate all rumors of the commission of offenses against the laws of the State. I do not remember now that the question of polygamy was mentioned specifically in the charge to the grand jury, or any other particular offenses.

Mr. VAN COTT. Who conducted the examination before the grand jury?

Mr. MORSE. Mr. Dennis C. Eichnor, the district attorney.

Mr. VAN COTT. He is the gentleman you have mentioned?

Mr. MORSE. Yes. With the exception of some investigations with reference to irregularities occurring in justice courts and the practice before justice courts. I understand that the county attorney conducted those examinations at the request of the district attorney.

Mr. VAN COTT. Now, what is your understanding as to what matter or matters were principally investigated?

Mr. MORSE. The matter of polygamous relations, I think, occupied most of the time of the grand jury in their investigations. That is my understanding of it.

Mr. VAN COTT. Do you know whether the polygamous marriages that were investigated were taken up by the grand jury before the manifesto, or whether they were confined to rumors of polygamous marriages after the manifesto?

Mr. MORSE. My impression is that it was only those marriages which were alleged to have occurred after the manifesto, but I have no direct knowledge on that subject.

Mr. VAN COTT. About how long did the grand jury remain in session?

Mr. MORSE. My recollection is something like four weeks. I may be mistaken as to that. It was some considerable time, however.

Mr. VAN COTT. And what is your understanding as to whether a great number of people were subpoenaed before the grand jury in regard to what were rumors of new polygamous marriages?

Mr. MORSE. There was a great number.

Mr. VAN COTT. And when the grand jury returned into court did it make a report?

Mr. MORSE. It did.

Mr. VAN COTT. In writing?

Mr. MORSE. It did.

Mr. VAN COTT. And do you know whether it was unanimous or not?

Mr. MORSE. It was unanimous—the report was.

Mr. VAN COTT. You have a certified copy there, have you?

Mr. MORSE. I have.

Mr. VAN COTT. Mr. Chairman, we would like to have this appear, at this point.

Mr. WORTHINGTON. The date of this investigation has not appeared.

Mr. VAN COTT. Yes; I am going to ask about that, in Judge Morse's examination. Shall I proceed, Mr. Tayler?

Mr. TAYLER. Yes, go on. I would like to see that report.

The paper referred to is as follows:

“SALT LAKE CITY, July 7, 1903.

“REPORT OF GRAND JURY.

“To JUDGE C. W. MORSE, *Third District Court, State of Utah*:

“This jury was selected May 20, 1903. L. E. Hall was appointed foreman, and C. F. Keith was chosen secretary. District Attorney D. C. Eichnor appeared before us as legal adviser, and our investigations have been under his direction, except in the particular in-

vestigation in which we were instructed to allow Mr. Westervelt, the county attorney, to take the place of the district attorney.

"Inasmuch as our State constitution provides that 'offenses heretofore require to be prosecuted by indictment shall be prosecuted by information after examination and commitment by a magistrate, or by indictment,' we have assumed that all ordinary cases should be prosecuted by complaint before a justice of the peace, and that we were called to inquire into such rumored violations of law and offenses against public morals as seemed to demand the larger discretion and wider powers of a grand jury.

"We at once began the investigation of the very prevalent rumors of the violation of that provision of our State constitution which says that 'polygamous or plural marriages are forever prohibited.'

"We have investigated thoroughly all such cases brought to our attention by the district attorney and by citizens who have appeared before us, which were reported to have occurred within the jurisdiction of this court, and have not been able to secure evidence that a single case of polygamy has occurred in this district since Utah became a State. The rumors of the commission of this crime seem to have grown out of innocent circumstances, which in ordinary communities would have created no suspicion nor scandal, but which here, probably owing to a feature of our Territorial history, have been seized upon, and the crime assumed without evidence, much to the chagrin and injury of innocent citizens, and greatly to the detriment of our State and its reputation throughout the nation. Those who prize the fair name of our State and the rights of neighbors should hereafter be more careful to secure facts and evidence before charging this crime.

"We have visited the jails and prisons. We found the county jail in good sanitary condition and the inmates receiving wholesome food and as kind treatment as their incarceration as prisoners would allow; but the jail is overcrowded, owing to the large number of city prisoners temporarily there while the new city jail is being built. And in our opinion there is not sufficient force of guards or keepers, as but one is on duty at a time. We therefore urgently recommend that an extra keeper be employed for day work, so that while the present crowded condition exists there shall be at least two on duty throughout the business hours of the day.

"We found about 25 city prisoners being kept in the basement of the old city hall. This is a temporary arrangement, intended to continue only during the building of the new city jail, but it is not a fit place for even such temporary use. It is really a cellar, with only a dirt floor and very little light and poor ventilation. In our judgment, our city authorities having this matter in charge are open to censure for not at least putting in a tight board floor, so that the placed can be cleaned, and also for not providing for more light and ventilation, and we recommend that such improvements be made without a day's delay.

"We found no one in jail except by due process of law, and the officers and courts seem to be giving each case that careful and speedy attention which our laws contemplate.

"We found the State's prison in excellent condition, and we have only words of commendation for its management.

"We found the county infirmary clean and neat as to its room, and the inmates well care for; but the corrals, henhouse, and pigpens were not as clean, neat, and in as good repair as we think they should be, as a public institution of this kind should be a model of neatness and order throughout its entire appointments.

"We found the sewerage system at the county infirmary in bad condition. It was evidently a mistake to allow St. Ann's Orphanage to connect its 8-inch sewer discharge pipe to the infirmary system, which has only a 6-inch discharge pipe, as St. Ann's heads some 30 feet higher than the infirmary, and flushing it floods the infirmary basement and steam-heat boiler room. The sewer is vital as to the health of the inmates and should receive the immediate attention of the county authorities. Neglect of this matter can be hardly less than criminal.

"Our investigations have developed the fact that some constables have served papers for collection agencies for less than legal fees, or have hired out to work in their official capacity at regular days' wages in lieu of fees; and that justices of the peace have arranged to accept less than full legal fees, and have allowed a very loose practice in the manner of proof required for entering up judgments in default cases. We are advised that while these acts are against public policy, they are not prohibited by law, and, therefore, not indictable offenses. This being the case, we are clearly of the opinion that our justice of the peace courts have not received the attention of our State legislatures that their importance demands. They are the bar of justice for the great common people, and they should be so dignified by State laws regulating their practice, that they could not be influenced by sharp attorneys or collection agencies to disregard the rights of the poorest citizen, without a distinct violation of the statutes of the State. Constables and justices of the peace who hire out in their official capacity to private individuals, collection agencies, or corporations, should thereby forfeit the office to which they have been elected.

"We found the sheriff's office and the police department working energetically and efficiently to suppress crime and guard the public morals, and our criminal courts acting in harmony with their efforts to enforce the laws of the State and ordinances of the city. And we found no foundation of facts for rumors to the contrary. But the sheriff's force and the police force have not been increased as they should have been to keep pace with the increase of our population, and we think this matter should receive the immediate and careful consideration of the county commissioners and the city government.

"While we congratulate the county and city on the present orderly conditions and the efficiency of our present peace officers, we think there is room for improvement. While we think the number of deputy sheriffs and policemen should be increased, we think their individual vigilance and determination to discover and suppress crime and vice should also increase, and as a result we should have decided and continual improvement in the order, peace, and morals of our community.

"The minutes kept by our clerk, which we have filed with the district attorney, will show the cases we have investigated and the witnesses examined. We also file herewith a report of the clerk, showing the number of days the jury has been in session and the actual attendance of each juror.

"Believing that there is no demand for the further continuance of this grand jury, we ask to be discharged.

"Respectfully submitted.

"L. E. HALL, *Foreman.*

"C. F. KRITH, *Clerk.*

"B. F. OATMAN.

"P. PUGSLEY, JR.

"CHAS. V. ANDERSON.

"JOHN T. GABBOTT.

"J. M. WEILER."

"(Indorsed:) Filed July 7, 1903, John James, clerk district court of Salt Lake County, Utah."

"STATE OF UTAH,

"*County of Salt Lake, ss:*

"I, John James, clerk of the third judicial district court of the State of Utah, in and for Salt Lake County, do hereby certify that the foregoing is a full, true, and correct copy of the original report of the grand jury dated July 7, 1903, as appears of record and on file in my office.

"Witness my hand and the seal of said court, at Salt Lake City, this 21st day of November, A. D. 1903.

[SEAL.]

"JOHN JAMES, *Clerk.*

"United States of America. In the district court, third judicial district, in and for Salt Lake County, State of Utah.

"I, Samuel W. Stewart, judge of the district court of the third judicial district, in and for the county of Salt Lake, State of Utah, do hereby certify that said court is a court of record, having a clerk and a seal; that John James, who signed the annexed attestation, is the duly elected and qualified county clerk of the county of Salt Lake, State of Utah, and was, at the time of signing said attestation, ex-officio clerk of the said district court; that said signature is his genuine handwriting, and that all his official acts as such clerk are entitled to full faith and credit. And I further certify that said attestation is in due form of law.

"Witness my hand this 21st day of November, A. D. 1903.

"SAMUEL W. STEWART,

"*Judge of the said District Court.*"

"STATE OF UTAH,

"*County of Salt Lake, ss.*

"I, John James, county clerk and ex officio clerk of the said district court, of the county of Salt Lake, State of Utah, do hereby certify that the Hon. Samuel W. Stewart, whose name is subscribed to the preceding certificate, is one of the judges of said court, duly commissioned and qualified, and that the signature of said judge to said certificate is genuine.

"In witness whereof, I have hereunto set my hand and affixed the seal of said court, this 21st day of November, A. D. 1903.

[SEAL.]

"JOHN JAMES,

"*County Clerk and ex Officio Clerk*

"*of the said District Court.*"

Mr. VAN COTT. What was the date of that investigation?

Mr. MORSE. My recollection is that the grand jury was impaneled on the 20th of May, 1903.

Mr. WORTHINGTON. What is the date of the report, Mr. Tayler?

Mr. TAYLER. July 7, 1903.

Mr. VAN COTT. What is your opinion as to whether polygamy is dying out in the State of Utah?

Mr. MORSE. My opinion would be that it is, from the general rumors that we have.

Mr. VAN COTT. There were three judges, were there not, in the third judicial district at that time?

Mr. MORSE. There were, at that time, three judges. There are four now.

Mr. VAN COTT. Was any one of the judges a Mormon?

Mr. MORSE. Yes, sir; Judge Stewart was a Mormon.

Mr. VAN COTT. And how did he stand in regard to the thorough investigation of these rumors?

Mr. MORSE. He was very much in favor of there being a searching and rigorous examination into those rumors—those matters.

Mr. VAN COTT. During the time that you have been in Utah have you always lived in Salt Lake City?

Mr. MORSE. Yes, sir.

Mr. VAN COTT. And in a general way acquainted with the politics?

Mr. MORSE. Yes; in a general way. I have never taken an active part in politics, however.

Mr. VAN COTT. Did you ever run for the city attorneyship of Salt Lake City?

Mr. MORSE. Yes, sir. My name was placed upon the Republican ticket in 1899, and I was the candidate for city attorney at that time.

Mr. VAN COTT. When the election was held did you have any occasion, or did you, as a matter of fact, run through some of the precincts and observe the vote, for the purpose of determining whether or not the Mormons were constant in adhering to their party lines?

Mr. MORSE. Yes; I made an analysis of the return of that vote.

Mr. VAN COTT. What was the result of your investigation?

Mr. MORSE. I became convinced that the voters in the Mormon districts had voted as fairly, or more fairly, than the voters in the Gentile districts.

Mr. WORTHINGTON. What do you mean by "more fairly," Judge?

Mr. MORSE. I mean that they adhered to their party more closely.

Mr. VAN COTT. Did you ever hear, in Salt Lake City, of Joseph F. Smith living in unlawful cohabitation until this investigation was held?

Mr. MORSE. I do not think I ever heard the question mentioned until this time—this investigation of this committee.

Mr. VAN COTT. Judge, is there a sentiment in Utah among the Gentiles about prosecuting the cases of unlawful cohabitation where marriages were contracted prior to the manifesto?

Mr. MORSE. I think the sentiment is somewhat divided, Mr. Van Cott, upon that question.

Mr. VAN COTT. Is it divided among the Mormons?

Mr. MORSE. Well, I am unable to say as to what the sentiment is

among the Mormons. I do not remember of ever talking with a Mormon on that subject, except Judge Stewart.

Mr. VAN COTT. You found it divided among the Gentiles?

Mr. MORSE. Yes, sir; from what little I have heard about it I would say it was somewhat divided.

Mr. VAN COTT. Did Mr. Eichnor conduct the whole examination before the grand jury in regard to these polygamy rumors from beginning to end?

Mr. MORSE. Entirely, as I understand it.

Mr. WORTHINGTON. I would like to ask one question. Judge, in answer to a question by Mr. Van Cott as to whether polygamy was dying out you said you judged it was from rumors?

Mr. MORSE. Yes, sir.

Mr. WORTHINGTON. Do you mean by that from the general public opinion in the State?

Mr. MORSE. I am not prepared to say that I am familiar with the general opinion in the State.

Mr. WORTHINGTON. Well, from the opinion of that part of the community in which you are acquainted?

Mr. MORSE. Yes, sir; I think that is the general opinion.

Mr. WORTHINGTON. How is it around in your own neighborhood, where you live and where you have some personal knowledge of these things? Are there as many people living in polygamous cohabitation as there were prior to the manifesto?

Mr. MORSE. Well, I never knew of anyone living in polygamy in that part of the city. There may have been.

Mr. WORTHINGTON. You have never known of it?

Mr. MORSE. Either before or after the manifesto. If there was, I did not know it.

Mr. WORTHINGTON. That is all.

Mr. TAYLER. How long have you lived in Utah, Judge?

Mr. MORSE. Sixteen years.

Mr. TAYLER. And in Salt Lake all the time?

Mr. MORSE. All of the time; yes, sir.

Mr. TAYLER. Over what territory did this grand jury have authority to inquire?

Mr. MORSE. Salt Lake County.

Mr. TAYLER. Salt Lake County?

Mr. MORSE. Yes.

Mr. TAYLER. And of course its investigation as to cases of new polygamous marriages applied only to such as might have occurred, or were charged to have occurred, within the boundaries of Salt Lake County?

Mr. MORSE. Yes, sir.

Mr. TAYLER. And their report does not pretend to apply to any other territorial district?

Mr. MORSE. No, sir; not at all.

Mr. TAYLER. That grand jury refused to investigate charges of unlawful cohabitation, did it not?

Mr. MORSE. Not to my knowledge. I have never been informed as to whether there were any complaints laid before them of unlawful cohabitation.

Mr. TAYLER. It did not, in fact, report to you on the subject?

Mr. MORSE. No, sir.

Mr. TAYLER. Of unlawful cohabitation?

Mr. MORSE. As I remember it, there was no mention made in the report of that subject.

Mr. TAYLER. Your understanding is that, so far as the subject of polygamy and polygamous relations was concerned, their investigation was confined, as stated in the report, to that provision of the State constitution which says polygamous or plural marriages are forever prohibited?

Mr. MORSE. Yes, sir; I would take it so from the language of the report. **Mr. Tayler.**

Mr. TAYLER. The question that was asked you by Mr. Van Cott, or the language which you used in answering the question, contained the words "polygamous relations." Now, is that an accurate expression of what you desire to say was the subject of their inquiry?

Mr. MORSE. Well, I will say I have no knowledge as to the scope of their inquiry further than what is contained in the report, and possibly the expression would be incorrect as I used it at that time.

Mr. WORTHINGTON. Judge Tayler, I think you may assume the fact is that that grand jury did not investigate the matters of polygamous cohabitation of parties who were married before the manifesto.

Mr. VAN COTT. That is my understanding.

Mr. TAYLER. Yes; I gather that; but I thought the expression was perhaps misleading, in using the words "polygamous relations."

The **CHAIRMAN.** I wish to know about that, because I was about to ask the Judge. The jury did not consider the questions of polygamous cohabitation among those who were married previous to the manifesto?

Mr. MORSE. My impression is they did not. I have no direct information on the subject, Senator.

Mr. WORTHINGTON. We know that to be the fact, Mr. Chairman. We admit that.

Mr. TAYLER. Did you know any of the particular charges of new polygamy that were investigated by that grand jury?

Mr. MORSE. Yes, sir; I have in mind two that I—

Mr. TAYLER. What were they?

Mr. MORSE. Mr. Tanner.

Mr. TAYLER. Mr. Tanner?

Mr. MORSE. Henry S. Tanner, I think is his name. He was at that time one of the judges of the municipal court.

Mr. TAYLER. Yes.

Mr. MORSE. Mr. N. V. Jones.

Mr. TAYLER. Were there any others that you remember?

Mr. MORSE. Well, I think there were, but I do not now call to mind any others.

Mr. TAYLER. What is or was—I presume it is the same now—the statute of limitations against the crime of polygamous marriage?

Mr. MORSE. Well, I do not remember, Mr. Tayler.

Mr. TAYLER. Was it four years?

Mr. MORSE. Very likely.

Mr. TAYLER. Of course, this inquiry was not abstract or academic, but practical, and if the statute of limitations is four years, their investigations were not concerned with a date prior—

Mr. MORSE. No; they would not be.

Mr. TAYLER. To the time when the statute would run. You have heard of charges, have you not, Judge, from time to time—I mean talk that was in the air—of polygamous marriages which occurred since 1890?

Mr. MORSE. Yes, sir; I occasionally hear some such talk as that.

Mr. TAYLER. And as to nearly all of them, or as to all of them, let me ask you this: As to all of them, where the place where the marriage was performed was referred to, it was given as outside of Salt Lake County, was it not?

Mr. MORSE. Yes; I think that would be true. I only recall one instance where the place was mentioned, I think.

Mr. TAYLER. Where was that place?

Mr. MORSE. Some place in—that was in the case of a Mr. Cannon. That was said or alleged to have occurred over off the coast of California, or in California.

Mr. TAYLER. Have you not heard Mexico named?

Mr. MORSE. I think I have, but I do not recall in connection with what person now.

Mr. TAYLER. But wherever any specific place was given as the place where the crime was committed, it never was Salt Lake County?

Mr. MORSE. I do not remember of the place having been designated as Salt Lake County in any of the rumors that I have heard.

Mr. TAYLER. I think that is all.

Mr. WORTHINGTON. It did not follow, of course, that because that grand jury did not inquire into certain cases of polygamous cohabitation that they could not be prosecuted? The ordinary machinery of the law was still ample, was it not?

Mr. MORSE. I think so; yes.

Mr. WORTHINGTON. If I understand it, you have dispensed with the necessity for a grand jury in Utah?

Mr. MORSE. Yes; a grand jury is only called when, in the judgment of the court, the public necessity requires it.

Mr. WORTHINGTON. In ordinary times cases of this kind are prosecuted without any investigation by a grand jury?

Mr. MORSE. Yes, sir.

Mr. WORTHINGTON. And might be still?

Mr. MORSE. Yes, sir.

Mr. WORTHINGTON. Were you advised when this grand jury was in session?

Mr. MORSE. Yes; I was informed.

Mr. WORTHINGTON. I want to ask you how you know that Mr. Tanner and Mr. Jones were investigated, among others?

Mr. MORSE. The district attorney stated to me at one time—he mentioned their names in connection with the investigations of the grand jury.

Mr. WORTHINGTON. He kept you advised about what he was doing, did he, as to them?

Mr. MORSE. Well, occasionally he talked to me about what was being done.

Mr. WORTHINGTON. As to the statutes of limitations in Utah, is there not in that an exception as to parties who are outside the State, that this statute does not run as in favor of persons accused of crime when they are out of the State?

Mr. MORSE. I think there is such a provision; yes, sir.

Mr. WORTHINGTON. Can you tell me whether or not, if that grand jury, in the scope which they gave to their investigation, had found a case of plural marriage after the manifesto they would have investigated it if it had been followed by cohabitation in Salt Lake County, whether it had occurred in Mexico or somewhere else?

Mr. MORSE. I am unable to say, Mr. Worthington, what that grand jury would have done in cases of that kind. I assume they would have done it, yet I do not know.

Mr. WORTHINGTON. That is all.

Mr. TAYLER. Do you remember, Judge, if the grand jury also investigated the charges of plural marriage against Heber Bannion and Joseph Silver?

Mr. MORSE. I am inclined to think those names were mentioned in connection with that investigation.

Mr. TAYLER. And was not the reputé, as to them, that they had taken their extra plural wives since 1890 in Mexico?

Mr. MORSE. I do not know that I ever heard that, Mr. Tayler.

Mr. TAYLER. That is all.

Mr. VAN COTT. That is all.

The CHAIRMAN. The grand jury did not investigate, as I understand you to say, the cases of polygamous cohabitation?

Mr. WORTHINGTON. You mean persons married before the manifesto?

The CHAIRMAN. Yes.

Mr. MORSE. I think I answered that I had no information on that subject. The gentlemen stated that that was their understanding.

The CHAIRMAN. Their investigation was confined to new marriages since 1890, as you understand?

Mr. MORSE. I think that is the case.

The CHAIRMAN. Was it rumored that anybody in Salt Lake City was living in polygamous cohabitation?

Mr. MORSE. There were very persistent rumors at that time, about the time the grand jury was impaneled, that Judge Tappan and Mr. Jones, and probably some others, had taken wives and were living with them at that time.

The CHAIRMAN. Was that inquired into?

Mr. MORSE. Yes, sir. Those were the ones that were especially inquired into, as I understood it.

The CHAIRMAN. What is your understanding about people living in polygamous cohabitation now in the city of Salt Lake?

Mr. MORSE. Well, my understanding is that they are now. Prior to the investigation by this committee I had heard very little about it. I had no—

The CHAIRMAN. Do you know of any prosecutions for such offenses?

Mr. MORSE. Not recently.

The CHAIRMAN. What do you mean by "recently?"

Mr. MORSE. Well, within two or three years, probably. I do not remember the last prosecutions—probably four years ago.

The CHAIRMAN. Why are not people prosecuted who are living in polygamous cohabitation?

Mr. MORSE. I am unable to state why. Probably because the offi-

cers whose duty it is to commence those proceedings do not, for some reason, care to do it.

The CHAIRMAN. You do not know what their reason may be?

Mr. MORSE. No, sir.

The CHAIRMAN. Do you know of any complaints made before any magistrate or judicial authority against these people?

Mr. MORSE. No, sir; I have no knowledge of any.

The CHAIRMAN. And you would answer the same, I suppose, to that, that the officers do not care to take the complaint?

Mr. MORSE. I beg your pardon. I do not think I just understood the question.

The CHAIRMAN. I will withdraw that question. Is it the sentiment of the community in Salt Lake City—of the good people there—that these crimes should go unpunished?

Mr. MORSE. I do not think so.

The CHAIRMAN. Well, is the sentiment that they should be punished?

Mr. MORSE. I think the sentiment is somewhat divided. My judgment would be that the majority of the people think that they should be punished.

The CHAIRMAN. Then why is not complaint made?

Mr. MORSE. My opinion is that while the people feel that way, they do not feel it strongly enough to care, individually, to make prosecutors of themselves and file the complaints. That would be the—

The CHAIRMAN. So, Judge, in your opinion the good people there are indifferent to this question, or at least are not sufficiently aroused to take any active steps to put a stop to it?

Mr. MORSE. Well, they have not taken any active steps; I merely draw that deduction from the fact that they have not taken those steps.

The CHAIRMAN. Under present conditions, then, in the State, and the state of feeling, would you say that it would be doubtful whether polygamous cohabitation could be prevented or stopped?

Mr. MORSE. Whether it could be?

The CHAIRMAN. Yes.

Mr. MORSE. I think it could be.

The CHAIRMAN. I say, taking into consideration the public sentiment there in Utah, do you think it will be?

Mr. MORSE. Well, I have nothing on which to base an opinion as to what will be further than as to what has been.

The CHAIRMAN. Well, suppose the "will be" continues; suppose the conditions continue as they are to-day, in the matter of public sentiment, what do you say about the prosecution of these people for polygamous cohabitation?

Mr. MORSE. I should say there will be no prosecutions, any more than there have been, unless there is some change in public sentiment.

The CHAIRMAN. What would be your judgment of the effect of an amendment to the Constitution of the United States prohibiting polygamy in all of the States?

Mr. MORSE. I think it would be a proper measure and a good one.

The CHAIRMAN. You think that would be an effective way of exterminating this evil?

Mr. MORSE. Yes, if the prosecutions were vigorously pushed under the Federal authorities, I think it would be one way in which it could

be stopped. If it were not, it would be just the same as it is under the State laws.

The CHAIRMAN. That is all.

Mr. WORTHINGTON. Judge, do you know of any case in which an officer whose duty it was to prosecute polygamious cohabitation has refused to entertain and take charge of a prosecution where there was a proper complaint made to him?

Mr. MORSE. I never have known of such an instance, Mr. Worthington.

The CHAIRMAN. Are there any other questions?

Mr. VAN COTT. Just one more.

Mr. WORTHINGTON. Is it not a fact, Judge, that before the manifesto there was a strong sentiment there in favor of prosecutions, and that they were vigorously pushed?

Mr. MORSE. Well, I do not know that the sentiment changed very materially. I think the policy of the Federal officers changed at that time somewhat.

Mr. WORTHINGTON. In what respect?

Mr. MORSE. Prior to that time they were prosecuted vigorously, but after that time the officers whose duty it was to look after those matters accepted the manifesto as having been made in good faith, and they did not prosecute after that time.

Mr. WORTHINGTON. That state of affairs continued from 1890, when the manifesto was proclaimed, down to the time of the admission of the State into the Union, in 1896?

Mr. MORSE. Yes.

Mr. WORTHINGTON. When the matter was wholly in charge of the authorities of the United States?

Mr. MORSE. Yes, sir.

Mr. WORTHINGTON. You have said to the chairman that if things go on as they are there will be no prosecutions. Do you mean that remark to apply in case it should turn out that there were new plural marriages being celebrated now and the parties to them go and live together?

Mr. MORSE. I understood that question to refer to polygamious relations by those persons who had married before the manifesto.

The CHAIRMAN. That is what I intended.

Mr. WORTHINGTON. You do not intend your answer to apply if they were to undertake to reestablish that practice and go on with new cases?

Mr. MORSE. No; I think they would be prosecuted.

Mr. TAYLER. After the manifesto and up to statehood, was it not the opinion of the people of Utah that the manifesto was to be kept, and was being kept, both as relates to new polygamious marriages and living in polygamious cohabitation?

Mr. MORSE. My recollection of the situation at that time, Mr. Tayler, is that it was about the same then as it has been since. There were persistent rumors from time to time of violations of the law against unlawful cohabitation, and those rumors have continued since, somewhat.

Mr. TAYLER. Was it not understood that Wilford Woodruff was himself obeying the law?

Mr. MORSE. I have so understood it.

Mr. TAYLER. That was the common understanding, was it, Judge, that the head of the church was not violating the law in any respect?

Mr. MORSE. I have heard that statement.

Mr. TAYLER. Was it popularly supposed, between 1891 and 1895, that six or eight of the apostles were living in polygamy and rearing new polygamous families?

Mr. MORSE. I never heard that question mentioned. I do not know as to that.

Mr. TAYLER. That is all.

The CHAIRMAN. Who is your next?

Mr. WORTHINGTON. William M. McCarty.

TESTIMONY OF WILLIAM M. McCARTY.

WILLIAM M. McCARTY, being duly sworn, was examined, and testified as follows:

Mr. WORTHINGTON. What is your full name?

Mr. McCARTY. William M. McCarty.

Mr. WORTHINGTON. What is your age?

Mr. McCARTY. Forty-six years next May.

Mr. WORTHINGTON. Where do you live?

Mr. McCARTY. I live in Salt Lake City, Utah.

Mr. WORTHINGTON. How long have you lived in Utah?

Mr. McCARTY. All my life.

Mr. WORTHINGTON. Where were you born?

Mr. McCARTY. At Alpine, Utah County.

Mr. WORTHINGTON. Just give the places where you have resided from the time you were born up to the present time.

Mr. McCARTY. Well, my parents lived in Utah and Salt Lake counties until about 1862 or 1863. Then they moved to St. George, in the southern part of the State. They remained there until the winter or the fall of 1868, and then they moved north to Summit Creek, Iron County, and lived there until 1876, when they moved to Monroe, Sevier County. I resided in Sevier County from 1876 to 1903.

Mr. WORTHINGTON. Is Sevier County one of the counties which has a preponderance of Mormon people and voters?

Mr. McCARTY. Oh, yes; there are very few Gentiles in Sevier County.

Mr. WORTHINGTON. Might I ask you whether you are a Mormon?

Mr. McCARTY. No, sir.

Mr. WORTHINGTON. Or whether you ever have been?

Mr. McCARTY. I never have been.

Mr. WORTHINGTON. What was your profession when you became a man, or your business?

Mr. McCARTY. Well, it has been varied. First, I was a farmer; railroading, working in the wood camps, and in the mines until 1887, when I was admitted to practice law in the second district courts.

Mr. WORTHINGTON. Where?

Mr. McCARTY. In Utah.

Mr. WORTHINGTON. In what—

Mr. McCARTY. And from that time on my profession has been that of a lawyer.

Mr. WORTHINGTON. Have you occupied any official position in the State?

Mr. McCARTY. Yes, sir.

Mr. WORTHINGTON. What?

Mr. McCARTY. In 1889 I was appointed assistant United States district attorney.

Mr. WORTHINGTON. You mean 1889?

Mr. McCARTY. 1889.

Mr. WORTHINGTON. You said 1899.

Mr. McCARTY. 1889. In 1892, while holding that office, I was elected county attorney of Sevier County. That was soon after the people there divided on party lines. I was reelected in 1894. In 1895 I was elected district judge for the sixth judicial district of the State of Utah. I was reelected in 1900, and in 1902 I was elected associate justice of the supreme court of the State, which position I am now holding.

Mr. WORTHINGTON. What was the position to which you were elected first, in 1889? I did not understand that.

Mr. McCARTY. I was appointed.

Mr. WORTHINGTON. Appointed?

Mr. McCARTY. In 1889 I was appointed United States district attorney by George S. Peters, who was then United States attorney for the Territory of Utah.

Mr. WORTHINGTON. Then you were the assistant for the whole Territory?

Mr. McCARTY. I was the assistant for the whole Territory, although my field of labors was confined chiefly to the second judicial district.

Mr. WORTHINGTON. Embracing what portion of the State?

Mr. McCARTY. Well, seven counties—seven southern counties.

Mr. WORTHINGTON. The seven southern counties. Now, as assistant prosecutor from 1889 to 1892, did you have anything to do with prosecuting—

Mr. McCARTY. Well, there was an interim there, in which there was a change of administration, when I did not hold the office.

Mr. WORTHINGTON. Between 1889 and 1892?

Mr. McCARTY. Yes, sir.

Mr. WORTHINGTON. What was the interim?

Mr. McCARTY. Well, something over a year.

Mr. WORTHINGTON. You mean in the latter part of that period? You were appointed in 1889 and served how long?

Mr. McCARTY. I served that year.

Mr. WORTHINGTON. You served that year and then you went out for a year?

Mr. McCARTY. Yes; a little over. I was appointed again in 1892 and held the office until statehood.

Mr. WORTHINGTON. That was a United States office, of course. You were appointed?

Mr. McCARTY. Yes; a United States office.

Mr. WORTHINGTON. Now, while you were prosecutor in 1889—speaking of the first term first—did you have anything to do with prosecuting for polygamy or polygamous cohabitation?

Mr. McCARTY. Yes, sir; I prosecuted a great many cases. In fact, the court docket was crowded with those cases each term.

Mr. WORTHINGTON. And did the prosecutions result in convictions, ordinarily?

Mr. McCARTY. Generally.

Mr. WORTHINGTON. What was done with the men who were convicted?

Mr. McCARTY. There was occasionally an acquittal, but it was something a little uncommon in that class of cases.

Mr. WORTHINGTON. I do not want to ask a man about himself, but you were considered a pretty vigorous prosecutor of Mormon polygamists, in those days were you not, and you were in fact?

Mr. McCARTY. That is one of the obstacles or rather arguments that I had to meet in the campaign, when I was running for judge.

Mr. WORTHINGTON. I was going to come to that later. In 1892 you were elected county attorney, and served until 1894, when you were reelected?

Mr. McCARTY. Yes, sir.

Mr. WORTHINGTON. You served then from 1892 down to the admission of the State, as county attorney?

Mr. McCARTY. Yes.

Mr. WORTHINGTON. Where was your field of labor then?

Mr. McCARTY. Well, Sevier County was in the first district. That was my home. As county attorney it was confined to Sevier County. As United States assistant district attorney my field of labor was principally in Sevier County and at Beaver, where the district court was held for the seven counties comprising the second judicial district.

Mr. WORTHINGTON. When you were elected county attorney in 1892, were you elected by the people of the State or by the county?

Mr. McCARTY. By the county.

Mr. WORTHINGTON. Sevier County?

Mr. McCARTY. Sevier County.

Mr. WORTHINGTON. How did the Mormon population there compare with the Gentile—the Mormon voters?

Mr. McCARTY. Well, there were then about 85 per cent Mormons.

Mr. WORTHINGTON. Had you in any way indicated any disposition to be less vigorous in your prosecution of polygamy than you had been in 1889 when the Mormons reelected you in 1892?

Mr. McCARTY. No, sir. In the second judicial district they were pressed up until statehood.

Mr. WORTHINGTON. I meant to ask you whether from 1892 down to 1895 you still prosecuted them.

Mr. McCARTY. Yes, sir; and I prosecuted them before the United States commissioners up until 1893, when the United States attorney refused to allow my accounts for services for that kind of work, and then I quit and confined my investigations before the grand jury in those cases.

Mr. WORTHINGTON. Then your superior officer——

Mr. McCARTY. Yes, sir; refused to approve my account for——

Mr. WORTHINGTON. Was he a Mormon or a Gentile?

Mr. McCARTY. He was a Gentile—the Hon. John W. Judd. He claimed it was unnecessary; that the investigation before the grand jury was sufficient, and that the United States should not be burdened by the extra expense.

Mr. WORTHINGTON. And it was a United States officer, so far as your bailiwick was concerned, who stopped the prosecutions at that time?

Mr. McCARTY. To that extent.

Mr. WORTHINGTON. To that extent. Now, in 1895 you were elected district judge of the sixth district?

Mr. McCARTY. Yes, sir; the sixth district.

Mr. WORTHINGTON. That was when the officers were elected who were to occupy State offices if the State should be admitted and when it should be admitted?

Mr. McCARTY. Yes, sir.

Mr. WORTHINGTON. Did you run on the Republican or the Democratic ticket?

Mr. McCARTY. On the Republican ticket.

Mr. WORTHINGTON. Who was your opponent?

Mr. McCARTY. E. W. McDaniel.

Mr. WORTHINGTON. He was a Democrat?

Mr. McCARTY. He was a Democrat.

Mr. WORTHINGTON. Was he a Mormon or——

Mr. McCARTY. No; he was a Gentile.

Mr. WORTHINGTON. You were elected?

Mr. McCARTY. I was elected.

Mr. WORTHINGTON. How did you run with the rest of your ticket in that campaign, Judge?

Mr. McCARTY. I ran behind my ticket in Sevier County.

Mr. WORTHINGTON. How much?

Mr. McCARTY. Oh, 150 votes.

Mr. WORTHINGTON. What is that?

Mr. McCARTY. 150 or 200 votes. I carried Sevier County by 3 votes only.

Mr. WORTHINGTON. You ran behind 150 or 200 votes in how large a vote?

Mr. McCARTY. Probably 1,000 voters at that time.

Mr. WORTHINGTON. You served as district judge from 1895 to 1900?

Mr. McCARTY. Yes, sir.

Mr. WORTHINGTON. Your first term was a five-year term?

Mr. McCARTY. A five-year term.

Mr. WORTHINGTON. Then in 1900 you were reelected for a four-year term?

Mr. McCARTY. Yes, sir; a four-year term.

Mr. WORTHINGTON. Before that term expired you were elected associate justice of the supreme court of the State?

Mr. McCARTY. Yes, sir.

Mr. WORTHINGTON. Which office you now hold?

Mr. McCARTY. Yes, sir.

Mr. WORTHINGTON. Did anything special come to your notice with relation to this question of polygamy while you were district judge from 1895 to 1900?

Mr. McCARTY. In 1898—I think that was the year—there was some agitation there in regard to men living in polygamous relations—men who had contracted the marriage relation prior to the manifesto—and I called a grand jury to investigate those charges and rumors, and specifically invited their attention to that class of offenses.

Mr. WORTHINGTON. Polygamous cohabitation or polygamous marriages, or both?

Mr. McCARTY. No; polygamous cohabitation. At that time I was not aware that there were any new marriages being contracted—polygamous marriages.

Mr. WORTHINGTON. That is a question I am going to ask you about after a while. What was the result of the grand jury's investigation in 1898?

Mr. McCARTY. Well, they were in session several days, but they failed to find any bills against men who were alleged to be living in those relations.

Mr. WORTHINGTON. To go back a moment, Judge, when you ran for district judge in 1895—you have told us about the vote in Sevier County—how did you run in the Mormon precincts generally, in the precincts where the Mormon voters were who passed on your candidacy?

Mr. McCARTY. I generally ran with my ticket. They were all Mormon precincts. I don't think there was a Gentile precinct except Marysville in the district at that time.

Mr. WORTHINGTON. Have you any knowledge as to why it was you ran behind in Sevier County?

Mr. McCARTY. Yes, sir; the non-Mormons.

Mr. WORTHINGTON. The non-Mormons?

Mr. McCARTY. The non-Mormons were the people who worked against me—the saloon element and the non-Mormons generally. That was particularly in Richfield. That is where the cut was made. I resided at Monroe at that time.

Mr. WORTHINGTON. You had been an antisaloon man, then, as well as antipolygamist, in your prosecutions?

Mr. McCARTY. Yes; I had paid special attention to that class of offenses—selling on Sunday, gambling, and the illicit selling of liquor.

Mr. WORTHINGTON. Did any cases of polygamous cohabitation come before you while you were district judge from 1895 to 1900?

Mr. McCARTY. Yes, sir. I wish to correct my first statement. I think it was in about the year 1897 that the grand jury was called. You have the record there, I believe. I may have gotten those dates confused.

Mr. VAN COTT (handing paper to witness). I do not think that is the grand jury matter.

Mr. McCARTY. In 1898, I think it was, when the grand jury was called. In 1899 this record is certified to by the officer or by the reporter. Will you read the last question?

The reporter read as follows:

“Mr. WORTHINGTON. Did any cases of polygamous cohabitation come before you while you were district judge from 1895 to 1900?”

“Mr. McCARTY. Yes, sir. I wish to correct my first statement. I think it was in about the year 1897 that the grand jury was called. You have the record there, I believe. I may have gotten those dates confused.”

Mr. McCARTY. In 1899 some informations were filed in the district court over which I presided.

Mr. WORTHINGTON. For polygamous cohabitation?

Mr. McCARTY. Yes; unlawful cohabitation is usually the term.

Mr. WORTHINGTON. Did the cases come up before you?

Mr. McCARTY. They did.

Mr. WORTHINGTON. What was the result?

Mr. McCARTY. The result was, my recollection is, that the defendants claimed that they understood they would be permitted to live in those relations, and I read them a lecture and defined the law as I understood it and imposed fines, after getting a promise from them that they would observe the law in the future.

Mr. WORTHINGTON. It has been said here, as to some of the fines imposed along about that time, that they were paid by subscription.

Mr. McCARTY. That is a mistake.

Mr. WORTHINGTON. Or by raising money at dances or something of that kind. Can you give any information as to these cases in which you were the judge?

Mr. McCARTY. There is absolutely nothing in that.

Mr. WORTHINGTON. They were paid, were they?

Mr. McCARTY. I speak advisedly. They were paid; yes.

Mr. WORTHINGTON. What do you mean? You say you speak advisedly, Judge. Let us know how you get your knowledge.

Mr. McCARTY. As Richfield was a small village of only 2,000 people, and I was well acquainted there, being acquainted with almost every family in the city, if anything of that kind had occurred I would have known of it. In fact, there was considerable agitation there in regard to these matters, and I had to continually remind the officers whose duty it was to see that they were collected. I will just make this correction. The bailiff of the district court, whose father was one of these parties, informed me that he paid \$5 of his father's fine. There was that exception. The two bishops who were fined, one \$150 and the other \$75, went to the bank a few days afterwards and borrowed the money. I was interested in the bank—that is, I owned a little of the bank stock—and the banker informed me that those men had borrowed the money with which to pay the fine.

Mr. WORTHINGTON. You say these men claimed they understood that they were not to be interfered with. Were they men who had been married before the manifesto?

Mr. McCARTY. Yes.

Mr. WORTHINGTON. In every case?

Mr. McCARTY. In every case.

Mr. WORTHINGTON. How many of them were there?

Mr. McCARTY. My recollection is there were four of them. I have the record here.

Mr. WORTHINGTON. Refresh your memory by looking at the record, if you please. Judge Tayler can see it if he pleases.

Mr. TAYLER. Is this a transcript of the public record?

Mr. WORTHINGTON. It is a shorthand report.

Mr. McCARTY (after examining the record referred to). The record shows five.

Mr. WORTHINGTON. I beg pardon.

Mr. McCARTY. Five.

Mr. WORTHINGTON. You have there what purports to be a shorthand report of the proceedings, I believe?

Mr. McCARTY. Yes, sir.

Mr. WORTHINGTON. Have you looked over it?

Mr. McCARTY. Well, it has been some time since.

Mr. WORTHINGTON. Well, Judge Tayler can look at it if he pleases. We do not care to encumber the record by putting it all in.

Mr. TAYLER. Judge, will you excuse me? Let me look at that just a moment. I will see if that is the same as mine, and if it is, I think the easiest way would be to let it all go in.

Mr. WORTHINGTON. Judge, were there any indications at that time of whether your official conduct in punishing these men, although they had been married before the manifesto, was approved or disapproved by the public generally?

Mr. McCARTY. Well, sir, the public generally and the press generally remained silent. That was the first emphatic expression I had had in regard to the state of public opinion at that time.

Mr. WORTHINGTON. What impression did what took place make upon you as to the state of public opinion?

Mr. McCARTY. A copy of those proceedings was sent to the leading papers of the State. The Tribune published a few extracts from my remarks, headed "A square talk from the bench," but no mention was made of the proceedings, editorially or otherwise. John C. Graham, the editor of the Provo Inquirer, who is a reputed polygamist, a short time afterwards referred to these proceedings editorially in rather a lengthy article, in which he rather complimented me for the course I had taken in these matters. Otherwise the papers remained silent.

Mr. WORTHINGTON. You said something there, Judge, that I would like to follow up, because it leads to what I intended to ask you—that you then for the first time learned of the public sentiment of the State, or something of that kind. What did you mean by that?

Mr. McCARTY. Well, this question was being agitated, and the air was filled with rumors that men were violating the spirit of the manifesto. Some Gentiles were insisting that prosecutions ought to follow, and, as I stated, I called a special grand jury a short time before to investigate this in connection with a few other matters; and the attitude of the press—or rather the failure of the press to assume any attitude—on the question was an indication to me that the press was against it. And, in fact, the public prosecutor, whose attention I had invited to those rumors, refused to proceed in the matter, stating that he had talked with his brother, who was then manager of the Herald, and his brother advised him to let those cases alone; that they would soon die out; that he believed it was the best and most practical solution of the question. My reason for calling the grand jury was the refusal of the public prosecutor to proceed.

Mr. WORTHINGTON. This prosecutor, you say, was a Gentile; and was his brother?

Mr. McCARTY. He was a Gentile; yes, sir.

Mr. WORTHINGTON. His brother, who had advised him, was also a Gentile?

Mr. McCARTY. Yes.

Mr. WORTHINGTON. The Herald is not a paper that would be accused of being in sympathy with the Mormon people, is it?

Mr. McCARTY. No; that man was honest in his judgment. There is no question about that.

Mr. WORTHINGTON. As to this grand jury; was it composed of Mormons or Gentiles?

Mr. McCARTY. I do not remember. In fact, I can not answer that question.

Mr. WORTHINGTON. Were Mormons and Gentiles both brought before the grand jury as witnesses—people who were supposed to know something about it?

Mr. McCARTY. Yes; the foreman of the grand jury was a Mormon. I remember that very distinctly, because I remember having had a conversation with him in relation to these matters.

Mr. WORTHINGTON. From all that took place then, Judge, leading up to those transactions, and the investigation of the grand jury, what followed your action in the matter? Did you, or not, reach the conclusion that the public sentiment of the State was against the interfering with these men who had married before the manifesto in their polygamous relations?

Mr. McCARTY. Yes; and with what had transpired subsequently, even up to the time that those men were fined there, I still believed that the law would be enforced. I know I was determined to do what I could at the time.

Mr. WORTHINGTON. Did you, at any time or in any way, defer to that sentiment yourself, where you had any opportunity to act?

Mr. McCARTY. No. I will say, speaking for myself, that I have been in favor of enforcing the entire penal code.

Mr. WORTHINGTON. And you have always expressed yourself that way?

Mr. McCARTY. I have always expressed myself that way.

Mr. WORTHINGTON. There has been no doubt how you feel on the question?

Mr. McCARTY. No; no doubt in the State of Utah, and if there is any doubt now, I wish to remove it.

Mr. WORTHINGTON. You referred just now to something that took place subsequently which confirmed your conclusion that the general sentiment was against prosecuting for polygamous cohabitation when the parties were married before the manifesto. What was that that took place subsequently?

Mr. McCARTY. Well, those parties, so it was rumored, continued to live in those relations, and then I got expressions from some of the leading Gentiles of the State, some of whom were Republicans and some of whom were Democrats, that the most practical solution of the question was to let these old men die off and not molest them.

Mr. WORTHINGTON. It appears here that Senator Smoot became an apostle of the Mormon Church in April, 1900. I understand, then, from what you have said, that at that time that was the status of opinion in Utah, the body of the people, Mormons and non-Mormons, that these people who were married before the manifesto ought not to be interfered with, although they were continuing to live together?

Mr. McCARTY. Mr. Worthington, there have been a few who insisted on a vigorous enforcement of this law. Some have been decidedly against it, but the consensus of opinion has been that the better way was to close our eyes to what was going on and let the matter die out.

Mr. WORTHINGTON. I mean, that has been the opinion of most of your people, non-Mormons as well as Mormons?

Mr. McCARTY. Yes. I did not understand that by this attitude the Gentiles, or the Mormons either—that is, speaking for the majority of the Mormons—were approving of it; but there was no sentiment in favor of enforcing that law. It was rather a toleration and forbearance. I think that is the sentiment in the State of Utah to-day, with the exception of Salt Lake. There is rather a strong sentiment there in favor—

The CHAIRMAN. In favor of what?

Mr. McCARTY. In favor of enforcing this law.

Mr. WORTHINGTON. In Salt Lake City?

Mr. McCARTY. Yes. Some who are in favor of it now were very positive at the time I endeavored to enforce it.

Mr. WORTHINGTON. You met with very little encouragement from any quarter when you attempted to act?

Mr. McCARTY. I was neither encouraged nor discouraged.

Mr. WORTHINGTON. I am not referring to your mental view of it, but the actions of others, as you have explained to us, as I understood, that when you undertook to be vigorous in these prosecutions when they came before you—

Mr. McCARTY. No; I did not get the moral and hearty support that I anticipated I would get.

Mr. WORTHINGTON. Either from non-Mormons or Mormons?

Mr. McCARTY. Either from non-Mormons or Mormons.

Mr. WORTHINGTON. I gather from what you said that you are pretty well acquainted in the State?

Mr. McCARTY. Yes, sir.

The CHAIRMAN. Before you proceed, Mr. Worthington, I want to know clearly the witness's opinion as to the sentiment in the State of Utah. Would you agree with what the president of the church says on that subject—what he said before this committee?

Mr. WORTHINGTON. What page?

The CHAIRMAN. Page 130. "Since the admission of the State," he declares, "there has been a sentiment existing and prevalent in Utah that these old marriages would be in a measure condoned. They were not looked upon as offensive, as really violative of law. They were, in other words, regarded as an existing fact, and if they saw any wrong in it, they simply winked at it. In other words, Mr. Chairman, the people of Utah, as a rule, as well as the people of this nation, are broad-minded and liberal-minded people, and they have rather condoned than otherwise, I presume, my offense against the law." Does that agree with your opinion?

Mr. McCARTY. Well, no; I would not go that far, Mr. Chairman. I do not agree with President Smith.

The CHAIRMAN (reading): "I have never been disturbed. Nobody has ever called me in question that I know of, and, if I had, I was there to answer to the charges or any charge that might have been made against me."

Then you do not agree with President Smith in regard to public sentiment in this respect among the people of Utah?

Mr. McCARTY. No; I would not put it as broad as that. The people, I believe, the majority of them, would prefer to see the laws

enforced, but there are not many of them who care to go on record. I have talked with scores of prominent men in the State. They all deprecate the fact that these violations of the law were being continued there, but, as I suggested, it has been a problem that has been somewhat difficult to solve. There is a statute against it, and my opinion has always been and is now that the way to solve that question is to enforce that penal statute.

The CHAIRMAN. But you do not agree with President Smith as to the sentiment of the people of Utah?

Mr. McCARTY. I do not think it is as general as he puts it there, because there is a strong sentiment in Salt Lake against it. Of course that is the Gentile town. The atmosphere is a little different there from what it is out in the country, where there are but few Gentiles. I know up until statehood—

The CHAIRMAN. Pardon me for interrupting you, Mr. Worthington. You may proceed.

Mr. WORTHINGTON. The Judge had not yet finished his answer.

The CHAIRMAN. Very well; proceed, Judge.

Mr. McCARTY. I say, up until statehood, down in the second district, where I was public prosecutor, we prosecuted those cases vigorously. I remember on several occasions we had Mormon juries, and they would convict in those cases, but after statehood for some reason the interest lagged. There were not many of them left—very few.

Mr. WORTHINGTON. Judge, will you allow me to ask whether what Mr. Critchlow said, on page 19 of this record, would more nearly express what you understood to be the situation out there than what Mr. Smith said? He said, in reference to this matter of prosecution for polygamous cohabitation:

“There was rather a disinclination upon the part of everybody connected with the prosecution of offenses to stir up these matters, because we thought it would work itself out; that the situation would become alleviated by the general process of time.”

Mr. McCARTY. What date does he give?

Mr. WORTHINGTON. He is speaking of the time since 1890.

Mr. McCARTY. Mr. Critchlow is about correct.

Mr. TAYLER. That was immediately following 1890 that the answer was referring to, was it not?

Mr. WORTHINGTON. I understood it to apply from that time on.

Mr. VAN COTT. Until Mr. Critchlow changed his mind. We do not say he claimed that after that time.

Mr. TAYLER. That is apart from what I am stating, what this question here referred to.

Mr. WORTHINGTON. I understood you to say that would, to your idea, express the situation out there after 1890 and down to the present time—

“There was rather a disinclination upon the part of everybody connected with the prosecution of offenses to stir up these matters, because we thought it would work itself out; that the situation would become alleviated by the general progress of time.”

Mr. McCARTY. When my accounts were disallowed for holding these people before the United States commissioners I made a complaint. I talked with the United States attorney in regard to the matter and he answered me as I have stated. I talked with the judge

on the bench, who was a Republican. The Hon. John W. Judd was a Democrat, and he answered me that the United States attorney had had an intimation from the Department of Justice here to ease up on those cases.

Mr. WORTHINGTON. Exactly.

Mr. TAYLER. When was this?

Mr. McCARTY. This was along about 1892 or 1893.

Mr. WORTHINGTON. Judge Judd was a Gentile?

Mr. McCARTY. Yes. The fact of the matter is that both political parties at that time were playing for the Mormon vote, and they were playing hard.

The CHAIRMAN. When was that?

Mr. McCARTY. In 1893 or 1894.

Mr. WORTHINGTON. At the time of the division.

Mr. McCARTY. The question was, would Utah be a Republican State or a Democratic State; and I want to say now in all fairness to the people of the Mormon Church that that has been the cause of considerable irritation out there, this coquetting with the church. I do not say the political parties as an organization have attempted it, but politicians.

Mr. WORTHINGTON. Well, whatever the cause was, you did understand the fact to be that before statehood the prosecuting officers of the United States had stopped these prosecutions?

Mr. McCARTY. Practically. I would not say stopped, but there was not that vigorous—

Mr. WORTHINGTON. I understand.

Mr. McCARTY. The fact of the matter is that prior to the manifesto the worst feature of those violations was that they were committed in open defiance of the Government, and we understood that it was as much to show their contempt, the defiant attitude, as it was to live the religion, and of course the prosecutions were very vigorous. After the manifesto that feature was eliminated, and the same relentless method of pursuing those cases was not followed.

Mr. WORTHINGTON. You do not know whether it would be any better, if we had a constitutional amendment, and the United States officers had charge of it, now than it was then, I suppose?

Mr. McCARTY. My private opinion is that it would have this effect: It would forever eliminate the question from the politics of the State, but I do not believe that it would be any more effective than it is now, in view of the experience I had when I was district attorney. It might, and I believe would, stop any further plural marriages.

Mr. WORTHINGTON. I am coming down to that question next. What is your observation there as to whether, as a matter of fact, the number of people living in polygamy has decreased since 1890 in Utah?

Mr. McCARTY. Oh, the change has been phenomenal.

Mr. WORTHINGTON. Phenomenal?

Mr. McCARTY. Yes; phenomenal. There are only a very few. In the little town in which I resided there for over twenty years there were a large number of polygamists. Oh, there must have been in the neighborhood of 20 of them; and I can not call to mind now but 3 of those old men who are living. They have died or moved away. Two of them procured divorces, either a church divorce for the plural wife or a divorce in the courts for the legal wife.

Mr. WORTHINGTON. What town is that to which you refer?

Mr. McCARTY. That is Monroe.

Mr. WORTHINGTON. So that there polygamy is practically extinct?

Mr. McCARTY. Yes; and what can be said of Monroe can be said of most other towns in the State.

Mr. WORTHINGTON. Most other towns in the State?

Mr. McCARTY. Yes.

Mr. WORTHINGTON. You think the increase, as you say, has been phenomenal?

Mr. McCARTY. It is only a matter of a short time until it will disappear, provided there are no new marriages.

Mr. WORTHINGTON. That is what I was going to ask you about. From your knowledge—and when I speak of knowledge, I mean that gained by general reputation—what is the fact as to whether there are new plural marriages in any considerable degree?

Mr. McCARTY. It is rumored that there have been a few—some few, a dozen or more.

Mr. WORTHINGTON. As a general thing they are comparatively few—the rumors of recent plural marriages?

Mr. McCARTY. Yes; very few. The people contracting them are keeping pretty well under cover.

Mr. WORTHINGTON. Are they not as a general thing out of the State?

Mr. McCARTY. Yes; they are out of the State.

Mr. WORTHINGTON. Fugitives from justice?

Mr. McCARTY. In Alberta, Canada, or down in Mexico.

Mr. WORTHINGTON. Have you any idea, from what you know of the situation out there, that if Joseph F. Smith, for instance, or the other apostles were to take plural wives now and undertake to live with them openly there would be a failure to prosecute, as there is for the old relations?

Mr. McCARTY. I do not think so. That is my judgment. I hardly think that Joseph F. Smith—

Mr. WORTHINGTON. Your best judgment is that it is a dying institution, and will soon be dead?

Mr. McCARTY. As I say, assuming that there will be no new marriages, of course it will only be a short time until it will disappear.

Mr. WORTHINGTON. What do you find to be the sentiment out there among the Mormons themselves, the younger element, let us say, those under middle age, as to this matter of polygamy?

Mr. McCARTY. They are opposed to it. The fact of the matter is, there was a sentiment against it long before the manifesto—a sentiment growing up throughout the entire State.

Mr. WORTHINGTON. Among the Mormons themselves?

Mr. McCARTY. Among the Mormons themselves in the little communities there. The sentiment was strong against it, because I know of numbers of instances where young ladies were receiving the attentions of married men, who were courting them with the intention of taking them as plural wives, and they became almost a hiss and a byword.

Mr. WORTHINGTON. When was that—how long ago?

Mr. McCARTY. That was away back as far as 1886.

Mr. WORTHINGTON. You mean among the Mormons themselves?

Mr. McCARTY. Yes. This sentiment has been growing for some time there.

Mr. WORTHINGTON. You say that was the general feeling among all the younger element of the Mormons?

Mr. McCARTY. It was down in the southern part of the State where I resided.

Mr. WORTHINGTON. They are principally Mormons down there, I believe?

Mr. McCARTY. They are principally Mormons; yes. Of course without legislation I do not think it ever would have been entirely eliminated for generations, but it was becoming less popular.

Mr. WORTHINGTON. Mr. Chairman, there is another subject we desire to inquire about, but I would like to have Mr. Van Cott inquire about it, as he is more familiar with that branch of the business in Utah than I am.

The CHAIRMAN. Very well.

Mr. VAN COTT. What is your opinion, Judge, as to the Mormon people being constant in adhering to their party lines?

Mr. McCARTY. Well, they have the reputation—in fact, it is an established fact in Utah—that after the ticket is once made up they adhere more closely to party lines than the Gentiles.

Mr. VAN COTT. Have you had some illustrations of that in connection with your own campaigns?

Mr. McCARTY. Yes, sir.

Mr. VAN COTT. Will you mention them?

Mr. McCARTY. Well, this was the case in the first campaign, to which I have already referred.

Mr. WORTHINGTON. In 1895, do you mean, or 1892?

Mr. McCARTY. In 1895. Well, in 1892 Sevier County went Republican from 30 to about 50 votes, and I was elected there by about 20 majority the first time. The next election my majority was about the same.

Mr. VAN COTT. Take the election of 1895, when you ran for district judge. Who was your opponent?

Mr. McCARTY. E. W. McDaniel. He was a Gentile.

Mr. VAN COTT. Yes; that was when the non-Mormons cut you in Sevier County.

Mr. McCARTY. In Sevier County.

Mr. VAN COTT. Calling attention to the Republican Mormons on the ticket with you, did they poll ahead of you through these Mormon settlements and precincts?

Mr. McCARTY. Yes; I believe we elected the entire ticket when I ran for judge.

Mr. VAN COTT. And did you hold up with the Mormon Republicans on your same ticket?

Mr. McCARTY. I was the only district officer voted for except Judge Chichester, who ran for the State senate.

Mr. VAN COTT. But in the county, for instance—in Sevier County.

Mr. McCARTY. No; I ran behind. My majority was the smallest of any candidate on the ticket. The superintendent of public schools won out by 8, and I came into the county by 3 votes.

Mr. VAN COTT. He was only 5 votes ahead of you?

Mr. McCARTY. He was only 5 votes ahead of me.

Mr. VAN COTT. And out of what would be the total Republican vote?

Mr. McCARTY. I do not remember.

Mr. VAN COTT. Well, about?

Mr. McCARTY. We did not have woman suffrage then. I think probably 1,000 votes; that is, the entire vote of the county—1,000 or 1,500.

Mr. VAN COTT. Going to the next election, in 1900, who was your opponent then for district judge?

Mr. McCARTY. I. J. Stewart.

Mr. VAN COTT. What was he in religion?

Mr. McCARTY. He was a Latter-Day Saint, a Mormon, a Sunday-school teacher.

Mr. VAN COTT. In that campaign, do you know whether, as a matter of fact, there was circulated throughout the district your record, truly, and some parts of it untruly, appealing to the people that they ought to beat you for district judge?

Mr. McCARTY. Yes. His issue was that I had imposed these fines, and that I was in favor of a vigorous enforcement of the law. I accepted the issue to that extent.

Mr. VAN COTT. When the election was held, tell us how you held up with the Mormon Republicans on your ticket, through the Mormon precincts?

Mr. McCARTY. I ran away ahead.

Mr. VAN COTT. Away ahead?

Mr. McCARTY. Yes; I got the largest vote of any man on the ticket.

Mr. VAN COTT. Great prominence was given to the course you had taken in fining these people?

Mr. McCARTY. That was the issue.

Mr. VAN COTT. And you were away ahead on your ticket?

Mr. McCARTY. Yes; I ran ahead in almost every precinct in the district.

Mr. VAN COTT. Was Miller ever an opponent of yours? Was he ever a prosecutor?

Mr. McCARTY. Not that I know of. I do not recall.

Mr. VAN COTT. Did Miller ever run for an office?

Mr. McCARTY. Yes. Mr. Miller ran for the constitutional convention.

Mr. VAN COTT. Oh, that was where he ran?

Mr. McCARTY. Yes.

Mr. VAN COTT. I wish you would tell us about that, please.

Mr. McCARTY. He was the Methodist preacher of Monroe. He was a good campaigner, and had campaigned the county for me in 1892, and again in 1894. He was nominated as one of the three Republican candidates to the constitutional convention from that county.

Mr. VAN COTT. Was he elected?

Mr. McCARTY. He was.

Mr. VAN COTT. Now, before he was nominated, did you have any talk with him about running?

Mr. McCARTY. Yes.

Mr. VAN COTT. What was that?

Mr. McCARTY. I went to him and suggested that he run for the constitutional convention, and he said that before he could accept a

nomination of that kind it would be necessary for him to communicate with Doctor Iliff, in Salt Lake.

Mr. VAN COTT. For what purpose?

Mr. McCARTY. It seems Doctor Iliff had charge of the Methodist mission in Utah, and it was necessary to get his consent.

Mr. VAN COTT. Necessary to get his consent to run?

Mr. McCARTY. To get his consent to run.

Mr. VAN COTT. Did he say that to you?

Mr. McCARTY. He said that to me.

Mr. VAN COTT. Afterwards did you see him?

Mr. McCARTY. I saw him.

Mr. VAN COTT. What did he tell you?

Mr. McCARTY. He told me he had not heard from the doctor.

Mr. VAN COTT. Well, later on?

Mr. McCARTY. Later on I met him and he said he had heard from the doctor, and the doctor informed him there was no objection to him accepting that nomination.

Mr. VAN COTT. Who was Mr. Miller's opponent?

Mr. McCARTY. There were three candidates on each ticket. Sevier County was entitled to three members in the constitutional convention. President Seegmiller was a candidate. He was one of the Democratic candidates.

Mr. VAN COTT. You say President Seegmiller was the president of the stake?

Mr. McCARTY. The president of the stake.

Mr. VAN COTT. And one of the opponents of Mr. Miller, who was a Methodist, would be President Seegmiller?

Mr. McCARTY. Yes.

Mr. VAN COTT. Who was elected?

Mr. McCARTY. The three Republicans. Mr. Miller polled his party vote.

Mr. VAN COTT. Now, passing along to the time of your candidacy for the supreme court bench, who was your opponent in that fight?

Mr. McCARTY. Maj. Richard W. Young.

Mr. VAN COTT. You know him personally, do you?

Mr. McCARTY. Yes, sir; I am well acquainted with him.

Mr. VAN COTT. Just briefly, I wish you would state as to his efficiency and popularity in the State.

Mr. McCARTY. Well, he was the war hero of our State at that time. He had just returned from the Philippine Islands.

Mr. VAN COTT. Was he a graduate of West Point?

Mr. McCARTY. He was a graduate of West Point.

Mr. VAN COTT. A grandson of Brigham Young?

Mr. McCARTY. A grandson of Brigham Young and, I believe, a graduate of a law school. That is my understanding.

Mr. VAN COTT. He had practiced law in Utah?

Mr. McCARTY. Yes; he had an office there for several years.

Mr. VAN COTT. He had been in the Philippine Islands during the war?

Mr. McCARTY. He had.

Mr. VAN COTT. Had he been on the supreme bench in the Philippine Islands?

Mr. McCARTY. I so understand; yes.

Mr. VAN COTT. He came back to Utah and ran on the Democratic ticket?

Mr. McCARTY. On the Democratic ticket.

Mr. VAN COTT. You understand that Major Young was a Mormon?

Mr. McCARTY. I do.

Mr. VAN COTT. Was he popular in the State?

Mr. McCARTY. I regarded him as the most popular man in the Democratic party.

Mr. VAN COTT. Tell us what you noticed, under those circumstances, as to the way you ran in the Mormon precincts, counties, and cities in Utah?

Mr. McCARTY. I have here the report of the secretary of state, which gives the vote in each voting precinct of the State. I will say, as a preliminary, that I expected the Major would run away ahead of me in the Mormon communities, and I expected to even up in the mining district. I thought among those Irish my name would be a drawing card, but on looking over the returns here I find that the Democratic Gentiles voted for Major Young, and the Republican Mormons voted for me throughout the State.

Mr. TAYLER. Was this last year?

Mr. McCARTY. Two years ago. In Park City I beat him by 8 votes. In the Gentile mining camp of Eureka I ran 10 votes ahead of him—in the camp I used to work in as a miner, and where I was acquainted with a great many of the people. In the Mormon districts and precincts there was only a difference occasionally of half a dozen and probably up to 40 or 50 votes in some of the most populous districts. I believe there was one where he ran ahead of me about 50 votes.

Mr. VAN COTT. In the beginning, when the Mormon Church first announced what has been the political rule, did the Gentile newspapers generally approve or disapprove of that rule?

Mr. McCARTY. Which was that?

Mr. VAN COTT. The political rule as to certain high officers in the Mormon Church engaging in politics.

Mr. McCARTY. Well, the Gentile Republicans of course were in favor of it, but I understand there were some objections made by the Democrats at the time it was first announced.

Mr. VAN COTT. Later on, do you know whether the Gentile papers attacked this same rule which they had previously approved?

Mr. McCARTY. Yes. That seems to be the great point of contention now.

Senator DUBOIS. Was there an election pending when the rule was promulgated?

Mr. McCARTY. Yes; it was during the first State election, and the Democrats held a reconvened convention.

Senator DUBOIS. Mr. Roberts was running for Congress as a Democrat?

Mr. McCARTY. Yes.

Senator DUBOIS. And Mr. Thatcher for the Senate at that time?

Mr. McCARTY. Yes; Mr. Thatcher and Senator Rawlins. That is, the Democratic convention had declared in favor of those two men for Senators should the Democrats carry the State.

Senator DUBOIS. And it was during the pendency of the campaign that this rule was promulgated?

Mr. McCARTY. Yes; a short time before election. I do not remember just how long.

Senator DUBOIS. It was supposed that the rule was aimed at Robert Thatcher, was it not?

Mr. McCARTY. The Democrats claimed that it was aimed at the party.

Mr. WORTHINGTON. At the party?

Mr. McCARTY. Yes; the Democratic party.

Senator DUBOIS. I beg your pardon for interrupting, Mr. Van Cott.

Mr. VAN COTT. Not at all, Senator.

Mr. McCARTY. I think they claimed Mr. Roberts and Mr. Thatcher were mere incidents in that controversy.

Mr. VAN COTT. Did not the Salt Lake Tribune, the principal Gentile paper, argue editorially again and again that that was a good rule?

Mr. McCARTY. Oh, the Republicans generally insisted that that was a good rule. They were the beneficiaries. I know I made no objection to it at the time. Since I have interjected this matter, I want here to state that my position was this, that if the Mormons were willing to comply with a rule of that kind, a Gentile was not in a position to object. It was conceded that the Mormons should have one United States Senator and the Gentiles one, and if the Mormons were willing to submit to a rule that required them to become an apostle or to get consent from the church, why we were not in a position to make any objection to it, so long as they did not interfere with the other Senator.

Mr. VAN COTT. The Gentiles in Sevier County did not object when Mr. Miller got consent from Doctor Iliff, for instance, did they?

Mr. McCARTY. Oh, no.

Mr. VAN COTT. Judge, assuming that matters progress in Utah, as you have observed them in the last fourteen years, what would be your opinion as to the solution of matters in Utah?

Mr. McCARTY. In what respect?

Mr. VAN COTT. Read my question, please.

The question was read by the reporter.

Mr. McCARTY. Yes; but the question is very general.

Mr. VAN COTT. I will strike out the question, and ask it in this way: Assuming that the matters that occasioned differences between the Mormons and Gentiles before 1890 should progress toward solution, as they have in the last fourteen years, I would like your opinion as to the ultimate result on those matters?

Mr. McCARTY. As I stated, there are so many propositions involved in this general question of yours that it is pretty hard to answer.

Mr. VAN COTT. Then let me specify. What do you think of the progress in the last fourteen years?

Mr. McCARTY. Oh, it is something that we never anticipated during Territorial days.

Mr. VAN COTT. That is, it is more marvelous than you anticipated?

Mr. McCARTY. Yes; far more so.

Mr. VAN COTT. And are you surprised that there may have been a few polygamous marriages since the manifesto?

Mr. McCARTY. Well, I was surprised when I first heard that those marriages were being contracted. In fact, I was in hopes, and believed, that there was no foundation for the rumors, because I believed at the time that the church intended to and had stopped solemnizing plural marriages entirely. I expected at the time of the manifesto that there would be occasional infractions of the law, occasionally a child born. I did not see how we could expect anything else, with men living in those relations, rearing their children, visiting them, having to care for them; but that, I think, we all anticipated.

Mr. VAN COTT. Did you think there never would be even a sporadic case of polygamy?

Mr. McCARTY. No; I never did go to that extent. I expected there would be some. I was of the opinion, though, that the church would discipline its members who entered into this relation.

Mr. VAN COTT. You may take the witness.

Mr. TAYLER. Judge, in 1899, or thereabouts, some time before these prosecutions for polygamous cohabitation in your part of the State, you had called a grand jury, had you?

Mr. McCARTY. Yes, sir.

Mr. TAYLER. That grand jury had investigated claims of polygamous cohabitation within the county?

Mr. McCARTY. Yes, sir.

Mr. TAYLER. You were on the bench?

Mr. McCARTY. I was on the bench.

Mr. TAYLER. It returned no indictments?

Mr. McCARTY. It did not return any indictments—not for unlawful cohabitation. It did return indictments, but not for unlawful cohabitation and polygamy.

Mr. TAYLER. None for unlawful cohabitation?

Mr. WORTHINGTON. Or polygamy, he says.

Mr. McCARTY. Or polygamy.

Mr. TAYLER. Then, a year after that, these cases came before you upon informations?

Mr. McCARTY. Yes, sir.

Mr. TAYLER. Which were based upon affidavits made by Mr. Owen, were they not?

Mr. McCARTY. Well, I can not answer that. The informations were sworn to. That is, the informations upon which the hearings were had, were filed by the county attorney.

Mr. TAYLER. Yes.

Mr. McCARTY. Now, Mr. Owen may have filed affidavits.

Mr. TAYLER. I do not care so much about the identity of the person, but I wanted to distinguish particularly, for I misunderstood, between this grand jury investigation, from which, so far as polygamous cohabitation cases were concerned, nothing issued, and the actual cases where you did sentence them, and those were based upon informations.

Mr. McCARTY. Yes, sir.

Mr. TAYLER. Now, there were four or five persons against whom these indictments were filed, all of whom appeared before you and entered pleas of guilty?

Mr. McCARTY. Yes, sir.

Mr. TAYLER. And you sentenced them?

Mr. McCARTY. Yes, sir.

Mr. TAYLER. They were the only cases, I suppose, at that time that had come up in that community since statehood?

Mr. McCARTY. Yes; those were the only cases.

Mr. TAYLER. Have there been any since?

Mr. McCARTY. No, sir; there have been none since.

Mr. TAYLER. So that this prosecution was quite as sporadic as any case of polygamous marriage was claimed to have been, if it occurred?

Mr. McCARTY. Yes, sir.

Mr. TAYLER. You know all these men, I suppose?

Mr. McCARTY. Yes; I was pretty well acquainted with Bishop Poulson and Bishop Horne. With the others I had a passing acquaintance. I had done some business with the man Borg in years gone by.

Mr. TAYLER. They all lived in your town, did they?

Mr. McCARTY. They all lived in my town.

Mr. TAYLER. And you had lived there how long?

Mr. McCARTY. At that time I had lived, I think, a couple of years in Richfield, but then I had known them before. I had lived in the county about twenty years.

Mr. TAYLER. You are the son of a Mormon, are you not?

Mr. McCARTY. Well, now, father was a Mormon part of the time.

Mr. TAYLER. I was only getting at your early atmosphere. I supposed you were born in a Mormon family.

Mr. McCARTY. I was born in a Mormon family, but father left the church in 1872 or 1873.

Mr. WORTHINGTON. How old were you then, Judge?

Mr. McCARTY. I was about 12 years old, or something like that—12 or 13. But I want to say that mother, from the time that I can remember, was very much opposed to Mormonism, and father left the church in 1872. He was not in good fellowship for many years, because he did not approve of the defiant attitude of the church toward the Government. After the manifesto he believed it was in good faith, and he some time afterwards joined the church again.

Mr. TAYLER. Is he living now?

Mr. McCARTY. Oh, no; he died some years ago.

Mr. TAYLER. These men whom you knew appeared before you. They claimed, some of them at least, that they understood there was no law against polygamous cohabitation since statehood, did they not?

Mr. McCARTY. They made some claim. I have not examined the record for years, but my recollection is that they either made a claim that there was no law or they understood that they would be permitted to live in these relations.

Mr. TAYLER. You had nothing to do with instituting these prosecutions, had you?

Mr. McCARTY. No; I had nothing to do in regard to commencing them.

Mr. TAYLER. They came before you in the usual and regular course of business?

Mr. McCARTY. Yes.

Mr. TAYLER. Just as any other case would.

Mr. McCARTY. The same as any other class of offenses.

Mr. TAYLER. Do you think, Judge, that anybody ever charged you with dealing with these offenders, all of whom plead guilty, otherwise than with the greatest consideration and clemency?

Mr. McCARTY. I do not think so. I do not know.

Mr. TAYLER. Is there anything in all of that record, or in your treatment of them that was not in fact considerate and clement?

Mr. McCARTY. No; I intended it should be. I intended that it should be very mild under the circumstances, because there was a sentiment there that those offenses were condoned and there was no objection to them, and I did not think it would hardly be right to inflict a severe penalty under those circumstances, until they had been given a mild lesson. I will say, Mr. Tayler, that prior to the manifesto this was the same course that the United States courts followed, that where men came up and promised to obey the law, sometimes a light fine was imposed, sometimes none, and they were told to—

Mr. TAYLER. Go and sin no more?

Mr. McCARTY. Yes.

Mr. TAYLER. In these cases you inflicted fines?

Mr. McCARTY. Yes, sir.

Mr. TAYLER. Varying in amounts, I suppose, according to the financial condition of the man who was charged?

Mr. McCARTY. Yes, sir. I understood the financial condition. The man who paid the smallest fine I think probably was—

Mr. TAYLER. He felt the burden as much as the others?

Mr. McCARTY. If not more so.

Mr. TAYLER. How much was the smallest fine you imposed?

Mr. McCARTY. My recollection is it was \$25.

Mr. TAYLER. What was the statutory punishment? What was the maximum?

Mr. McCARTY. The maximum, I think, was three months in the county jail and \$300 fine.

Mr. TAYLER. Was it not six months in the county jail?

Mr. McCARTY. Possibly it was six months in the county jail.

Mr. TAYLER. At any rate there was a substantial imprisonment if the court saw fit to inflict that?

Mr. McCARTY. Oh, yes.

The CHAIRMAN. How long was it, Mr. Tayler?

Mr. TAYLER. He says it may have been six months. That is my impression, that it is six months.

Mr. VAN COTT. That is right.

Mr. TAYLER. Imprisonment in the county jail and \$300 fine is the maximum punishment under this law against unlawful cohabitation.

What was the highest fine?

Mr. WORTHINGTON. Do you say it was imprisonment and fine, or imprisonment or fine?

Mr. TAYLER. Or both, I suppose, in the usual language.

The CHAIRMAN. Both, in the discretion of the court.

Mr. McCARTY. \$150 is my recollection.

Mr. TAYLER. You talked to all these defendants [addressing Mr. Worthington and Mr. Van Cott]. Is this typewritten record to go in the printed record?

Mr. WORTHINGTON. We did not intend to put it in evidence, but we handed it to you, and if you desire to have it, it will go in.

Mr. TAYLER. It will save me some trouble if it goes in.

Mr. WORTHINGTON. All right; let it be inserted.

The CHAIRMAN. There being no objection, it will go in.

The paper referred to is as follows:

In the sixth judicial district court, State of Utah, County of Sevier.

[The State of Utah, plaintiff, v. Paul Poulson, Joseph S. Horne, Lars Peter Christensen, Ole P. Borg, and Hans Christensen, defendants (five separate cases). Transcript of all proceedings had and remarks made while the said cases were up for consideration and disposal in said court on Saturday, October 21, 1906.]

At 11 o'clock a. m., after the transaction of other business, the cases were called and proceedings had as follows:

The COURT. Are there any other matters, Mr. Chidester?

Mr. CHIDESTER. I think there are some other arraignments to be made now if the parties are ready.

The COURT. You may proceed with the other arraignments. Are the parties represented by counsel?

Mr. CHIDESTER. I don't know. They can be called and we can ascertain.

The COURT. Yes; you may call them, Mr. Clark.

The CLERK. Paul Poulson.

Mr. Poulson arose from the audience and came forward to a seat near the clerk.

The COURT. You might call over all of them and ascertain whether they are represented by counsel.

The CLERK. Joseph S. Horne, are you represented by counsel?

Mr. HORNE. No, sir.

Mr. Horne came forward.

The CLERK. Lars Peter Christensen.

There was no answer, Mr. Christensen not being present in the court room.

The CLERK. Ole P. Borg, are you represented by counsel?

Mr. BORG. No, sir.

Mr. Borg came forward.

The CLERK. Hans Christensen, are you represented by counsel?

Mr. CHRISTENSEN. No, sir.

Mr. Christensen came forward.

The COURT. They may all come forward inside the railing here.

All who were not already inside the railing complied except Lars P. Christensen, who had not arrived at the court room.

The COURT. What is the charge?

Mr. CHIDESTER. Unlawful cohabitation.

The COURT. In each case?

Mr. CHIDESTER. In each case—just the same.

The COURT. Well, have you counsel, gentlemen?

This was answered by some of the defendants saying, "No, sir; I have not," and others made gestures indicating answers in the negative.

The COURT. Well, do you wish to employ counsel? The court—

Mr. POULSON. Your honor, so far as I am concerned, I don't hardly think it will do me any good to employ any counsel in the matter.

Mr. HORNE. Do you wish each to respond?

The COURT. Yes; if you desire counsel the court will give you time and opportunity to procure counsel.

Mr. HORNE. I will say, your honor, that so far as I am concerned I don't feel disposed to employ counsel, nor do I think it necessary that I should have counsel.

Mr. BORG. I think that my case is similar to the other gentlemen, that there will be no necessity to employ an attorney.

HANS CHRISTENSEN. Your honor, I haven't got any counsel and I don't feel disposed to think it would do me any good to employ one.

The COURT. Well, you may read the information. Are you advised of the nature and character of the charge filed against you, each and every one of you?

Mr. POULSON. I am.

The COURT. Well, you may read the information, Mr. Clerk, unless the reading of it is waived.

The CLERK. Paul Poulson, do you desire the information read?

Mr. POULSON. No, I don't think that it is necessary, and I waive.

The COURT. Do you understand the nature of the charge?

Mr. POULSON. Yes, sir; I understand the nature of the charge.

The COURT. You are personally advised as to the nature and the character of the charge?

Mr. POULSON. Yes, sir.

The COURT. Does either of you other gentlemen wish to have the information read?

Mr. HORNE. Your honor, I will simply say this, that personally I have no great desire for it, but in order that it may be clearly understood, perhaps it would not be amiss that one should be read. I understand it is a similar case with all of us.

The COURT. Well, you may read it, Mr. Clerk.

The clerk read the information, with the indorsements thereon, to Mr. Horne.

The CLERK. Shall I take or demand the plea to this now?

The COURT. Well, the court doesn't desire to burden the defendants with any additional costs by employing an attorney, but it would be much more satisfactory to the court if they were represented by some attorney here who thoroughly understands the facts and circumstances of the several cases. I simply make this suggestion. Of course the court has no advice to give in the matter, but if they could, either separately or collectively, make arrangements with some attorney who has some knowledge of the facts and circumstances of the cases, it would be more satisfactory to the court; and I will state—however, you may read the other two informations unless the defendants waive the reading of them, and I will let the matter go over until this afternoon before accepting the plea.

The CLERK. Ole P. Borg, do you desire or ask this read, or do you waive the hearing of it?

Mr. BORG. I believe I understand the document now all right. I have heard it read before.

The COURT. You have heard it read before?

Mr. BORG. Yes, sir.

The COURT. Do you wish it read now?

Mr. BORG. No, sir.

The COURT. Do you waive the reading of it?

Mr. BORG. If your honor thinks best to read it; I don't know.

The COURT. You had better proceed to read it unless it is voluntarily waived.

The clerk read the information and indorsements thereon to the defendant, Borg.

The CLERK. The plea, I understand, goes over until this afternoon?

The COURT. Yes, they may plead this afternoon.

The CLERK. Hans Christensen, arise, please.

The defendant named complied, and the clerk read to him the information and the indorsements thereon.

The CLERK. Are you represented by an attorney, Mr. Lars Peter Christensen?

Mr. CHRISTENSEN (who had, during the foregoing proceedings, come into the court room). No, sir.

The COURT. Well, you may read the information to him.

The CLERK. Arise, please.

The defendant, L. P. Christensen, complied, and the clerk read to him the information and indorsements thereon.

Mr. BEAN (an attorney at law who, during the latter portion of the proceedings, had been consulting with the defendant, Paul Poulson). May it please the court, in the matter of the State against Paul Poulson, he would prefer if his case could be disposed of this morning, for the reason that he is called away to another part of the country this afternoon. He has spoken to me to appear for him in this matter, which I am ready to do, and we waive all further time.

The COURT. You may take Mr. Poulson's plea, Mr. Clerk. Are you ready to plead, Mr. Poulson?

Mr. CHIDESTER. Mr. Bean is consulting with the defendant. He will be, yes, sir; in a minute.

Mr. BEAN. He is ready to take your plea now.

The CLERK. Paul Poulson, what is your plea to the information charging you with the crime of unlawful cohabitation, of which you have waived the reading this morning?

Mr. POULSON. A plea of guilty.

The CLERK. A plea of guilty?

A. Yes, sir.

Mr. BEAN. Now, may it please the court—

The COURT. Just wait a minute. [The court examined some books.] Pass me the information. [The clerk complied.] You may stand up, Mr. Poulson. [The defendant complied.] On the 21st day of the present month you were informed against by the district attorney of this judicial district charging you with the offense of unlawful cohabitation alleged to have been committed on the 1st day of February, 1898, and continuously between that date and the 20th day of September, 1899. You were subsequently arraigned on this charge and entered a plea of guilty, and at the request of your counsel made in open court in your presence the time for passing judgment was fixed forthwith.

Mr. POULSON. Yes, sir.

The COURT. Have you anything to say or cause to show why the judgment of the court should not now be pronounced against you?

Mr. POULSON. I will get my counsel to state it for me, if your honor please.

Mr. BEAN. Well, I have this to say, your honor, in behalf of the defendant. I realize that he has plead guilty to this charge, but

your honor is familiar with the facts that have surrounded this defendant in the past. Your honor is aware, no doubt, that he contracted this marriage with his alleged plural wife prior to the Tucker-Edmunds law——

The COURT. Prior to 1887?

Mr. BEAN. I think so; yes, sir.

The DEFENDANT. Yes, sir.

Mr. BEAN. That is as I understand it, and he informs me that that is true. At the time that he contracted this marriage he believed that he was in line with his religious duties as he understood them. There was no law in this Territory at that time prohibiting it——

The COURT. Pardon me for interrupting and correcting you. There was a law away back as early as 1862.

Mr. BEAN. Well, I will say it hadn't been passed upon by the Supreme Court of the United States at that time. It was believed by a great many people at that time in this State to be unconstitutional. At least, I believe it was pending before the Supreme Court of the United States at that time. At all events, it is one of those old cases for which this State and Territory has become somewhat noted. And this man—I have known him for a great many years, and no doubt your honor has, and you know that he has been a peaceable, law-abiding citizen, that he never has been arraigned before any court for any offense whatever save this one offense. He has, he tells me, and I believe that to be true, that he has endeavored ever since the law came into effect to live up to the laws of his country. But your honor, perhaps, can realize his condition, the condition which surrounds him as some others, that his wife, his young wife, has raised a young family, her family is practically young, all of her children, it became his duty as an honorable man and as a citizen of our country, a man that wanted to do right between fellow-beings, to support and educate; he took care of that family and he tells me he has been endeavoring to live up to the law. He has not tried to live in defiance of the law, but he has endeavored to obey the law as he understood it; but he perhaps has fallen by the wayside a little and he tells me now that he endeavored, struggled to live up to the law, at the same time supporting this family, providing for them; he has provided a good home, took care of them; but that it is his firm intention in the future to live up to the law. And I desire to say further that he has no desire and has not deserted his first wife for the younger wife or family, but that he has supported his older family, and he is now supporting them, and he has supported them all, and it is quite, it is considerable, or requests considerable, to do, for it is quite burdensome to support a large family; and while he is technically guilty he has supported the family; he is not raising up paupers or fatherless children, you may say, on the community, and a heavy punishment here would do no good; it would probably deprive this large family of——

The COURT. Well, I wish to ask one question.

Mr. BEAN. Very well.

The COURT. In imposing a penalty in the form of a fine, the financial condition that a man is in sometimes has something to do with the punishment. If a man is in straitened circumstances a small fine would be much more of a severe punishment than one much larger,

probably, to some other person, if applied to some person who is in, as we term it in this country, easy circumstances or who has a surplus of means or resources to draw from?

Mr. BEAN. Yes, sir; I think that is true.

The COURT. While I am acquainted with this gentleman, and while I have some information in regard to the financial condition of them, yet I have no information at all as to what Mr. Poulson's finances are, and I simply state this because a man who is in straitened circumstances and has limited means when a fine is imposed his family very often are the real sufferers.

Mr. BEAN. Yes, sir; I was coming to, or going to urge, that point. I am glad the court has mentioned it. I will say, so far as Mr. Poulson is concerned, he has a large family and has a farm; he is called—he is a farmer in this country and has a small farm. He has limited means; he has just enough means that he can move along nicely, that he can support his family by being industrious, and of course if any heavy fine should be imposed his family would really suffer as much as he, while of course he can better afford to pay a reasonable fine than be incarcerated in jail, notwithstanding his limited means. His property—he is not hardly one of our well-to-do men, but he is a man, as I said before, who has very limited means, but by strict frugality and industry he can get along and support his family, and I trust, in view of the facts of the man's condition, in view of the fact that his marriage relations were contracted away years ago; in view of the fact that he has supported both of his families in as good a condition as he could, and has not deserted any of them, but has been a father to all of them; the further fact that he promises now to obey the law in the future, to live up to every requirement made of him by our laws, and all the facts surrounding this case, that your honor will take it into consideration and will be as lenient as you in your good judgment can see proper so to do. That is all I feel to say.

The COURT. You may stand up, Mr. Poulson. [The defendant complied.] The law under which you stand charged with having violated reads as follows [reading from Statutes, sec. 4209, Rev. Stat., 1898]: "If any male person hereafter cohabits with more than one woman he shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than \$300, or by imprisonment in the county jail for not more than six months, or by both said punishments, in the discretion of the court." Formerly the only provision making this offense a crime within this State, formerly Territory, was to be found in the United States Statutes. Congress, having jurisdiction over the several Territories, enacted a law making polygamy, unlawful cohabitation, and adultery United States offenses in such Territories. It is not necessary for the court to refer to, call attention to, or review the various stages that this State, formerly Territory, has passed through in connection with the enforcement of this law by the United States courts. In 1892 the Utah legislature enacted a law that the court has read to you. It was the first bill that was introduced at that session, in the council, one of the branches of the then Territorial legislature, and the bill came up for discussion at various times. Some amendments were offered to it. It finally passed the council. The president of this

stake of the church to which you belong was speaker of the house, the other branch of the said Territorial legislature. Hon. William H. King, also a coreligionist of yours, a man of honor, of sterling character, and a man who has since represented this State in the National Congress at Washington with great credit to himself and to the State, was president of the council. Nearly all the members of that legislature that first enacted this law were members of your church, the church to which you belong, and there has been considerable discussion in this State since the advent of statehood as to the construction that the people of this State are justified in placing upon this statute and the force and effect that should be given it. I will call your attention to an amendment that was offered by Mr. Pierce, who, by the way, is not a member of the church to which you belong, as I understand, and was not at that time. I may be in error about this.

Mr. CHIDESTER. No; that is correct.

The COURT. He offered the amendment referred to in the house after it had passed the council by almost a unanimous vote, the only men voting against it were Gentile members who did so on the ground that they claimed that it was unconstitutional, or, in other words—I will correct that—that they claimed the Territorial legislature had no right to legislate on this subject, as the Congress of the United States had enacted laws covering the subject-matter of the bill, and Mr. Pierce, as appears from the House Journal, which is a public record of the proceedings of that branch of the legislature, offered the amendment referred to. I will now read the amendment offered [reading from House Journal, p. 492]: "That there shall be no prosecutions under the provisions of this act while the statutes of the United States relating to the same subject remain in force in this Territory." The object of this amendment was to have this law, Territorial law, remain in abeyance so long as the United States law covering the same subject-matter remained in full force and effect and so long as the people violating the provisions of this act were subject to prosecution for the offenses by the United States courts. The motion and amendment was lost, and, as shown by the journal of the house, the bill was passed by a unanimous vote of all who were present. Three members were absent. The bill was in its then condition, which is its present condition, and, as before stated, all who were present voted for it and the amendment was lost, thereby emphasizing the fact that the law was intended to be enforced. Since then the constitution was adopted and Utah admitted as a State. Then it was a mooted question as to whether or not the law against unlawful cohabitation, polygamy, and kindred offenses, as passed by the Territorial legislature, remained in full force, or whether by virtue of the provisions of the State constitution the law referred to was wiped out of existence upon the advent of statehood. The question was raised before, I think, nearly every district judge in this State, who held that this law continued in force—I know that I held it in the case of the State against Sawyer, at Panguitch; Judge Johnson, of the seventh judicial district so held; Judge Higgins, of the fifth judicial district, and Judge Hart, of the first judicial district so held. A case was finally appealed from a judgment rendered by Judge Hart in one of those case and carried to the supreme court of the State, and the supreme court, in a very searching, able, and well-considered opinion, held that the law referred to was still in force.

Notwithstanding the decisions of the courts, some still, some of the residents of Utah, still insisted that the law was practically repealed or annulled by the constitution. However, it was engrafted into our code—the code of 1898. The code was revised and all of the laws that now appear in the code of 1898 were reenacted. This law which I have read to you was inserted as one of the provisions of the code, and notwithstanding this fact a great many still insisted that they were under no moral obligations to respect and live within the law because, they claimed, it crept into the code inadvertently and the legislature was not aware of it, and that it was an oversight on the part of the legislators, or otherwise it would have been omitted from the code. I remember of hearing one of the political campaigners in 1898 make that statement in a public meeting or political rally, and he is a man of great influence, a man who is to-day one of the leading journalists of the State. But in 1899 the last legislature, the legislature that was in session in Salt Lake City last winter, passed this law which I shall now read to you [reading from p. 22, Session Laws 1899, chap. 7]: “An act approving, legalizing, and adopting the Revised Statutes of Utah, 1898. *Be it enacted by the legislature of the State of Utah: Sec. 1. Revised Statutes adopted.* That the Revised Statutes of Utah, 1898, as prepared, compiled, and printed by the code commission pursuant to chapter 22 of the Session Laws of 1897, passed at the second regular session, are hereby approved, legalized, and adopted.” So we find that those who so persistently insisted that the law ought not to have any moral or legal force because it was not really the will of the people are in error. As you are aware, the great majority of the members of the legislature were ladies and gentlemen of your own faith, and if they had desired that this law should not be enforced they would have repealed it. I take it for granted that the legislatures act honestly, and that they did not intend that this statute should be used as a blind and kept on the statute books for the purpose only of the effect that it might have beyond the boundaries of Utah, and I don't think that there is any citizen of this State who is justified in any such assumption.

I have made these observations because there has been considerable discussion throughout this district, and, I believe, other parts of the State, as to what force and effect should be given this statute.

Your counsel, in speaking for you, Mr. Poulson, said that it is your intention—your honest intention—to try and live within the law in the future, and I presume that he was authorized to make that statement.

Mr. Poulson. Yes, sir.

The Court. That being the case, the court is inclined to be quite lenient; however, my attention has been called to other matters which I shall call your attention to, in order that it may explain the action that the court will take in passing judgment in the several cases of this kind that are now before it. And the information that came to me was before any arrest had been made, before these prosecutions were started, and so far as I am advised, before they were even thought of by the people. I was informed that in a recent public discourse of yours, after commenting upon this statute you gave expression to sentiments which showed your lack of respect for the Government of the United States, and, I might say, contempt for the

laws, not only of the Government, but of this State also—for the Government of the United States now has nothing absolutely whatever to do with these prosecutions. Whatever is done in this matter is done by the courts created by the people of Utah and by the officers who are elected by the people of this State. The responsibility of the enforcement of this law is thrown entirely upon the people of this State. I refer to these matters not for the purpose of punishing you for the statements that you may have made respecting the Government of the United States, or for any contempt that you may have signified that you entertained for the laws, but simply to show the state of your mind. I will further state that my informants were men of high standing in the Mormon Church. They informed me that you had made certain statements, but at the same time expressed themselves to the effect that you had not voiced the sentiments of any considerable number of your coreligionists. They were emphatic in saying that your utterances were entirely out of place, and were universally condemned. I state this in justice to those with whom you are associated in a religious sense, because I think that under a Government such as ours, where the laws themselves are so mild that the restraint imposed by them is imperceptible, the utmost freedom is given to every citizen. Every citizen, no matter from what clime he may emigrate, no matter what his condition may have been, the moment that he steps his foot upon American soil he is the equal of every other individual. The Government says to him, when you have resided here a sufficient length of time to become familiar with our laws and our institutions you will be placed upon the same equality, the same advantages, the same opportunities will be given you and your children as is given the native sons and daughters of this free country. And I think, I believe, that the people with whom you associate religiously realize that it is a little out of place, it is in bad taste for a man who is an adopted citizen, who has taken the oath of allegiance, to make such observations and to make any complaint. It appears to me that when we look back over the pages of history and see what grand opportunities have been given, what great honors have been conferred upon people of foreign birth, that there is everything to arouse the gratitude, a love, and a reverence for the Government that will give them these opportunities and privileges. The judgment of the court is that you pay a fine of \$150, and the fine is made light and mild, the penalty is mild, and is made so because of the promise that you have made, which the court believes that you will keep. I have known you as one of the citizens of this community, one who has been honored in various ways. I have always heard you spoken of as a man whose word could always be relied on; in other words, that your word in the community here is considered equal to your bond. That is the reputation that you have in this community, and for that reason the court is justified in assuming that you will keep the promise that you have made.

The observations that I have made will apply so far as the facts will justify and warrant to the other defendants in these cases.

The Court. What is your pleasure, gentlemen? Do you wish to have your cases disposed of now, or do you wish them disposed of now?

Mr. HORNE. If the court please, I would just as soon have mine disposed of now as to come in again this afternoon.

The CLERK. What is your plea, guilty or not guilty?

Mr. HORNE. Guilty.

The COURT. Well, what is your honest intention with reference to your conduct in the future? Is it your intention to live within the law?

Mr. HORNE. Your honor, it has always been my intention to be a peaceable, law-abiding citizen, and it is my intention now. Nearly twenty years ago I married two wives and since that time laws have come into existence that of course call me into question for living with them, and it is asking a good deal to say to a man, "Send a part of your family adrift into the world;" and I have thought this matter over seriously and I felt that they were dear to me, and as their lives would be blighted did I take such a course, it would be more manly and more honorable to me to support them, to school my children, take care of them, and treat them well, and the result is that I am now charged with unlawfully cohabitating with those wives. I don't like to make promises as to my future course, but I will say this: I want to be a good and law-abiding citizen, I want to aid those who are on hand to sustain the law, and to live at peace and to promote peace in our community, and I don't feel that I now am any more determined than I have been heretofore to honor the laws of my country. I will say this, however, that it has been my pride to know that I am a citizen of this great free country, and I appreciate the privileges of citizenship as such, and I hope that I may be enabled to so conduct myself that by an honorable course I might prove worthy of the privileges that are vouchsafed to the citizens of this country.

The COURT. It is not the object nor the intention of the law to compel men who have reared two families to cast either of them adrift—throw them upon the charity of the community; and I think that you gentlemen who have failed to do this, who have provided your families with the necessities of life, schooled and educated your children, are entitled to credit for that. The object of the law is not that harsh, nor is it the intention that those families that have been raised as the result of your living and cohabiting with two or more wives should be cast adrift, and I am unable to conceive how a man with any sense of honor could be capable of pursuing a course that would result in that condition and bring misery and destitution to his family. And when you state that it is your desire to obey and live within the law the court does not only believe, but feels justified in saying, that it is satisfied that you mean just what you say, because I have had more opportunities to become acquainted with you and know your disposition than any of the other defendants now before the court. As was observed by a neighbor of mine and of yours, since these prosecutions were started, in speaking of you—and he is a man who has known you well, a man whom I have every confidence in, a man whom the people here at large, irrespective of creed or party, has unlimited confidence. He said: "There is Bishop Horne; I don't believe he could be induced or persuaded to violate even a city ordinance knowingly." And I am of the same opinion. I realize the unfortunate situation that many citizens of this State are placed in, and the spirit of the law is that courts may take into consideration

the weaknesses and frailties of human nature. It is only when a man becomes defiant and expresses a contempt for the law or assumes an attitude of defiance that the courts are inclined to be severe. Under these conditions and circumstances, when that attitude is taken, then it becomes the duty of the court in pronouncing and fixing penalties to make them far more severe than when an infraction of the law is caused by the weaknesses and frailties of human nature, and the condition and situation in which the man is placed and the circumstances by which he is surrounded are somewhat responsible for that infraction. I will state, however, that, being a leading man in the community here—and I might have made that observation to Mr. Poulson—it will not do for the court to make a farce of the law; and the judgment of the court is that you pay a fine of \$75.

The COURT. Mr. Borg, do you wish to plead at this time?

Mr. BORG. I believe, if your honor please, that I would like to have it go over until this afternoon.

The COURT. Well, what have you to say—what is your name?

ONE OF THE DEFENDANTS. Hans Christensen.

The COURT. Do you wish to enter a plea at this time? If you would prefer to have it go over the court will—

Mr. CHRISTENSEN. Well, I believe I would just as leave have it now.

The COURT. What is your plea?

Mr. CHRISTENSEN. Guilty.

The COURT. What have you to say with reference to your conduct in the future—what is your intention?

Mr. CHRISTENSEN. Well, if the court please, I would like to say that my case is very much similar to the other gentlemen who have expressed themselves. I married my plural wife nearly thirty years ago, or at least more than twenty-five years ago, and of course have raised a family. And while I don't feel to be defiant against the law, never have, yet on account of these circumstances I find myself complained against, and I would like to say that, so far as my intention is, why I desire to be a law-abiding citizen and to live within the law. It has been my desire heretofore; and yet on account of circumstances, having a large number of children to provide for and to see that they are properly taken care of, it has become my duty, I so felt it, to associate more or less with the family; and through this, of course, I find myself in the condition that I am at the present time. I will say that I am not in very flush circumstances, I have got nothing to depend on but a small farm to depend upon and my labors, manual labors, and I find myself just that it is all that I can do to just get along and provide for those who are dependent upon me. And for these reasons I would ask the court to be as lenient as possible. I realize that I am liable, and while my intentions are to live within the law, as far as possible, I trust that the court will realize that when, as it has been the case in this case, after having had to associate with the family in order to provide and to see that the children are properly instructed and cared for and advised, that it has resulted as it has. I don't know that I can say anything further. Trusting that the court will take into consideration these circumstances and surroundings and be as lenient in the case as justice will demand, I believe that is all that I have to say.

Mr. CHIDESTER. Let's see, did you enter a plea?

The CLERK. Yes.

Mr. HANSEN. I would say, though, that in the reading of the information that the statements which have been made that the cohabitation had been continued from a certain date right along—I would say that for the last over two years—I have not been guilty of those doings. Whether that might have, should have been said before, I believe, while I felt that the information covered the ground and I plead guilty; yet I don't know but we have by agreement endeavored to live within the law.

The COURT. What is your initials—your first name?

Mr. CHRISTENSEN. Hans.

Mr. CHIDESTER. Stand up, Mr. Christensen.

The defendant complied.

The COURT. In addition to what I have already said, I will state that in the future the infraction of this statute will receive the same attention that the balance of the penal code does, and I am assured by the prosecuting officers of this district and of the several counties that in the prosecution of these cases the court will have their active support and cooperation, and I have also had this assurance by many other citizens—in fact all who have spoken to me in relation to the matter—and whatever action that the court takes at this time it does not wish it to be understood that it will be a criterion or precedent by which it will be governed in the future. The judgment of the court is that you pay a fine of \$50. The court fixes the penalty light by virtue of the promises that you have made here in open court, and the court has every reason to believe that each defendant who has made these promises and to believe that they have been made in good faith.

The COURT. What is the name of the other?

The CLERK. Lars Peter Christensen.

The COURT. Oh, yes; L. P. Christensen. Do you wish to enter your plea now, Mr. Christensen?

Mr. CHRISTENSEN. I don't wish to keep your honor from your dinner, if you would rather have it go over to the—

The COURT. It is not quite adjourning time yet; the court has ten minutes. If you desire to enter your plea now and get the case disposed of you may do so, or you may continue it until after dinner.

The CLERK. What is your plea, guilty or not guilty?

Mr. CHRISTENSEN. I plead guilty.

The COURT. What have you to say, Mr. Christensen, with reference to your intentions and your conduct in the future?

Mr. CHRISTENSEN. Well, if you please, your honor, I will state my case is a little different from these other gentlemen. My hearing is not quite as good as it used to be, and you will excuse me for drawing up a little closer.

The COURT. Oh, yes.

Mr. CHRISTENSEN. Some nine or ten years ago I was indicted at the same time with the rest of these gentlemen, and I decided it was my duty to obey the law. Some three or four years after I was arrested on a similar charge, my family was dragged to Provo, and I was held here before the commissioners for a long time to search out and find evidence, but they finally discharged me as not having broken any law. I was later arrested and bound over on the most

untrue charges that could be produced. I wrote my case to the prosecuting attorney in Provo, and I have heard nothing of it since. I have been living in Nevada most of the time. When I came home I lived in a little adobe house by my shop, so as not to give offense to anybody. As soon as Utah became a State I was of the opinion, honestly, that there was no law against unlawful cohabitation, and all that the rest of the people wanted of this State or this nation was that no further marriages were to take place. I was really of that opinion. I was not here; I was not prepared; I see it in the newspapers and followed as I understood it; I didn't understand it as I do now since these prosecutions came up. Well, now, since I came home I will state that my first wife has been an invalid for many years, and her physical and mental condition are such that she would rather be alone, live absolutely alone, even her grandchildren, not be with them any more than—her first children are married, all of them except one, and he is over 21 and out for himself, and it has not been wise for me to stay there at all. I have lived with my plural wife, which I understood was honestly the law. Now, if there are such a thing, when you read this law, I have not cohabited with two women, but I have lived with my plural wife; now they say the law presumes that a man cohabits with his first wife, and then, again, that presumption—

The Court. Well, I will say—

Mr. CHRISTENSEN. Beg pardon, I don't wish to raise an argument with the court—if that is the understanding of the law why, of course, I am guilty, but according to the real meaning of the law I am not guilty, but I thought it would be cheaper to plead guilty and get done with it than not to do it. But that is the condition, not that I have cast my first wife off and neglected her; I have treated her as a wife as far as that goes; but her condition, it is her choice that I don't eat there or sleep there, and it is her condition, her choice. Now if there are such a thing that a man can live with a plural wife and not transgress the law, I have done it; if there are no such a thing, I am guilty as I plead. That is a question probably the interpretation, probably that your honor would interpret the law, what it means. Now I will say further that it would be reasonably unjust for my first wife to go live with her, but if I can't live with the second I'll live with none. I'll keep the law like I did, like I have done since that first time. I came home, as I said, and lived alone and tried to live the law, and lots of searching was done by the officers here to prove me guilty, of course there was no show of doing that, consequently I have had no trouble. Now I understand the law, as I say, and if I can't live with one I think I will live with none. As far as my financial condition is concerned, I am very sorry to say that it is very poor. About a year ago last July my corral and hay shed and shop was absolutely burned up with my tools and all that was in it, not only burned up all I had but deprived me of making a living in the way that I have been doing for some years. I have got a little farm and merely raise my breadstuff and a little hay, and I have lived on my friends, you might say, since coming home, and I am in debt, and if I pay my taxes I will be owing about \$500. That is what I have got; that is my condition. I have got very little property. I have got, of course, a little home and raise a little hay, three or four cows, and so on; but that is my condition financially, and unless my friends help

me, any punishment you might inflict upon me would be simply to go to prison.

The COURT. What have you to say, Mr. Prosecutor, in this case?

Mr. CHIDESTER. Well, I will say that I don't know but very little about it, only what inquiry I have made, and it seems to confirm his statements with reference to his financial condition. I understand that his financial condition is very bad, but personally I know nothing about it only by inquiry.

The COURT. How many children have you, Mr. Christensen, that are dependent upon you?

Mr. CHRISTENSEN. Why, I have got six.

The COURT. Minor children?

Mr. CHRISTENSEN. Minor children, besides what my second wife has got; but she has got property, so that she is probably able to take care of her own family. What is dependent upon me, I have got six.

The COURT. Yes, I find, or at least you claim to have fallen into the same error that a great many, that a great many people throughout this State are in, or have been, many of whom are not involved in these relations. A great many of them whom I have talked with have advanced opinions and ideas and have expressed themselves that they really thought that there was no live statute, or any statute at all, in this State prohibiting a man living in these relations and that they were of the opinion the law only went so far as to prohibit future polygamous marriages.

Mr. CHRISTENSEN. That was exactly my understanding.

The COURT. The fact that your first and legal wife may refuse to live with you does not, under the law, justify or excuse you in living and cohabiting with your plural wife as a wife or otherwise except to support and take proper care of her and her family.

Mr. CHRISTENSEN. That is the true state of my relations.

The COURT. And even taking the statements and facts as detailed here by you, that makes you guilty of unlawful cohabitation. This is one of those cases that I don't think the court ought to impose a penalty that would be harsh, as the court realizes that every dollar that is taken from you it means so much additional destitution for your family. As you have shown a disposition to obey this law and that you are still of that mind, the court is going to be extremely lenient in this matter. I do not believe that it would be warranted in imposing a heavy penalty, but as I have stated that I am assured by the officers of this district that the court will have their hearty cooperation in the prosecution of these cases in this district—and the court doesn't wish you or either of the defendants to get the impression that the court is going to use these judgments that are now pronounced as a basis on which it will be governed in pronouncing judgments and inflicting penalties in future cases similar to these should any come before me. Of course, I do not think there will—that is, that at least either of you gentlemen will again be before this or any other court of justice to answer to this or similar charges, because the court has confidence in you, having been more or less acquainted with you, and the judgment of the court is that you pay a fine of \$25.

Mr. BEAN. May it please the court, if I might be permitted, I would like to say that Mr. Poulson would like the privilege of making

a statement before the court, as it seems that the court in rendering judgment against him took in consideration certain reports that have been made to the court by some persons that claimed to have heard Mr. Poulson make some treasonable remarks against the Government, or something, I know not just what. Mr. Poulson would like—and since there are a good many of his friends present here in court, and for the court's satisfaction—to make an explanation and denial of that matter, so that the court, if the court sees proper afterwards—

The COURT. I will say, Mr. Bean, as I took occasion to say, he is not punished for anything he may have said.

Mr. BEAN. Yes, but he has been punished more than all the rest of these men together that have plead.

The COURT. Well, but it has a tendency to show what his disposition has been, what it was at that time, his state of mind. And there are two objects in imposing these punishments. One is to reform the offender or violator of the law; the other is, by example, to deter others. And this punishment is not only to punish him for the offense he has committed, but also as a warning to others who are disposed to defy and violate the law as Mr. Poulson's statements indicated he was disposed. So far as Mr. Poulson as an individual is concerned, or others who may be disposed to make similar statements, the statements themselves are only incidents showing the tendency and the disposition of men's minds, but their viciousness consists in the effect that they may have upon the young and others who have great regard and respect for the parties making them, as in the case of Mr. Poulson. Being made in these congregations, where the people are assembled together, the children of the community are present, and a great many of them, it is a bad example to set, a vicious principle to announce, especially by a leading man and men of prominence. Now, it doesn't matter what Mr. Poulson may deny; I got this from men whose word is just as reliable as that of any man in the community.

Mr. BEAN. Suppose these statements might not be exactly true, it may be that they got a misunderstanding of his language. Some of these Scandinavians don't make themselves exactly clear, not having command of the English language to the extent of making themselves exactly understood.

The COURT. That fact would just serve as an evidence that these men should be a little more guarded and discreet when they undertake to talk on these subjects.

Mr. BEAN. If those alleged remarks are not true, and he makes a statement here—and they are not true, he has no intention to violate the law and he has been injured and misrepresented by the rumors. Let him tell the true state of facts and just what he did say, and let the court determine from that whether his remarks were in fact any defiance of the law. He tells me, and I believe him, that he honestly intends to live up to the law, not only this law, but all the laws of our country, and he asks permission of the court to make an explanation and would like very much to do so. It is a fact that this defendant more than all the balance who have plead here to-day—and he is one of the poorest men arraigned here to-day and has one of the largest and most helpless families, and it seems to me that the court would

be justified, if it would be proper, and the facts would warrant, for the court to reduce——

The Court. I have gone into details in this matter, and I presume, of course, he is not satisfied with the judgment pronounced. In fact, I guess that no one but the court is satisfied—I am confident they are not, not only the neighbors here, but the district at large, and probably the people of the United States; that is, those who will hear about it—and while I am at it, I will say that I do not care. I have acted according to the dictates of my own conscience as to what I ought to do and not what the effect might be upon the public or what sentiment it might create. I have followed my own conviction in this matter, and, as a usual thing, when I do that, why, it doesn't satisfy everybody and may satisfy none; I don't know. I have made these observations and expressed these opinions, and the information came to me from men in whom I have unlimited confidence.

Mr. BEAN. Then, you didn't make that decision, your honor, because he was represented by counsel?

The Court. Oh, no; you haven't aggravated the case any. On the contrary, you have been of considerable assistance to the court, because I was under the impression that Mr. Poulson was what we term here a wealthy man.

Mr. BEAN. Well, the court has labored under a false impression in that regard, certainly.

The Court. That is, not overburdened with wealth, but a man that has considerable surplus property.

HANS CHRISTENSEN. I would like to ask in regard to this fine now. How soon has it got to be paid? I haven't got the means wherewith to do it, and whether there will be any time?

The Court. Mr. Prosecutor, what have you to say to that?

Mr. CHIDESTER. I will think that over until 2 o'clock.

The Court. There have been cases in this court wherein parties have filed bonds and given security for it. In one case, I remember, ninety days was given in which to raise the fine.

Mr. CHIDESTER. I think we can arrange that, likely; all we want is to be sure of it at some time, some reasonable time.

It now being 12.35 o'clock, recess was announced until 2 o'clock.

At 2 o'clock p. m. court again resumed session, and proceedings were had as follows:

The Court. In the case of the State against Ole P. Borg, this is the time set for taking the plea in the case.

Mr. RAFF. I appear for Mr. Borg.

The Court. He has been arraigned, and this is the time set for the defendant to enter his plea.

Mr. RAFF. So he tells me. I have only just come into the case and was out here this morning. He is charged with unlawful cohabitation, I believe; I haven't the papers.

The Court. Yes.

Mr. RAFF. Well, we will waive anything as to time, etc.

The Court. You may take the plea, Mr. Clerk.

The Clerk. Mr. Ole P. Borg, what plea do you make to the information that was read to you this morning, guilty or not guilty?

Mr. BORG. Guilty.

The Clerk. He enters a plea of guilty.

The papers in the case were handed to the court.

The Court. Come forward, Mr. Borg. [The defendant complied.] On the 21st day of the present month the district attorney of this district filed an information in this court charging you with the offense of unlawful cohabitation alleged to have been committed between the 10th day of September, 1898, and the 1st day of September, 1899. You subsequently came into court and was duly arraigned and have entered a plea of guilty.

Mr. Borg. Yes, sir.

The Court. To this charge have you anything to say, or anything to offer, or cause to show why the judgment of the court should not now be pronounced against you.

Mr. Borg. No.

Mr. RAPP. You may sit down, Mr. Borg. [The defendant complied.] I have been asked by Mr. Borg to offer whatever he has in the nature of asking for leniency of the court. As to any technical or legal grounds why sentence should not be passed, of course we have none to offer, but Mr. Borg's condition is this: And when I say to the court, a good deal of it is my own knowledge, having been a close neighbor to Mr. Borg for two years, since living in the town. Mr. Borg has eleven minor children who are dependent upon him for their support; he has others that are yet minor children, but some of them are old enough to help support themselves. One of his families there is a good deal of sickness in—has been—and that is also a source of a good deal of outlay on his part to secure for them the necessary treatment that they require. Mr. Borg has never been in court before charged with any public offense, and this one that he now stands charged with is more on account of his peculiar faith—particular faith—and that he entered into marriage relations at a time when he believed that they were correct, believed that they were right and lawful. I will say this further for him, that he states to me, and I believe that it is true from what I have and do know of his family conditions, that he really has cohabited with but one woman for the past four years; that has been the plural wife. This is a condition which is agreeable to those two families that he do so. He is striving hard, and has been for the last eight years, to maintain these two families, and while a good many people think, and have thought, Mr. Borg was financially upon pretty good footing, and was at one time, yet, at the present time, he has almost absolutely nothing. He was agent here for a wagon and machine company, and at the time and prior to the financial crisis that struck this country some three or four years ago he had out a great many notes that he had signed as accommodation with the purchasers; and hard times came and it left Mr. Borg stranded, unable to collect on those notes, and the company that he represented have taken judgment against him, and there are now, I understand, three heavy judgments hanging over him.

The property which he has is not sufficient to pay those judgments; he has nothing that they can levy upon, yet he is paying them as fast as he can—as fast as he can rustle the money. The two houses and land that his families reside on here in the city have belonged to his respective wives for a great number of years—some fifteen years or more. The other property which he has is nothing more than 25 feet of ground and the shell that his harness shop stands on and a dry

farm out north of town, which yields but a very little revenue, and in the last three years—of late, anyhow—he has been laid out with rheumatism so that he couldn't work in the shop at all. It makes him sick to be cramped up there all day, while at home he can go for a walk. He has to be out in the sunlight all the while, and he has turned his shop over to his—and it has been turned over for some time—to his older sons, ever since I have known him. He has nothing in the shop himself, none of the stock or proceeds are in the shape of money to him—that is run solely by his two sons. I will say upon this shop and the ground that it stands on there is either a trust deed or a mortgage of some \$2,000. Last fall Mr. Borg was in such financial straits that he couldn't pay his university assessments out there nor his taxes, and he borrowed \$200 on his shop and the 25 feet of ground, and he doesn't know whether it is a mortgage or a trust deed, but it is one or the other, held by Mr. Bartlet, or was when he gave it. So he really has nothing that he can call his own, except the redemption right in that and his dry farm. He is financially stranded, and if the court should impose an excessive fine upon Mr. Borg it would simply mean that he would have to serve out his time in the penitentiary or the jail, as the case might be, and it would also be the means of depriving his minor children and his two families from the support which he would be enabled to give them if he were allowed, if he were to be fined a smaller one so that he could attend to whatever outside business he has. He is a man that, he realizes that he has disobeyed the law, but he is a man that believes in upholding the law, and aside from this particular offense he has never been guilty of any other, and we ask, under the circumstances of his case, that the court be as lenient with him as possible, to give him as light a fine as the court can consistently, under the circumstances, do, and we feel that it will meet the ends of justice and will not deprive his families of his maintenance and support.

The Court. I understand you to say that he is execution proof?

Mr. Rarr. He is so far as these judgments are concerned; at least I think they never attempted anyhow to enforce them in his condition.

The Court. Would the State be able to collect a judgment?

Mr. Rarr. He will and can pay a small fine, but he couldn't pay anything excessive!

The Court. I don't expect to assess an excessive fine in Mr. Borg's case; I know something about his condition. You may come forward Mr. Borg. [The defendant complied.] What are your intentions in regard to your future practice with respect to obeying the law?

Mr. Borg. Well, I don't desire to be a lawbreaker, if your honor please.

The Court. The question is your intention; do you intend to obey the law in the future?

Mr. Borg. If I understand right. This morning I couldn't say, for I am not very keen in hearing, but if I understand right this morning, if a man should cohabit with one wife, and that his plural wife, he is liable yet.

The Court. Well, I—

Mr. Borg. And the circumstances I am placed in with my second family that I have to support them, have to be by them to help to

raise the children and take care of them a good deal, and such condition as the men that plead here this morning, and I don't hardly know where to draw the line. The law demands that I should support and sustain them.

The Court. I can tell you just what is expected of you, that you shall not cohabit and live with your plural wife as your wife, must not hold her out to the public, and your associations must not be such as the people who are unacquainted with your relations would naturally infer that you were husband and wife. You are under a moral obligation to support, educate, and provide and care for your children. The limitations on your conduct that the law imposes are not such that you shall not visit there to look after your children in times of distress and sickness, but you are expected to give them your care and attention. The law does not expect and will not permit you to go and cohabit with the woman as your wife and rear children by her; to be plain about it, to occupy the same couch and live and sleep with her and associate with her as your wife. That is the limitation that the law imposes in these cases. The public expects that you will provide for your families and that you will give your small and minor children some supervision, and that you will school and educate them and do all that a father would be expected to do by them in that line, and the law does not expect that you will violate this obligation in any way. Now, the question of the court is whether it is your intention to observe the law as defined by the court in the future.

Mr. Borg. Yes, sir.

The Court. On account of the almost destitution of your family, and in consideration of the promise which you have made and which the court believes you will keep, at least you have the reputation here of being an honest man, the court will be extremely light in this matter. And the court will now make the observation that it had in mind this morning, but omitted, and that is this: Had there been a mild restraint exercised by the officers of the law in this district and throughout the State on the advent of statehood, and the people thus given to understand that this law would be enforced instead of letting it lie in abeyance, as it were, and to a certain extent justifying an inference on the part of those who were violating it that the law acquiesced or at least tacitly acquiesced in what you were doing, the court is of the opinion that none of you defendants who have been before the court this morning would ever have been called upon if the officers of the law had inaugurated and started a prosecution or two when their attention was called to it. This court at one time called a grand jury to examine into cases of alleged violations of this law that were said and charged in various ways by persons and newspapers to exist in this city and county, but either because they could not get evidence or for some other reason they failed to indict, and the presumption is of course, that they could not or failed to get the evidence; but, however that may be, the grand jury having made an investigation here and having failed to return any bills charging men who are supposed to be living in violation of this statute, and for the further reason that the prosecuting officers and other officers of the law failed and neglected to file informations, no doubt a great many have continued to live in these relations that otherwise would probably have avoided

violating this penal statute. And these are all matters that the court has taken into consideration in fixing the penalties in these cases, and will also take into consideration in fixing the penalty in your case. The judgment of the court is that you pay a fine of \$25.

I, John S. Rollo, hereby certify that I am, and ever since August 8, 1896, have been, the duly appointed, qualified, and acting official stenographer in and for the district court of the sixth judicial district of the State of Utah, and that as such officer I attended the session of said court held at Richfield, Utah, within said judicial district, on Saturday, October 21, 1899, Hon. W. M. McCarty, judge thereof, presiding, and while so in attendance reported in shorthand in full all remarks made and proceedings had thereat in the cases of *The State of Utah, plaintiff, v. Paul Poulson, defendant*; *The State v. Joseph H. Horne, defendant*; *The State v. L. P. Christensen, defendant*; *The State v. Ole P. Borg, defendant*, and *The State v. Hans Christensen, defendant*. And that thereafter I transcribed into long-hand said shorthand notes, and that the above and foregoing is a full, true, and correct copy of said transcript.

Dated this 28d day of October, 1899.

JOHN S. ROLLO.

Mr. TAYLER. You discussed, or rather delivered a little address there on the law and what the law required of these men?

Mr. McCARTY. Yes, sir; that is as I recollect it.

Mr. TAYLER. You dissipated the claim that there was no law against unlawful cohabitation?

Mr. McCARTY. Yes, sir. I will say, Mr. Tayler, that I had copies transcribed and filed with the county clerk of each county so that the people generally might know my views in relation to those matters.

Mr. TAYLER. In stating that, and of course not implying that it was done for any such purpose, as of course it was not, do you think any Gentile could have a stronger campaign document in the hands of the people than your proceedings in that case?

Mr. McCARTY. Why, yes; I do.

Mr. TAYLER. What?

Mr. McCARTY. For this reason: My recollection is that I told those parties emphatically that that would not be a criterion by which I would be governed in the future in inflicting punishments. I know it was used against me.

Mr. TAYLER. Yes; undoubtedly. It had no effect——

Mr. McCARTY. I do not presume it would have been referred to in the campaign if my opponent had not made that the issue.

Mr. TAYLER. They all promised to obey the law, did they?

Mr. McCARTY. Yes, sir.

Mr. TAYLER. Thereafter?

Mr. McCARTY. Thereafter.

Mr. TAYLER. Did they all proceed to disobey the law afterwards?

Mr. McCARTY. I would not answer as to all of them, but my information is that Bishop Horne and Bishop Poulson did.

Mr. TAYLER. They were two of the defendants in the case?

Mr. McCARTY. They were two of the defendants in the case.

Mr. TAYLER. I suppose you recall, Judge, that in response to the intimations, perhaps, by some of these defendants, that a compliance

with the law meant their desertion of their wives and children, you, in at least very earnest if not indignant language, repudiated that you expected them to do any such inhumane thing as that?

Mr. McCARTY. My recollection is that I stated to them very emphatically that the law did not intend, the people did not intend, the legislature, that passed the law, did not intend, that they should do it.

Mr. TAYLER. So that there was no question of desertion involved in the obedience, was there?

Mr. McCARTY. No, sir.

Mr. TAYLER. But your punishment of them and insistence upon a promise of compliance with the law in the future related wholly to the actual fact of unlawful cohabitation, with the usual consequences of it?

Mr. McCARTY. Yes. That document, I understand, is going in the evidence. My position is as stated there in my remarks. My recollection is that I informed them that they were not expected to desert their families; that they were expected to—

Mr. TAYLER. Just let me read from this paper, and I think it will suit you better.

Mr. Horne said:

"Nearly twenty years ago I married two wives, and since that time laws have come into existence"—

And so on. Then he proceeds to describe the status in which he found himself.

Mr. McCARTY. Yes.

Mr. TAYLER. And you replied:

"It is not the object nor the intention of the law to compel men who have reared two families to cast either of them adrift, throw them upon the charity of the community; and I think that you gentlemen who have failed to do this, who have provided your families with the necessities of life, schooled and educated your children, are entitled to credit for that."

Mr. McCARTY. Yes.

M. TAYLER (reading):

"The object of the law is not that harsh, nor is it the intention that these families that have been raised as the result of your living and cohabiting with two or more wives should be cast adrift, and I am unable to conceive how a man with any sense of honor could be capable of pursuing a course that would result in that condition and bring misery and destitution to his family. And when you state that it is your desire to obey and live within the law the court does not only believe, but feels justified in saying that it is satisfied that you mean just what you say, because I have had more opportunities to become acquainted with you and know your disposition than any of the other defendants now before the court."

Mr. McCARTY. Yes; and I believe what I said at the time, although subsequent events have shown that I was mistaken.

Mr. TAYLER. He did not obey the law according to your interpretation of it?

Mr. McCARTY. No; I understand not.

Mr. TAYLER. In other words, children have been born to plural wives of his?

Mr. McCARTY. Yes, sir.

Mr. TAYLER. Since this time when you imposed this light penalty upon him?

Mr. McCARTY. Yes, sir.

The CHAIRMAN. If it will not interrupt, I want to inquire of the Judge whether these parties have been arrested for the offenses since?

Mr. McCARTY. Not that I am aware of.

Mr. TAYLER. No; he has stated that this was the only time since statehood that there had been prosecutions down there for unlawful cohabitation.

I gather, Judge, from an answer that I was not sure I understood, or rather that I was not sure I caught correctly, that what had happened respecting polygamy and polygamous cohabitation, or what was happening now in respect to that or either of those things, is what you had expected would happen.

Mr. McCARTY. No, sir; I do not wish to be so understood.

Mr. TAYLER. Then I misunderstood you. I will follow along then.

Mr. McCARTY. I will say this: That I expected there would be occasional infractions of the law. It would be almost unreasonable to suppose there would not be, under the peculiar conditions that existed in Utah prior to statehood.

Mr. TAYLER. Then I will pursue it. We will get along a little faster, perhaps, if I follow my idea.

Mr. McCARTY. I am reverting to the period prior to the time that those prosecutions were instituted and before those rumors were set afloat that men were living in violation of the law.

Mr. TAYLER. Then take the time shortly after the manifesto, during which all good men interested in Utah were revolving in their minds what was going to happen in connection with this Mormon and political situation, when your views doubtless would differ as to what was going to be the outcome, or when it might end, and what was the good faith of the two parties. I suppose you had a certain expectation of what the future was going to bring, had you not?

Mr. McCARTY. Well, Mr. Tayler, when they divided on party lines I had many misgivings.

Mr. TAYLER. You had misgivings when they divided on party lines?

Mr. McCARTY. Yes; but along about 1893 and 1894 I felt convinced that the Mormon Church, as an organization, and the people generally, were acting in the utmost good faith.

Mr. TAYLER. Now, was your state of mind at that time, full as it was of this subject, such that you could have anticipated that in the year 1904 a majority of the first presidency and apostles would be living in polygamy, most of them rearing children by their wives?

Mr. McCARTY. No, sir; it was not.

Mr. TAYLER. Would you have conceived it reasonably possible that in 1896 an apostle of the church would himself take a new plural wife?

M. McCARTY. Well, it was possible; but I did not think it was at all probable. Of course there are possibilities, I will say.

My view is this: Knowing and having lived in a Mormon community all my life; having associated with them and worked with them—in fact, it was the only community that I had associated with, with the exception that there were a few Gentiles interspersed

throughout the entire State—I knew there were a great many fanatics on this question of polygamy, and I believed that some of them would still hold out, no matter what the heads of the church would say or do, and that they would insist upon living, as they termed it, their religion, and that there would probably be occasionally a case of polygamy. That was the way I regarded the situation, and, as I have already suggested, that there would be an occasional violation of the law against unlawful cohabitation and occasionally a child born.

Mr. TAYLER. What do you say, Judge, as to whether, in your opinion, this state of facts was quite as much in violation of the spirit of that understanding as if it had been an ordinary case of plural marriage: Where a man with a plural wife and a legal wife has lost by death his legal wife, continued to live with the plural wife, and then, some time after the manifesto, the other marriages having occurred before, he marries another wife, continuing to live thereafter with the last wife, technically the legal wife, and with the original plural wife?

Mr. McCARTY. I think that is infamous.

The CHAIRMAN. What is the answer, Judge?

Mr. McCARTY. I say I think a course of that kind is infamous; and when I was on the district bench—well, it was the first year—a case of that kind came up where the marriage antedated our marriage law there. I held in that case, although some of the attorneys claimed it was a strained construction, that under the common law his alleged plural wife became his legal wife; that having held her out there a few times, before he had contracted this supposed marriage, the marriage was null and void. I have always taken a very decided attitude in regard to that.

Mr. TAYLER. Judge, what is the state of the law in Utah where a legal wife dies and the husband continues to live with the plural wife, to hold her out as his wife? Does such a thing as what we call a common-law marriage subsist in consequence of that?

Mr. McCARTY. No; we have a statute there covering marriage contracts. In the first place, it is necessary for the parties to go and procure a license. Then, after the marriage contract is formed or entered into, this license is returned and recorded. Of course the plural wife could not become a legal wife unless they went through this form of procedure, but there were some marriages of that kind entered into before this law went into effect or was passed, and, as I say, in the case of *Singleton v. Singleton*, in the fourth district court of Utah, that question was squarely before me on that ground. The plural wife sued for divorce and alimony, and I held there was a common-law marriage and that she was entitled to a divorce.

Mr. TAYLER. Suppose that this last legal marriage, so called, occurred in 1892 or 1893, before you had any State law, before you had a State?

Mr. McCARTY. I think this marriage law was—

Mr. TAYLER. Was it a Territorial law?

Mr. McCARTY. I believe so.

Mr. VAN COTT. I think it was.

Mr. McCARTY. Yes. I do not remember when that was passed. Probably Mr. Van Cott remembers when it was passed.

Mr. VAN COTT. I do not, Judge; but I think it was in—

Mr. McCARTY. Along about 1892, was it not?

Mr. VAN COTT. I think it was in 1888.

Mr. TAYLER. Do you know Mrs. Annie Thurber?

Mr. McCARTY. I am well acquainted with Mrs. Annie Thurber. I am acquainted with the family.

Mr. TAYLER. How is it?

Mr. McCARTY. I am well acquainted with her father and mother and her family generally.

Mr. TAYLER. Is she a married woman?

Mr. McCARTY. She is. She is an alleged plural wife of Thurber. I prosecuted Thurber in Territorial days.

Mr. TAYLER. Do you know Thomas Chamberlain?

Mr. McCARTY. I am well acquainted with Mr. Chamberlain.

Mr. TAYLER. You know to whom I refer?

Mr. McCARTY. Yes; I know to whom you refer. He was the bishop of Kanab, Kane County. I am well acquainted with him.

Mr. TAYLER. Is he one of those who are reputed to have taken a plural wife comparatively recently?

Mr. McCARTY. Yes; I understand so. That is the rumor, and I believe there is some foundation for the rumor.

Mr. TAYLER. Mrs. Thurber has a number of small children, has she?

Mr. McCARTY. I understand so; yes.

Mr. TAYLER. That is, many children born after the manifesto, apparently, from their age.

Mr. McCARTY. I believe she has had one or two.

Mr. TAYLER. Who is it that Thomas Chamberlain is said to have married as a plural wife?

Mr. McCARTY. A Miss Mamie Wooley.

Mr. TAYLER. Where is he said to have married her?

Mr. McCARTY. I have never heard. She lived in Kanab along about 1898, and I have not seen her since. She was clerk of the court there. She was county clerk for the first two years that I was on the bench.

Mr. TAYLER. Yes.

Mr. McCARTY. And I learned afterwards that she lived in Salt Lake, with one or two children. Of course I was satisfied, from what I knew of the lady—she was well educated, very refined, very conscientious, and a high-miaded person—that she would not be living in relations of that kind unless she regarded them as perfectly proper.

Mr. TAYLER. So that, knowing her as you do, you know that from her standpoint, which would be refined, the relations that resulted in these children were chaste?

Mr. McCARTY. Yes; absolutely. There is no question about it.

Mr. TAYLER. In other words, that she must consider herself the wife of some man?

Mr. McCARTY. Oh, yes. There is no doubt about it. I would take the responsibility of saying that I know there is some sort of marriage there that she regarded as perfectly proper.

Mr. TAYLER. Has any other name ever been associated with her in respect to a marriage?

Mr. McCARTY. Yes. It has been a query with some as to whether it was Mr. Chamberlain or another gentleman, who is in California.

Mr. TAYLER. If his wife, would she be a plural wife?

Mr. McCARTY. Oh, yes.

Mr. TAYLER. Her name has not been associated in that relation with any person as the legal wife of that person?

Mr. McCARTY. Oh, no; and he would not.

Mr. TAYLER. How?

Mr. McCARTY. I know this young man. I have known him for years and years. He would not be living in that relation unless he thought it was perfectly proper and chaste.

Mr. WORTHINGTON. Do you mean Chamberlain?

Mr. McCARTY. No; this other one.

Mr. TAYLER. The one who is in California?

Mr. McCARTY. Yes; the one who is in California.

The CHAIRMAN. Does it appear who Mr. Chamberlain is?

Mr. TAYLER. Yes; he is the stake president.

Mr. McCARTY. No; he is not stake president. He is a councillor to the president or a bishop. I think he is a councillor.

Mr. TAYLER. Of Kanab?

Mr. McCARTY. Yes.

Mr. TAYLER. In order to get it in here, he is a witness who has not appeared here.

Mr. McCARTY. I understand so.

Mr. TAYLER. He is the witness, Mr. Chairman, concerning whom the marshal testified quite elaborately of the effort of his deputy to secure this witness at Provo.

The CHAIRMAN. I recall. I simply wished to identify whether it was that Chamberlain.

Mr. TAYLER. He is the Chamberlain. I think that is all, judge.

Mr. VAN COTT. Judge, you are intimately acquainted with Justice Baskin, are you not?

Mr. McCARTY. I am.

Mr. VAN COTT. You have been associated with him while he has been on the supreme court bench?

Mr. McCARTY. Yes, sir.

Mr. VAN COTT. And you have had excellent opportunities to know him intimately?

Mr. McCARTY. I have known him long before he went onto the supreme bench.

Mr. VAN COTT. Is Justice Baskin a man who is weak-kneed and who will bend dishonorably on account of ulterior motives?

Mr. McCARTY. No, sir. He has two virtues that are very prominent. One is his courage and the other is his honesty and fearlessness.

Mr. VAN COTT. That is all.

The CHAIRMAN. I want to ask you a question, because you seem to be very clear about these matters. Some of the persons who were prosecuted and punished by you returned to the practice of polygamous cohabitation?

Mr. McCARTY. So I understand, Mr. Chairman. In fact, I do not think there is any question about it. It is a matter of public notoriety there.

The CHAIRMAN. And do they continue in that relation? Is that your understanding?

Mr. McCARTY. Well, up until the time I left Richfield.

The CHAIRMAN. When was that?

Mr. McCARTY. That was a year ago—a little over a year ago.

The CHAIRMAN. Your understanding up to that time was that they continued to live in polygamous cohabitation?

Mr. McCARTY. Yes, sir. That is, some of them. I would not want to answer as to all. The couple whom I mentioned, Mr. Poulson and Mr. Horne, I understand are.

The CHAIRMAN. What would be your opinion as to whether the head of the church living in polygamous cohabitation, confessedly so, has a tendency to discourage that practice or to promote it?

Mr. McCARTY. Oh, to promote it, unquestionably.

The CHAIRMAN. What would be your judgment as to the effect if the head of the church, Mr. Smith, should publicly declare that he would no longer cohabit with his five wives, but only the lawful one, and take care of the others and the children, and that all polygamous cohabitation in the State must cease? What would be the effect of it?

Mr. McCARTY. I believe it would cease, except occasionally there might be, as I say, on account of the weaknesses of human nature, an infraction; but the people generally—well, now Mr. Chairman, I want to modify that. If he should so declare, and then have the people in conference approve of what he had proclaimed, as they usually do in these cases, I do not think there is any question but what the balance of the Mormon people would strictly adhere to it.

The CHAIRMAN. If the head of the church should make such a declaration as that and the church approved it, that would be the end of it, in your judgment?

Mr. McCARTY. I think it would. I do not think there is any question about that.

The CHAIRMAN. You think there is no question about it?

Mr. McCARTY. Except, as I say, there would be an occasional infraction.

The CHAIRMAN. I understand. There is an occasional violation of law everywhere, but that would practically end it?

Mr. McCARTY. That would eliminate it.

The CHAIRMAN. What is the effect of the declaration upon the Mormons there of the head of the church, that he will continue these practices in violation of law and take the consequences?

Mr. McCARTY. If they continue to violate the law, others will regard it as a license to follow the example.

The CHAIRMAN. The tendency of it will be to encourage that crime in others?

Mr. McCARTY. Yes; it would have that effect. It would rather encourage those who are involved in these relations to violate the law.

The CHAIRMAN. You said something I did not understand about Canada and Alberta. I was not clear as to what you said.

Mr. McCARTY. Mr. Tayler, I believe, asked me if I knew of any other case. There is one that escaped my memory. I understand that Bishop Brandley, of Richfield, went to Canada and is living there with an alleged plural wife.

Mr. TAYLER. A new plural wife, do you mean?

Mr. McCARTY. One that he has taken since the manifesto. That is what I understood.

Mr. VAN COTT. Give the name again, will you, please?

Mr. McCARTY. Brandley. That is, it is reported, rumored, charged there that such is the case; but he has left the State permanently, I understand. I do not think he intended to return. He has taken up his residence in Canada.

The CHAIRMAN. I will say to counsel on both sides that I received to-day a remonstrance, addressed to the Congress and the people of the United States, which I introduced in the Senate, and it has been referred to this committee. Counsel may want to ask this witness if he is familiar with or knows the names of the persons signing that remonstrance. In view of the statement that has been made here repeatedly in regard to the indifference or failure of the people of Utah to prosecute the offense of Mr. Smith and others of like character, it is expressive of the sentiment of the people of Utah as to whether they have condoned the offense.

Mr. WORTHINGTON (after examining the paper). Mr. Tayler, do you want to see it? We do not care to ask any questions of this witness about it, at present, at least.

(Mr. Tayler examined the paper.)

The CHAIRMAN. That came several days ago, and I introduced it in the Senate to-day, and it was referred to the committee.

Mr. TAYLER. (Addressing the witness.) Do you know S. McDowell?

Mr. McCARTY. Yes.

Mr. TAYLER. Who is he?

Mr. McCARTY. He is an attorney there in Salt Lake. I am well acquainted with him.

Mr. TAYLER. L. H. Farnsworth—who is he?

Mr. McCARTY. Well, I do not know that I am acquainted with him.

Mr. TAYLER. Who is M. H. Walker?

Mr. McCARTY. I am not acquainted with him. I will say, Mr. Tayler, that I have only resided in Salt Lake a little over a year, and I am not much acquainted except with a few business men and the members of the bar.

Mr. TAYLER. Do you know whether John H. Walker is in the Walker's bank—the Walker Brothers, or something of that sort?

Mr. McCARTY. I do not. Mr. Van Cott, I believe, can tell you that.

The CHAIRMAN. It seems to me, Mr. Tayler, that in justice to the people of Utah it ought to go into the record.

Mr. TAYLER. Yes; but I was going to make inquiry of somebody who knows them.

Mr. WORTHINGTON. Mr. Chairman, it does seem to me the statements of people who are not produced as witnesses or sworn should not be allowed to go into this record as evidence. If these men know anything about this matter, we would like to have them here, put under oath, and with the right to cross-examine them.

Mr. TAYLER. What was this paper we had flourished around here this morning?

Mr. WORTHINGTON. That paper has not been offered in evidence.

Mr. TAYLER. It has not?

Mr. WORTHINGTON. No.

Mr. TAYLER. Then why were you talking about it?

Mr. WORTHINGTON. It was marked for identification, and has not been offered in evidence.

Mr. TAYLER. Was it just an interesting little excursion around?

Mr. VAN COTT. No; this is not your case. That is one reason, also.

Mr. WORTHINGTON. Let me say another thing about it. If the evidence on behalf of the protestants is now to be reopened and such matter as this put in here, we shall claim the right to have investigations made out there, and take testimony in reply to the statements of these witnesses, and this matter can not be closed——

Mr. TAYLER. Do not alarm us with threats.

Mr. WORTHINGTON. That is not a threat. I am here representing Senator Smoot, who has a right, if anybody makes statements which are worth going into this record as evidence against him, to be heard in reference to it, and he can not do it without investigating it. I object to any matter of that kind being put in the record.

Mr. TAYLER. Let me take that paper, please.

The CHAIRMAN. Mr. Worthington, my thought was that it being a protest by the people of Utah—and I will say that I have five others of the same character against the statement that the people of Utah have condoned this offense.

Mr. WORTHINGTON. Now, that is evidence, and if any man wishes to put anything in this record, or anybody desires to have his statement go in the record in opposition to the testimony here bearing on that subject, it ought to go in in the same way that the evidence that there is such an understanding has gone in, by the witness taking his seat there and being sworn, and giving us a chance to cross-examine and see how he got his information. Does not everybody know that you can take a petition of that kind and circulate it here in Washington or in Salt Lake City or anywhere else and get a hundred names to it without one of the persons who signed it knowing what is in it?

The CHAIRMAN. I did not know but that counsel might think it was a matter of justice to the inhabitants of Utah that they should be heard by this remonstrance.

Mr. WORTHINGTON. I am not counsel for the inhabitants of Utah. I am counsel for Senator Smoot, and this inquiry is solely one as to the qualifications of Senator Smoot to remain in his seat in the Senate of the United States. When the people of Utah are made a party to any proceeding and are called upon to answer in regard to their position they can employ counsel and take care of them. I am not here for that purpose; but if that paper goes into this record it must be upon the theory that it is evidence in this case as to the qualifications of Senator Smoot, and that being so, and it being decided by the committee that it is something they have a right to consider, then I submit that on every principle of fairness and justice we ought to have a right to have evidence in reply to it.

But I make the point in the first place that it is not evidence and can not be evidence. It is not even sworn. The signatures are merely signatures to a paper. If we should send out there and get people to sign a paper saying that they know that Apostle Tayler has not married since the manifesto, and that Apostle Cowley has not, and so on, would you allow such a paper to be introduced here as evidence in this case?

The CHAIRMAN. In what way is this different from the protest which is signed by 19 people?

Mr. WORTHINGTON. The protest is not evidence. It is a charge.

The CHAIRMAN. I understand this is not evidence of itself, but it would be a declaration of the people who signed it as to the statement that they have condoned this offense.

Mr. WORTHINGTON. Well, we have testimony to show that the people of Utah have, in a measure, condoned this particular matter of polygamous cohabitation as to people who married before the manifesto, and I understand this testimony is offered in evidence as a reply to that.

The CHAIRMAN. The Chair has not offered it, but proposed to counsel that they examine it.

Mr. WORTHINGTON. Of course, if nobody offers it in evidence, I have nothing to say. If it is offered in evidence, I shall make my protest against it.

The CHAIRMAN. These remonstrances that are sent to the chairman are signed by 640 people of Salt Lake City and Utah, protesting against the charge that the people of Utah have condoned this offense and are willing that this condition of things shall continue.

Mr. WORTHINGTON. I understand exactly. In other words, they are statements to which somebody has gone around and secured signatures, and I deny the right of this committee or of the Senate of the United States to consider such a paper as that and admit it in evidence as bearing upon the question of the right to hold office of a Senator, whom it is sought to expel. He has the absolute right to have the people who offer any testimony here, and whose statements are supposed to be of any value, come here and be sworn and be subject to cross-examination.

Mr. TAYLER. Mr. Chairman, this sounds like a comedy from the most amusing comic opera that ever got on the stage. Here this witness and a host of others have been telling us about general conditions in Utah. Matters of opinion and all the things that are referred to in this paper have been testified to by all of those witnesses, and we are to be deterred from cross-examining witnesses or making any reference to these things by the threat that they are going to put in proof along the same line. Now, I am going to proceed with the cross-examination of this witness, with this paper as the basis of it.

Mr. WORTHINGTON. I understand that Judge Tayler has decided this question, but I do not understand that the committee has passed upon it.

The CHAIRMAN. No; nobody has decided it; but the petition or remonstrance was sent to the Senate of the United States, properly received by the Senate, and properly referred to this committee. It was referred to the committee, I suppose, for its consideration. What the committee will do with it is another question.

Mr. TAYLER. (Reading:)

"To the Congress and the people of the United States:

"The law-abiding people of Utah have read with amazement, indignation, and disgust the declaration of President Joseph F. Smith, of the Mormon Church, that they are broad minded enough

to consent to the shocking violations of law and public decency with which he confesses to have committed.

"We protest that we are not deserving of this sort of praise. On the contrary, we most emphatically repudiate and repel the statement, which, in fact, is an allegation that we, knowing of his defiant lawlessness, are accessories to his crimes.

"We declare, on the contrary, that he and the other polygamists have surrounded themselves with an impenetrable wall of secrecy in their perpetration of the misdeeds testified to, have systematically suppressed the record of births required by law, and it has been impossible, through court process or otherwise, to obtain any exact knowledge of what was being done, much less legal evidence of the offenses; that the public sentiment of the law-abiding people here has at all times been zealous for the punishment of polygamy and polygamous practices, as well as of other crimes.

"Owing to the power and control of the polygamist hierarchy over their people and the pressure they have constantly brought to bear upon them in support of the special crime to which they are prone, it has become a matter of discipline with all who are under that dominance to refrain from talking about polygamous relations and to deny knowledge of the same on all occasions. The one who would reveal his knowledge of these matters has been stigmatized as a traitor, a spy, and an informer, and among the devotees of the Mormon Church is held to be infamous. Whoever betrays the polygamist is subject to ostracism, abuse, deprivation of business, and to every penalty which unbridled, unscrupulous power can inflict.

"It has, therefore, been impossible to know what was being done in this regard, notwithstanding strong suspicions of the facts entertained by many persons. The veil has been lifted in part for the first time in the testimony that has just been given by the church leaders in Washington, and nowhere in the whole country did this testimony occasion so much astonishment and humiliation as in Utah. The investigation thus far has been so fruitful that we call for its rigid continuance, confident that further disclosures equally startling may be expected, as there are certainly deeper depths than have yet been sounded.

"We therefore denounce President Smith's statement that the people in Utah palliate or condone his and like offenses as a libel upon their citizenship and conscience. We repudiate the statement as one wholly untrue, and protest against being classed with those whose minds are dead to the enormity of the offense of which these self-confessed lawbreakers have been and continue to be guilty.

"We also most earnestly protest against the continuance of the state of degradation and immoral living the testimony referred to discloses, and demand that the laws against this crime shall be enforced with such vigor as to compel the defiant transgressors to come within the law and keep good faith with our generous nation.

"We therefore show to the country that our protest is twofold: First, against the attempt to place us in the false position of condoners of this crime; and, second, we emphatically protest against its further continuance, and demand that this lawbreaking be given up in all its forms, and that Utah shall keep in spirit and in letter the faith it has pledged to the people of the United States."

I would like to ask you if that represents fairly the state of mind of a large number of people in Utah?

Mr. VAN COTT. Just a moment before the answer. May we see the petition, Mr. Tayler?

Mr. TAYLER. Certainly [handing the paper to Mr. Van Cott].

Mr. VAN COTT. Is there anything to show when this paper was received?

Mr. TAYLER. I have nothing to do with that. I have just seen something and it occurs to me to ask a question about it. It is as if the paper had no existence.

Mr. MCCARTY. I am ready to answer the question just as soon as they get through.

Mr. WORTHINGTON. I do not know that anything that we may say will have any influence upon this matter, but I want to call attention to what the fact is so that it will appear on the record, that Joseph F. Smith gave the testimony to which this refers last March and that these papers have been kept back until this case was supposed to be about closed; and if this matter is to be settled at this session of the Senate it is impossible for us to make any reply to it.

Mr. TAYLER. It is not in evidence.

Mr. WORTHINGTON. No; it is not in evidence, but you have read it so as to get it on the record, so as to get the effect of having it in evidence.

Mr. TAYLER. It has been in public print for ten months. It was printed last spring.

Mr. WORTHINGTON. That paper?

Mr. TAYLER. Yes.

Mr. WORTHINGTON. It was just received by the Senate.

Mr. TAYLER. That I recognize as familiar language printed last spring.

Mr. WORTHINGTON. Which is all the more reason why it is proper to keep it back until this time and then put it in here.

Mr. MCCARTY. I will say, Mr. Tayler, that there are some in Salt Lake City—

Mr. WORTHINGTON. I would like to have the records show a ruling on this subject.

The CHAIRMAN. What is the point?

Mr. WORTHINGTON. We object to that question on the ground that it refers to this paper which has been produced here, and on the grounds which I have stated.

Mr. TAYLER. Mr. Chairman, there is no paper in it at all. I have been so zealous and sedulous in my care not to offend the professional technical proprieties here that when this paper appears it suggests a question, and a perfectly proper question, which gathers together a certain supposed state of mind. If that state of mind does not exist on the part of any particular portion of the community of Utah, the witness will say so. I might and would and could with the same propriety ask him if it was the opinion of any considerable portion of the people of Utah that the United States ought to send an army out there and destroy the temple. I might ask any question, of course, of this witness to indicate and test what was his idea of the state of the public mind, and so I ask him to what extent that which I read to him represented an actual public mind in the State of Utah.

Mr. WORTHINGTON. Let the stenographer read the question so that we can see what it is.

The reporter read as follows:

"I would like to ask you if that represents fairly the state of mind of a large number of people in Utah?"

Mr. WORTHINGTON. I understand the Chair to rule that that is a proper question?

The **CHAIRMAN.** I do not think there is any objection to it.

Mr. WORTHINGTON. Very well.

Mr. McCARTY. There are two or three propositions. I would have to segregate that a little. There are some men who entertain just about those views, but when they say they were surprised at anything that has been testified to here, unless it was some emphatic and almost unreasonable statement, I am surprised that they should make that statement, because I have not been surprised at anything that has been developed in this investigation. I have known, as a judicial officer there, that those conditions—probably not as stated in the extreme sense that they are in the remonstrance—have existed in Utah. I understand—and so has every other well-informed man in Utah—that Joseph F. Smith, that Mr. Lyman, Mr. John Henry Smith, Merrill, and Cowley, and others are living in those relations, and when the signers to the document say they are surprised they simply surprise me.

Mr. TAYLER. That is a good way to put it. Now, were you surprised, for instance, at the statement of the very intelligent witness here Mr. Booth, who lives right in the general neighborhood, that he was surprised to learn, or did not know, that Joseph F. Smith had had quite a number of children, or did not know that any children had been born to him of plural wives in the last ten years? Does that surprise you also?

Mr. McCARTY. Well, I thought his range of information was somewhat circumscribed.

Mr. TAYLER. I was surprised myself, but—

Mr. McCARTY. The fact is, Mr. Tayler, we all have known that those conditions were existing there, and, as I say, there is a large class or a large number of people throughout the State who do not approve of them, who do not get out and make an open fight or remonstrance against them. They wish they could be eliminated and were eliminated. That is a sort of passive forbearance, toleration, that they have exercised, not one of condonement or approval. I think Mr. Smith went a little too far when he intimated that the people generally approve of it; and the fact that there are no prosecutions, or have not been, is proof to my mind that the sentiment is not as prevalent as the remonstrance there would indicate. There are a great many people in Salt Lake and come in the country that are very bitter—I will not say very bitter; I will modify that, but very emphatic—and have insisted all along that the law should be enforced, but they do not represent the prevailing opinion, especially if we determine that by the numbers.

The **CHAIRMAN.** Is there anything further, Mr. Tayler? Senator Dubois would like to ask a question.

Senator DUBOIS. Mr. McCarty, you said when the ticket was made up the Mormons pretty closely supported their own party ticket.

Mr. McCARTY. Yes, sir; that has been the rule.

Senator DUBOIS. Do the Mormon leaders in the various communities pay much attention to the making up of the ticket?

Mr. McCARTY. Well, those who are actively engaged in politics of course take part at the primaries and in conventions.

Senator DUBOIS. Are they careful to see that no one gets on the ticket who is particularly hostile to them?

Mr. McCARTY. I can not recall any incident or circumstance where there has been any contention along that line.

Senator DUBOIS. Are the Gentiles who are desirous to be on the ticket solicitous to find out how the leaders of the Mormon Church will stand in regard to them?

Mr. McCARTY. To this extent, Senator: The Mormon Church and the Mormon people, of course, have absolute control of the State if they wish to exercise it.

Senator DUBOIS. What is that, Judge? I did not hear you.

Mr. McCARTY. I say the Mormon people, if they were to combine, would have the absolute control of the State and could nominate whomsoever they desire. They could exclude every Gentile from the ticket if they were so disposed. Realizing that they have this power, Gentiles are somewhat cautious about their candidacy, or somewhat apprehensive until they know whether there is going to be a fight against them or not. Now, I think a great deal too much prominence is given the church in these matters. I do not think the church is taking or has been in the last few campaigns taking the active part that has been attributed to the church; but candidates usually want to know whether there is going to be a fight made against them, realizing that if the church so desires or the people who compose it they could defeat them. A great many of them, I understand, have solicited and gone and conversed with the first presidency and others, but those Gentiles have proved to be generally the weakest candidates that have been placed on the ticket.

Senator DUBOIS. But they are anxious, are they not; they are solicitous to find out whether the church is going to oppose them or whether they will favor their candidacy?

Mr. McCARTY. Yes. Owing to this continual agitation there and recognizing that the church is a factor that must be reckoned with, there is always an air, an atmosphere of uncertainty in every campaign.

Senator DUBOIS. What, in your judgment and in the judgment of men like you, is now and has always been the greater evil there, polygamy or church dictation in politics?

Mr. McCARTY. Well, I do not know of any direct church dictation in politics. Of course I have always thought that this question of polygamy has been used a great deal as a mask with which to attack the church for supposed or alleged interferences, and so forth, in those matters. The only instance that I know of in the way of church interference, if it could be called such, was the Thatcher episode.

Senator DUBOIS. They refused to give their consent that Roberts and Thatcher should be candidates; and at the election they gave their consent that Roberts should be a candidate, did they not?

Mr. McCARTY. Well, I do not know. I presume so.

Mr. WORTHINGTON. Senator, do I understand that that is a state-

ment of a fact in the evidence in this case, that they did refuse to give their consent?

Senator DUBOIS. He testified to it.

Mr. VAN COTT. I think not, Senator. They simply did not ask for consent, as I remember the testimony.

Mr. WORTHINGTON. I do not understand that there is any evidence that they asked for consent and it was refused.

Senator DUBOIS. This order was promulgated in the middle of the campaign, and they did not have the consent when they ran the first time.

Mr. WORTHINGTON. That is a different thing.

Senator DUBOIS. Roberts did ask the consent of the church when he ran the second time, did he not, Judge? Is not that what you understand?

Mr. McCARTY. I understand it from the existence of that rule. That is all. I never talked with any of the leaders of the church in regard to the matter. I am not acquainted with but a very few of them. I have no direct information, but the conclusion would be that he probably got consent.

Senator DUBOIS. Do you understand that Mr. Smoot received their consent to become a candidate for the United States Senate?

Mr. McCARTY. I understand so. That is the general supposition that is accepted.

Senator DUBOIS. Did you ever know of a case where the authorities of the church gave their consent to two men to run for the same office at the same time?

Mr. McCARTY. I do not know as to that, Senator. That is a feature that I have paid but very little attention to. I presume that when a high church official becomes a candidate, he has procured the consent of his superiors—those with whom he is associated.

Senator DUBOIS. You never knew of a case where his superiors gave their consent for a Democrat to run for the United States Senate, we will say, and for a Republican to run for the United States Senate at the same time, both being high officials of the church?

Mr. McCARTY. I do not think so.

Senator DUBOIS. They give their consent to only one man of one party?

Mr. McCARTY. I do not know how that is. George M. Cannon was a receptive candidate when Mr. Smoot was elected. So was Governor Wells.

Senator DUBOIS. They did not have the consent of the authorities?

Mr. McCARTY. I do not know as to that.

Mr. WORTHINGTON. Do you know of any case in which any high official of the Mormon Church has asked for leave to run for any office and been refused?

Mr. McCARTY. No; I do not.

Mr. TAYLER. Well, you do not count Moses Thatcher and Brigham H. Roberts—

Mr. WORTHINGTON. They did not ask for consent.

Mr. TAYLER. Hold on—as being practically in that status?

Mr. McCARTY. Yes; I would count those two as belonging to that class of officials. I asked the question one time of a Mormon as to just where the line was drawn, and I have forgotten—

Mr. TAYLER. Just what?

Mr. McCARTY. Where the line is drawn. I understand that bishops and some of those inferior church officials may run for office without consent.

Senator DUBOIS. How is that, Judge? I did not quite catch it.

Mr. McCARTY. I say my understanding is that the bishops, stake presidents, and the minor officials generally in the Mormon Church may run for office without obtaining this consent.

Senator DUBOIS. The printed rule is in evidence here. Does not that printed rule say that all officials, from bishops up, including bishops, must obtain consent?

Mr. McCARTY. Well, it may. I was discussing this matter—

Mr. WORTHINGTON. No; it does not say that. It says all high officials.

Mr. McCARTY. I was discussing this matter with W. H. Clark, at Richfield, who was a candidate for sheriff, and he was also the counselor for the stake of presidency.

Mr. WORTHINGTON. We might as well have this correct here. This rule reads that "every leading official thereof."

Mr. TAYLER. On what page is that?

Mr. WORTHINGTON. On page 171.

Senator DUBOIS. Then it was testified to; I am quite sure you will find that it included their head men down to and including bishops.

Mr. WORTHINGTON. On page 170, Mr. Tayler, it says:

"Men who hold high positions in the church, whose duties are well defined, and whose ecclesiastical labors are considered to be continuous and necessary."

It classifies them in that way.

Mr. McCARTY. I know in the primaries and county conventions the parties pay no attention to that. They go on and nominate men.

The CHAIRMAN. Mr. Tayler, have you anything further?

Mr. TAYLER. What was it you said, Judge, about some plan or arrangement being made that one of the Senators should be a Mormon and the other a Gentile?

Mr. McCARTY. There is a sort of tacit understanding in Utah that if the Democrats are in control one Gentile will come to the Senate and one Mormon, and it is the same with the Republicans. That is, there is no rule, or, I might say, no unwritten law; but that is the general understanding and concession, both by Democrats and Mormons.

Mr. TAYLER. Is it not understood—

Mr. WORTHINGTON. Both by Democrats and Mormons, did you say?

Mr. McCARTY. Gentiles and Mormons. No; the Democrats have not had an opportunity to enter into an understanding for some time.

Mr. TAYLER. Has it not been the understanding also that the political complexion of the Senators should always be the same as the complexion of the national administration?

Mr. McCARTY. No. I know that has been claimed.

Mr. TAYLER. You do not think that it is the unwritten law or tacit understanding?

Mr. McCARTY. No. I will say this, Mr. Tayler. We have had two campaigns in Utah where the church—that is, when I refer to the church I mean the church authorities—could not have changed the result.

Mr. TAYLER. Undoubtedly.

Mr. McCARTY. One was in 1896, and the other was in the last election. They could not have stemmed the tide in either of those campaigns.

Mr. TAYLER. So that the tacit understanding extends only to this division between them of one Gentile and one Mormon?

Mr. McCARTY. Yes.

Mr. TAYLER. You do not attach any special significance to that, do you, as being worthy of criticism?

Mr. McCARTY. Yes; I do.

Mr. TAYLER. You do?

Mr. McCARTY. For this reason: It is recognizing the Mormon Church as a factor in politics, and I have always insisted that it should be eliminated; that a man should be nominated on account of his politics and fitness for office; and a great many Mormons are bitterly opposed to this recognition of the church as a political factor. But the Gentiles are more solicitous in regard to that than the Mormons are.

Mr. TAYLER. Exactly.

Mr. McCARTY. That is; I speak now of the politicians.

Mr. TAYLER. The impulse is not any more virtuous, though, because it comes from the Gentiles, is it?

Mr. McCARTY. Oh, no. Of course, I am not including all the Gentiles. I say the politicians; and the question in the conventions—and it is always the Gentiles who usually raise it—is: “Well, we must not get too many Gentiles on here. We must have a fair proportion of Mormons.” The Salt Lake Tribune, at the last city election, in great flaming headlines, published that there were so many Mormons, so many Gentiles, on the ticket, and the press and the politicians there generally attach a great deal of importance to that feature of their campaign.

Mr. VAN COTT. Judge, this tacit understanding that you have referred to in regard to United States Senators is not so much the Mormon Church as it is the desire to recognize in fairness the Gentiles and the Mormons in equal division of offices?

Mr. McCARTY. I have heard a number of prominent Mormons talking of the United States Senate, and their object seems to be this: They would like to see able men elected, men who would stand in the first rank of statesmanship, if they could get them, and they were indifferent even if they were both Gentiles. The Gentiles, in discussing those questions, invariably say: “Well, Senator Smoot is a Mormon. Of course, we are entitled to a Gentile, and the next must be a Gentile.” Even in the campaigns the question is sometimes raised by the campaign speakers off in the outlying districts that a ticket is unfairly made up.

The CHAIRMAN. In what respect unfairly made up?

Mr. McCARTY. Well, that there are too many Gentiles or too many Mormons on the ticket.

The CHAIRMAN. Improperly divided between the Mormons and the Gentiles?

Mr. McCARTY. Yes. That is one of the features there that creates a good deal of contention—the eternal recognition of the Mormon Church as a factor in politics; and it is referred to more by the Gentiles than by the Mormons.

The CHAIRMAN. Have you anything further?

Mr. VAN COTT. That is all.

The CHAIRMAN. Can all the witnesses who have been examined be discharged?

Mr. VAN COTT. They can all be excused, Mr. Chairman, except the witnesses we have examined to-day.

Mr. TAYLER. I am not ready to dismiss Mr. Lynch yet.

The CHAIRMAN. Then Mr. Lynch will remain, and all the other witnesses can be discharged.

Mr. TAYLER. And I told somebody—Senator Smoot, perhaps—that I wanted to ask Mr. Pratt a question or two. He will be here to-morrow, I am told.

Mr. VAN COTT. Yes; he will be back. Then it is understood that all the witnesses, except Mr. Pratt and Mr. Lynch, may be excused, up until to-day.

Mr. WORTHINGTON. Except those examined to-day.

The CHAIRMAN. Very well. Who is the next witness?

Mr. VAN COTT. Mr. A. S. Condon.

The CHAIRMAN. I will say that the remonstrance which has been referred to was handed me this morning. I have been receiving a great many, and I have been neglectful sometimes in presenting them to the Senate. But I find upon examination—and Mr. Tayler will see the source of his information—that I presented this protest on the 6th day of April of last year, and that the protest itself was printed in the Congressional Record.

Mr. TAYLER. It had a familiar tone. I knew I had seen it.

The CHAIRMAN. But not the names.

Mr. TAYLER. No; I used no names, anyhow.

TESTIMONY OF A. S. CONDON.

A. S. CONDON, being duly sworn, was examined, and testified as follows:

Mr. VAN COTT. What is your name, Mr. Condon?

Mr. CONDON. Amasa S. Condon.

Mr. VAN COTT. Where were you born?

Mr. CONDON. In the State of Maine.

Mr. VAN COTT. And you lived there until you were grown to manhood?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. Did you take any special course in education in Maine?

Mr. CONDON. I had an academic education, and I studied medicine.

Mr. VAN COTT. Were you in the civil war?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. How many years?

Mr. CONDON. Nearly two.

Mr. VAN COTT. And after the civil war was over you went back to Maine?

Mr. CONDON. I went back to Maine; yes, sir.

Mr. VAN COTT. And lived there several years?

Mr. CONDON. A year or two.

Mr. VAN COTT. You studied medicine?

Mr. CONDON. I studied medicine.

Mr. VAN COTT. You graduated?

Mr. CONDON. I graduated.

Mr. VAN COTT. And went to Utah?

Mr. CONDON. And went to Utah.

Mr. VAN COTT. What year did you arrive in Utah?

Mr. CONDON. In 1874, I believe, or 1875.

Mr. VAN COTT. Where have you lived since?

Mr. CONDON. In Ogden, Utah.

Mr. VAN COTT. Ogden is the next city after Salt Lake in population, is it?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. And I suppose I may say that for some Ogdenites it is the first city in Utah?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. Since you have lived in Utah, have you become generally acquainted with the people?

Mr. CONDON. I have.

Mr. VAN COTT. Particularly in Ogden city and in the county in which it is situated, Weber?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. You have been practicing medicine there?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. All of the time?

Mr. CONDON. All of the time except nearly two years, when I was surgeon in the Spanish-American war.

Mr. VAN COTT. And, in a general way, will you indicate, territorially, the extent of your practice?

Mr. CONDON. Well, it covers entirely the county of Weber.

Mr. VAN COTT. While you were in Utah you were a member of a party?

Mr. CONDON. The Liberal party.

Mr. VAN COTT. That was the Gentile party.

Mr. CONDON. Yes, sir.

Mr. VAN COTT. How vigorous were you in advancing this Liberal party while it existed?

Mr. CONDON. I was always at the front.

Mr. VAN COTT. Did you remain a member of that party until it dissolved?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. While you have been in Utah have you become a Mormon?

Mr. CONDON. No, sir.

Mr. VAN COTT. You are still a Gentile?

Mr. CONDON. I am still a Gentile.

Mr. VAN COTT. Which party did you join when the Liberal party and the Peoples Party dissolved?

Mr. CONDON. The Republican.

Mr. VAN COTT. And you have been a Republican ever since?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. Have you been a member of any of the Republican conventions since the division on party lines?

Mr. CONDON. Nearly all of them—State conventions.

Mr. VAN COTT. Have you of the county conventions?

Mr. CONDON. Most always.

Mr. VAN COTT. That is, of Weber County?

Mr. CONDON. Of Weber County; yes, sir.

Mr. VAN COTT. And also of the State conventions?

Mr. CONDON. The State conventions.

Mr. VAN COTT. Have you held any political offices while you have been in Utah?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. What?

Mr. CONDON. I have been a member of the legislature twice, the first and last ones.

Mr. VAN COTT. The first and the last one?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. The last legislature was the one that met in January, 1903?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. You were a member of that?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. Was that the legislature at which Mr. Smoot was elected United States Senator?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. Before that time had Mr. Smoot been prominent or not in Republican politics in Utah?

Mr. CONDON. He had been very prominent.

Mr. VAN COTT. For a long time?

Mr. CONDON. Yes, sir, many years; I do not know how many.

Mr. VAN COTT. When you went to the legislature were you an adherent of Mr. Smoot?

Mr. CONDON. Which time?

Mr. VAN COTT. The last time.

Mr. CONDON. No, sir.

Mr. VAN COTT. You had some other candidate?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. Did you support Mr. Smoot or not?

Mr. CONDON. I supported Mr. Smoot.

Mr. VAN COTT. Finally, you voted for him?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. Were you brought to that by the Mormon Church?

Mr. CONDON. No, sir.

Mr. VAN COTT. How was that?

Mr. CONDON. I do not know. They did not approach me.

Mr. VAN COTT. You were convinced he was the proper man, were you.

Mr. CONDON. Why, the reason I voted for him—

The CHAIRMAN. I do not think the witness understood you. Read his question, Mr. Reporter.

Mr. VAN COTT. I will put the question in this way: Why did you vote for him?

Mr. CONDON. Why did I finally vote for him?

Mr. VAN COTT. Yes.

Mr. CONDON. I saw that my candidate had no standing at that time in the caucus, and I wanted to support the caucus nominee. Con-

sequently, I withdrew from my candidate and supported the strongest man.

Mr. VAN COTT. The Church had no control over you in so doing?

Mr. CONDON. They never approached me.

Mr. VAN COTT. Have you continuously resided in Ogden, or have you been absent?

Mr. CONDON. Two years absent, nearly.

Mr. VAN COTT. Where?

Mr. CONDON. I was in the Spanish war—surgeon.

Mr. VAN COTT. Surgeon in the United States Army?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. Do you hold any other position?

Mr. CONDON. Well, I am a member of the State board of medical examiners, which examines physicians for the practice of medicine that come into the State.

Mr. VAN COTT. Appointed by Governor Wells?

Mr. CONDON. Yes, sir; appointed by the governor, with the consent of the State senate.

Mr. VAN COTT. You then knew of the conditions that existed in Utah between the Mormons and Gentiles previous to the manifesto?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. In a general way, were they pleasant or unpleasant?

Mr. CONDON. Well, before that time, when I first went to Utah, the Mormons had their own way. I do not know whether it was pleasant or otherwise.

Mr. VAN COTT. Was there a bitter feeling or not?

Mr. CONDON. Yes, sir; there was a good deal of feeling.

Mr. VAN COTT. Between the Mormons and Gentiles?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. After the manifesto, did that feeling diminish or not?

Mr. CONDON. It almost entirely ceased.

Mr. VAN COTT. In traveling around, you of course have become acquainted with most of the people of Weber County?

Mr. CONDON. Yes, sir; I know them all, mostly.

Mr. VAN COTT. And of Ogden City?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. What is your opinion as to whether polygamy is practically dead in the State of Utah?

Mr. CONDON. Well, until I came to Washington, I regarded it as dead.

Mr. VAN COTT. Have you changed your opinion since you got here?

Mr. CONDON. No, sir; I hear here that it is not dead, but I supposed it was.

Mr. VAN COTT. What is the sentiment of the Mormons on that subject in Weber County and Ogden City, where you are acquainted, as to whether it is in favor of polygamy or against it?

Mr. CONDON. Well, the sentiment is against it, but it is not much discussed. The question has no standing. It is not much discussed now. It is taken for granted that it is dead, and it is not much discussed in Weber County.

Mr. VAN COTT. What is your opinion as to whether it is dead?

Mr. CONDON. Yes, I think it is dead. I have watched it for a long while, and that is the conclusion I have arrived at—that it is dead.

Mr. VAN COTT. Taking the present time, how many polygamists do you know in Weber County, taking the whole county?

Mr. CONDON. I do not know of one.

Mr. VAN COTT. You do not know of one polygamist?

Mr. CONDON. No, sir.

Mr. VAN COTT. Do you know David Eccles?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. He is reputed to be a polygamist, is he not?

Mr. CONDON. He is reputed to be a polygamist, but—

Mr. VAN COTT. I will put the question the other way. I did not intend to limit your answer by knowledge. How many reputed polygamists are there in Weber County at the present time?

Mr. CONDON. I believe there are about three.

Mr. VAN COTT. And going away back of 1890, were there many more than that?

Mr. CONDON. Oh, yes, sir; they were very plenty.

Mr. VAN COTT. About what is the population of Weber County?

Mr. CONDON. Approximately, 60,000.

Mr. VAN COTT. And the population of Ogden city?

Mr. CONDON. Approximately, 30,000.

Mr. VAN COTT. And that is all you know in that population?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. And that is by reputation?

Mr. CONDON. It is only by reputation.

Mr. VAN COTT. Your practice, you have stated, extends over the county?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. During the fourteen years from 1890 down to the present time do you know of births to reputed polygamous wives?

Mr. CONDON. I have heard of but one.

Mr. VAN COTT. Do you know David Eccles?

Mr. CONDON. I know him well; yes, sir.

Mr. VAN COTT. How long have you known him?

Mr. CONDON. Twenty-five or thirty years.

Mr. VAN COTT. Is he reputed to have five or six wives?

Mr. CONDON. No, sir.

Mr. VAN COTT. What is the repute on that question?

Mr. CONDON. Two.

Mr. VAN COTT. Is there any repute in Ogden City or in Weber County, where Mr. Eccles is acquainted, and where you are well acquainted, that he has married a woman since 1890?

Mr. CONDON. I have not heard of it.

Mr. VAN COTT. In politics, how have you found the Mormons as to being constant in adhering to their party lines?

Mr. CONDON. I do not know as there is any difference between the two, but I rather think if there is any difference it is in favor of the Mormons. The Gentiles have known of political methods longer than the Mormons have, and the Mormon boys, when they leave the nominees of a convention are afraid of getting lost, so they stick close to their nominee.

Mr. VAN COTT. Who was your opponent when you were elected to the legislature?

Mr. CONDON. My opponent was Joseph Peery.

Mr. VAN COTT. Is he a Mormon?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. And you were elected over him?

Mr. CONDON. Yes.

Mr. VAN COTT. Who was your opponent in the first election?

Mr. CONDON. That was in the first election.

Mr. VAN COTT. In the last election, then?

Mr. CONDON. I really did not have any.

Mr. VAN COTT. Is that because there were a number on each ticket?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. Then I will ask you this: Was there a Mormon on the Democratic ticket who was running for the legislature also?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. Did he hold any official position in the Mormon Church?

Mr. CONDON. No; the Republican senator did, who ran on the same ticket that I did.

Mr. VAN COTT. Who was that?

Mr. CONDON. That was Bishop McKay.

Mr. VAN COTT. He was a Republican?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. He is a member in good standing in the Mormon Church?

Mr. CONDON. Yes, sir; a very fine gentleman.

Mr. VAN COTT. And is he popular with the people?

Mr. CONDON. Exceedingly so.

Mr. VAN COTT. How did you hold up in the vote that you got, with Bishop McKay on the same ticket, in the Mormon precincts?

Mr. CONDON. In one or two Mormon precincts I ran ahead of him and in one or two Gentile precincts he ran ahead of me.

Mr. VAN COTT. In Weber County and in Ogden City?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. Are the Gentiles recognized in the offices? Do they hold a fair proportion of them?

Mr. CONDON. Yes, sir; about even.

Mr. VAN COTT. And how in regard to salaries?

Mr. CONDON. I think about even. I looked the matter over and I thought it was about an even break.

Mr. VAN COTT. Have you taken any occasion to examine in regard to the religion of the school teachers in Ogden?

Mr. CONDON. Yes, sir.

Mr. VAN COTT. What did you find the result to be there, Mr. Condon?

Mr. CONDON. I found 35 and 65 per cent—divided in that way—and I took some pains to get it.

The CHAIRMAN. Twenty-five and 65, did you say?

Mr. CONDON. Thirty-five and 65.

Mr. VAN COTT. Who has the 65 per cent?

Mr. CONDON. The Gentiles.

Mr. VAN COTT. Is there any attention, as a matter of fact, paid in Ogden to the fact a teacher is a Mormon or a Gentile?

Mr. CONDON. Absolutely none. We have as fine schools there as can be found in Maine or Massachusetts or Pennsylvania or anywhere, and that question is never raised. I called up the president of the school board—he is a Mormon—and he laughed pleasantly over the phone, and he said he had not the slightest idea. Then I called up the clerk and he said he had none, but he would send me the names, and I knew everybody there and I could pick them out, which I have done. They are here with their addresses.

The paper referred to is as follows:

Ogden City, Utah, teachers, 1904-5.

HIGH SCHOOL.

	Names.	Addresses.
M	George Thomas (history and economics).....	2331 Orchard avenue.
Con	O. J. Stilwell (commercial branches)	2773 Grant avenue.
Non-M	Florence Yates (stenography and type)	Reed Hotel.
Non-M	Jeannette Joyce (English)	317 Twenty-third street.
Non-M	Millisent Bingham (German)	543 Twenty-fifth street.
Non-M	Jennie M. Anderson (English)	2454 Adams avenue.
Non-M	Nellie L. Goss (mathematics)	548 Twenty-fifth street.
Non-M	Jessie E. Spann (Latin)	Virginia Hotel.
Non-M	M. O. Blakeslee (science)	2430 Lincoln avenue.
M	James L. Barker (French).....	North Ogden.
Non-M	J. E. Retherford (history and civics)	612 Twenty-fourth street.
Non-M	J. M. Freeman (mathematics)	2563 Jefferson avenue.
Non-M	Eva E. Busch (English and Latin)	2454 Adams avenue.
M	Squire Coop (music)	Ogden, Utah.
14-3 M.		

GRANT.

M	W. N. Petterson	2148 Jefferson avenue.
No	Marie A. Wittenberg	541 Twenty-fourth street.
Methodist	W. L. Underwood	227 Twenty-second street.
M	Lottie Stone	226 Second street.
No	Florence Wittenberg	541 Twenty-fourth street.
M	Clara Brown	2579 Madison avenue.
M	Ida Roberts	730 Twenty-fifth street.
No	Mayme McDermott	Healy Hotel.
M	Clara Peterson	442 East Eighteenth street.
M	Maud Naisbitt	752 Twenty-third street.
M	May Hartog	576 Canyon road.
No	Emma Neilson	2630 Adams avenue.
M	Alice Flowers	680 Twenty-seventh street.
13-10 M.		

MADISON.

No	D. H. Adams	2360 Quincy avenue.
M	Ella R. Goss	583 Twenty-fifth street.
No	Dora Snow	2809 Madison avenue.
No	Elizabeth Lynch	2314 Quincy avenue.
No	Mrs. W. H. Neal	1167 Twenty-fourth street.
No	Gertrude E. White	709 Twenty-fourth street.
No	Clara Boreman	2554 Jefferson avenue.
No	Lou Mitchell	102 Jackson avenue.
No	Ethel Harcombe	774 Twenty-first street.
No	Fred W. Redfield	849 Washington avenue.
No	Alice Maguire	2526 Adams avenue.
No	Amelia Mole	2571 Lincoln avenue.
No	Elsa Dangers	2367 Adams avenue.
M	Glenn Douglas	2632 Madison avenue.
No	Edna Middleton	640 Twenty-second street.
No	Jean Macmillan	963 Twenty-fifth street.
15-8 M.		

Ogden City, Utah, teachers, 1904-5—Continued.

MOUND FORT.

	Names.	Addresses.
M.....	Joel J. Harris.....	2459 Adams avenue.
No.....	M. June Peirce.....	759 Twenty-third street.
No.....	Lcia E. Peirce.....	Do.
No.....	Mrs. Millie Cone.....	555 Twenty-fourth street.
No.....	Claire Gipeon.....	2325 Washington avenue.
No.....	Nellie Bennett.....	835 Twenty-fifth street.
No.....	Catharine Costley.....	Ogden, Utah, Station A.
M.....	Meda McQuarrie.....	478 Twenty-sixth street.
No.....	Lulu B. Bell.....	1748 Washington avenue.
M.....	Mary Grix.....	2459 Jefferson avenue.
M.....	Andrew A. Kerr.....	Corner Twenty-first and Adams.
11-6 M.		

DEE.

No.....	Elbert W. Harold.....	612 Twenty-fourth street.
No.....	Mrs. Josephine Hirst.....	581 Twenty-third street.
M.....	Olla M. Barker.....	1015 Farley avenue.
M.....	Verna M. Barrows.....	827 Twenty-third street.
No.....	Laura Kirkpatrick.....	853 Twenty-fifth street.
No.....	Myrtle Blackwood.....	2715 Grant avenue.
No.....	Mrs. Clara D. Howard.....	2269 Adams avenue.
No.....	Willie Spurgeon.....	458 Twenty-fourth street.
No.....	Mrs. Julia Christensen.....	755 Twenty-fourth street.
No.....	Blanche Stein.....	2234 Adams avenue.
10-8 M.		

CENTRAL.

No.....	John E. Hanslik.....	2559 Adams avenue.
No.....	Mabel Tibbott.....	2747 Madison avenue.
No.....	Grace McGonagle.....	519 Twenty-sixth street.
No.....	Anna Hansen.....	2023 Adams avenue.
M.....	Mrs. Maude K. Taylor.....	445 Thirteenth street.
M.....	Gwendolyn Williams.....	544 First street.
M.....	Hattie Hincheliffe.....	165 West Twenty-seventh street.
No.....	Trellis E. Carter.....	2484 Monroe avenue.
No.....	Mary E. Roberts.....	1221 Twenty-fifth street.
9-8 M.		

PINGREE.

M.....	Henry Barker, Jr.....	Ogden R. F. D., No. 8, Utah.
No.....	Carrie V. Knapp.....	5163 Jefferson avenue.
M.....	Bertha M. Stone.....	700 Canyon road.
No.....	John A. Jnak.....	5226 Ogden avenue.
M.....	Daisy L. Stone.....	700 Canyon road.
M.....	Kathrine Higginbotham.....	1846 Adams avenue.
No.....	Ethel Orth.....	2357 Adams avenue.
No.....	Gertrude Kennedy.....	2355 Adams avenue.
No.....	V. Mae Carter.....	2434 Monroe avenue.
M.....	Eva Moyes.....	2118 Twenty-sixth street.
10-5 M.		

LEWIS.

Catholic.....	Mrs. Tude B. Maguire.....	2712 Washington avenue.
No.....	Anna Moran.....	165 Twenty-sixth street.
No.....	Marion Reid.....	778 Twenty-first street.
M.....	Pearl Goodale.....	2253 Jackson avenue.
No.....	Clara Warner.....	560 Twenty-third street.
M.....	Beatrice Farley.....	855 Twenty-sixth street.
6-2 M.		

Ogden City, Utah, teachers, 1904-5—Continued.

WASHINGTON.

	Names.	Addresses.
No.....	J. M. Bishop.....	Thirty-seventh and Grant avenue.
No.....	Mrs. Carrie K. Rapp.....	2070 Adams avenue.
No.....	W. I. Underwood.....	227 Twenty-second street.
No.....	Lily M. Lesman.....	2041 Douglas avenue.
No.....	L. L. Irwin.....	2546 Utah avenue.
No.....	Cora Clayton.....	3153 Adams avenue.
M.....	Alva Garff.....	2756 Adams avenue.
No.....	Edna Hamill.....	748 Twenty-fifth street.
No.....	Mollie Webb.....	2302 1/2 Adams avenue.
No.....	Florence Crompton.....	3035 Washington avenue.
No.....	Sadie C. Powell.....	2400 Madison avenue.
11-1 M.		

FIVE POINTS.

No.....	Mrs. G. L. Wade.....	1712 Washington avenue.
M.....	Emily Brown.....	North Ogden.
M.....	Euphemia Johnson.....	434 Third street.
No.....	Florence Bohn.....	204 Twenty-third street.
No.....	Rhoda Duffy.....	2348 Pingree avenue.
No.....	Frances Gorman.....	2612 Adams avenue.
6-2 M.		

QUINCY.

M.....	Mrs. Marian T. Burton.....	2620 Monroe avenue.
No.....	Mrs. Luna H. Cahill.....	648 Twenty-fourth street.
No.....	Irene Tomasek.....	2446 Madison avenue.
M.....	Electa Skeen.....	2531 Orchard avenue.
No.....	Daisy F. Andrews.....	2503 Adams avenue.
M.....	Jennie Thomas.....	817 Eighteenth street.
6-3 M.		

EMERSON.

No.....	Mrs. Maguire.....	371 Twenty-second street.
No.....	Lucile Stanley.....	2347 Monroe avenue.
No.....	Mrs. Gwen Keys.....	2535 Adams avenue.
No.....	Genevieve Davis.....	2206 Grant avenue.
M.....	Mrs. Leavitt.....	
5-1 M.		

BROOMS BENCH.

M.....	Joseph H. Stimpson.....	Riverdale, Utah.
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WEST OGDEN.

M.....	William J. Wood.....	1743 Riverside avenue.
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CHIPP.

M.....	Mrs. Kate Van Dyke.....	842 Twenty-first street.
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SUPERVISORS.

No.....	Elizabeth M. Orth (primary methods).....	2357 Adams avenue.
No.....	Squire Coop (music).....	Ogden, Utah.
No.....	Gertrude L. Clayton (drawing).....	3153 Adams avenue.

Mr. VAN COTT. What is the religion of the district judge now of the second district?

Mr. CONDON. I do not know that he has any, but he is a Gentile.

Mr. VAN COTT. He is a Gentile, whether he has any religion or not?

Mr. CONDON. He is.

Mr. VAN COTT. His name is Howell?

Mr. CONDON. Howell; yes, sir.

Mr. VAN COTT. Who was his predecessor in the same office?

Mr. CONDON. Rolapp; a Mormon.

Mr. VAN COTT. Is Judge Rolapp popular in the State and in the district?

Mr. CONDON. I think among the lawyers he is considered one of the best in the State.

Mr. VAN COTT. Is there any question but what Howell is a Gentile?

Mr. CONDON. Oh, no, sir.

Mr. VAN COTT. Do you know whom he appointed for his stenographer; whether he was a Mormon or a Gentile?

Mr. CONDON. A Mormon, I believe.

Mr. VAN COTT. Doctor, give us the extent to which Mormons and Gentiles, as such, are recognized in Weber County; that is, as to whether that matter is discussed, as to whether a man is a Mormon or a Gentile in business and social affairs, in politics, and everything of that kind?

Mr. CONDON. Well, I am pretty well acquainted there, and I say frankly that I do not believe that that is taken into consideration at all. I think these appointees of the district court just happened to be about an even break, as I said before, to use that expression. I think it just happens so. I think not any inquiry is made at all.

Mr. VAN COTT. You knew when you voted for Mr. Smoot that he was an apostle of the Mormon Church, did you?

Mr. CONDON. I did not take it into consideration. I do not know whether I knew or not. I did not care.

Mr. VAN COTT. Did it make any ripple out there when he was appointed as an apostle?

Mr. CONDON. Not a ripple; no.

Mr. VAN COTT. What is the sentiment, Doctor, as to the prosecution or the letting alone of these unlawful cohabitation cases where the marriages occurred prior to the manifesto.

Mr. CONDON. Prior to the manifesto?

Mr. VAN COTT. Yes, sir.

Mr. CONDON. Well, I have heard the expression here several times, as I have been watching this, that it is condoned. I do not like that term, and I do not think it is a fit term if condoned means to forgive.

Mr. VAN COTT. Yes.

Mr. CONDON. It is tolerated. It is a question like passing by some offensive thing, which one has to do, and go by and let it alone.

Mr. VAN COTT. Is that the sentiment, to let it alone?

Mr. CONDON. Yes; it is dying out, and it will be dead when this generation passes away. It will not even leave a memory behind in twenty years.

Mr. VAN COTT. What is your opinion, Doctor, judging by the last fourteen years, as to how rapidly the difficulties out there are solving themselves?

Mr. CONDON. Marvelously, if that is a definite answer enough.

Mr. VAN COTT. I think that is sufficient, Doctor. Was there anything in the atmosphere or any other place out there that greatly surprised you because Mr. Smoot was a candidate for the United States Senate?

Mr. CONDON. No, sir; it was expected that he would be for years—several years, four or five.

Mr. VAN COTT. That is all.

The CHAIRMAN. I understood you to say, Doctor, that polygamy was dead.

Mr. CONDON. Yes, sir; polygamy, that is what I meant.

The CHAIRMAN. Is polygamous cohabitation dead?

Mr. CONDON. No, sir; it is like the extremity of a snake that wriggles until the sun goes down.

The CHAIRMAN. And it wriggles every day?

Mr. CONDON. Well, feebly; yes, sir.

The CHAIRMAN. You say you did not know that Mr. Smoot was an apostle when you voted for him?

Mr. CONDON. No, sir; I did not take it into consideration.

The CHAIRMAN. Would you have taken the question into consideration if Joseph F. Smith had been the candidate?

Mr. CONDON. Yes, sir.

The CHAIRMAN. What would you have done in that case?

Mr. CONDON. I should certainly have voted against him and done everything I could to defeat him.

The CHAIRMAN. Why?

Mr. CONDON. Because he is living in open polygamy—it is notorious—but Mr. Smoot is a clean man.

The CHAIRMAN. Yes; that seems so from the evidence. Mr. Tayler, you may inquire.

Mr. TAYLER. You say polygamy was dead until you got down there and found it was not. Was that intended to be ironical?

Mr. CONDON. I found it seemed not to be.

Mr. TAYLER. That is to say, you deny that any polygamous marriages have taken place within the last ten years, do you?

Mr. CONDON. No, sir; I can not deny what I do not know. I do not know of any that have taken place.

Mr. TAYLER. How do you know it is dead if you can not deny that?

Mr. CONDON. I see no manifestation of it.

Mr. TAYLER. You said it was dead.

Mr. CONDON. It is dead.

Mr. TAYLER. That is to say, then, you know there are no polygamous marriages occurring?

Mr. CONDON. If there were polygamous marriages occurring, I think I would know it.

Mr. TAYLER. Was Abram H. Cannon, an apostle, polygamously married a few years ago?

Mr. CONDON. I do not know.

Mr. TAYLER. Do you say he was not? You say you would have known it if he had, do you not?

Mr. CONDON. I did not mean to say there were no sporadic cases.

Mr. TAYLER. There were no sporadic cases?

Mr. CONDON. I did not mean to say there were not any.

Mr. TAYLER. How many cases does it take to escape the definition of sporadic?

Mr. CONDON. I am glad you have asked me that question. I am willing to say 30 cases. While I suppose there is no definite line of demarkation that can be thrown around it, I am willing to say that 30 cases would.

Mr. TAYLER. You would call 30 cases the limit of the sporadic?

Mr. CONDON. For your convenience. I would be willing to meet you on that ground and admit it.

Mr. TAYLER. How can polygamy die or be dead with 30 sporadic cases?

Mr. CONDON. I do not believe there are 30 sporadic cases.

Mr. TAYLER. I do not ask you that. You told us if there were sporadic cases that would not interfere with the statement, but can polygamy be dead if there are sporadic cases?

Mr. CONDON. Can it be dead practically?

Mr. TAYLER. Yes, sir.

Mr. CONDON. Yes; it can.

Mr. TAYLER. Did you learn something down here that you did not know at home?

Mr. CONDON. Yes.

Mr. TAYLER. What?

Mr. CONDON. I learned that George Sutherland's wife was the daughter of John D. Lee.

Mr. TAYLER. You have heard it here in this room, have you?

Mr. CONDON. Yes; I believe I read it.

Mr. TAYLER. You heard it in the testimony, did you?

Mr. CONDON. No; I believe I read it in the Washington Star. But I think I was sitting in this room. That is a good deal of news to me.

Mr. TAYLER. What else did you learn down here?

Mr. CONDON. Well, there are some things that it would be hardly proper for me to state here at this table.

Mr. TAYLER. It would be hardly proper?

Mr. CONDON. Yes.

Mr. TAYLER. But you told us you learned that polygamy was not dead after you got down here. How did you learn it?

Mr. CONDON. I learned it by what I have read. I did not mean what I learned before this committee, I meant here in Washington.

Mr. TAYLER. Oh!

Mr. CONDON. Yes; that is what I meant.

Mr. TAYLER. That is what you meant?

Mr. CONDON. Yes, sir.

Mr. TAYLER. Was there not a lot of testimony before the committee indicating that polygamy was not dead?

Mr. CONDON. I said it was practically dead.

Mr. TAYLER. Never mind the adverb. You did not put it in before.

Mr. CONDON. Well, I qualify it and put it in now.

Mr. TAYLER. You say also you only know one polgamist in Weber County?

Mr. WORTHINGTON. No; he did not say that.

Mr. CONDON. I do not even know that he is in polygamy.

Mr. TAYLER. Exactly. Counsel's explanation was wholly unnecessary. You do not even know that.

Mr. CONDON. No; Mr. Tayler, I do not.

Mr. TAYLER. You do not?

Mr. CONDON. No, sir.

Mr. TAYLER. What do you mean by that?

Mr. CONDON. I mean that I do not know. I mean just what I say.

Mr. TAYLER. Therefore you do not know whether there is a single married man in the city of Ogden unless you were present at his marriage?

Mr. CONDON. No; I do not mean anything of the kind.

Mr. TAYLER. Is it not as well established a fact that there are polygamous wives in Weber County as that a man has a legal wife?

Mr. CONDON. No, sir.

Mr. TAYLER. So that you do not know of any, therefore?

Mr. CONDON. Any what?

Mr. TAYLER. I did not say anything. Any man there with plural wives.

Mr. CONDON. I do not.

Mr. TAYLER. Nobody that is reputed in the community?

Mr. CONDON. I did not say so.

Mr. TAYLER. Just as your neighbor is reputed to be married?

Mr. CONDON. I did not say so.

Mr. TAYLER. Very well. Is there?

Mr. CONDON. I said I know one who has the reputation of being a polygamist.

Mr. TAYLER. Does anybody deny it? Does anybody deny that he is a polygamist?

Mr. CONDON. Well, sir, I do not know. That question you are putting is negative. How can I tell?

Mr. TAYLER. Do you know him?

Mr. CONDON. Do I know him? I know him well.

Mr. TAYLER. You have not discussed with him as to whether he has a plural wife or not?

Mr. CONDON. No; I do not stick my nose into other people's business to that extent.

Mr. TAYLER. I am obliged for the answer, which is quite informing to us, because you are not sticking your nose into any business now.

Mr. CONDON. How would I be rude enough? It is a rude question, Mr. Tayler.

Mr. TAYLER. I want to get at the state of your mind. Therefore you are ready to say that you believe a grave injustice is done to this friend to yours by charging that he has a polygamous wife?

Mr. CONDON. I do not.

Mr. TAYLER. Do you believe it?

Mr. CONDON. Believe he has one?

Mr. TAYLER. Yes.

Mr. CONDON. I have never consulted my mind, whether I do or not.

Mr. TAYLER. Do you believe it? Consult it now, for us.

Mr. CONDON. I will have to deliberate over it. If you will hold this committee in session for a couple of hours, probably I will.

Mr. TAYLER. The committee will give you time to deliberate with yourself.

Mr. CONDON. Unless the chairman directs me to answer, I shall decline to answer it.

The CHAIRMAN. Doctor, can you not state to the committee your judgment on that question, from your acquaintance?

Mr. CONDON. Whether I believe he is?

The CHAIRMAN. Yes. What is your best opinion in regard to it?

Mr. CONDON. Possibly he is a polygamist.

Mr. TAYLER. Is that the best you can do?

Mr. CONDON. That is the best I can do.

Mr. TAYLER. Possibly?

Mr. CONDON. Possibly.

Mr. TAYLER. Then, do you believe he is a polygamist?

Mr. CONDON. Really, I have no knowledge in the matter at all.

Mr. TAYLER. You have no belief about it?

Mr. CONDON. No, I have not; because it does not concern me enough to have a belief.

Mr. TAYLER. Have you heard of anybody else being reputed to be a polygamist there?

Mr. CONDON. No, sir. Let me see——

Mr. TAYLER. You have not?

Mr. CONDON. Let me see.

Mr. TAYLER. You said you know everybody in the county, did you not?

Mr. CONDON. Just one moment. You go too fast.

Mr. TAYLER. We will give you time enough to think about that, too.

Mr. CONDON. I would like to correct that statement. I believe I have heard of another.

Mr. TAYLER. Who is he?

Mr. CONDON. I decline to say.

Mr. TAYLER. You decline to say?

Mr. CONDON. Unless I am directed to say what his name is.

Mr. TAYLER. I think the chairman would direct you to answer that question. Did you get it in your professional relationship, under the seal of secrecy of the physician's profession?

Mr. CONDON. I do not like to be a spy on my neighbors.

Mr. TAYLER. I have not asked you if you looked in the window or saw anything that was wrong. I am asking you about repute. Do you have to spy to get repute?

Mr. CONDON. Is this a proper place to use those names?

Mr. TAYLER. It certainly is the place to use them.

Mr. CONDON. Supposing it should turn out that he was not a polygamist? Would I not be amenable for——

The CHAIRMAN. Doctor, you are simply testifying as to reputation. What is the reputation in regard to it?

Mr. CONDON. Well, Mr. Pingree.

Mr. TAYLER. Mr. James Pingree?

Mr. CONDON. Yes, sir.

Mr. TAYLER. Was there any special circumstance that emphasized his repute, recently?

Mr. CONDON. I can not say that there is.

Mr. TAYLER. Did two of his wives have children on the same day, or thereabouts?

Mr. CONDON. Polygamous wives?

Mr. TAYLER. Yes, sir. I do not know whether they are both polygamous or not, but one would have to be. Did you hear of that?

Mr. CONDON. I do not know.

Mr. TAYLER. You do not know?

Mr. CONDON. No, sir.

Mr. TAYLER. What is his business?

Mr. CONDON. He is a banker.

Mr. TAYLER. Do you know him well?

Mr. CONDON. I know him well.

Mr. TAYLER. Did you know of both of his wives having children about the same time?

Mr. CONDON. I did not.

Mr. TAYLER. Do you know of anybody else who is reputed to be a polygamist there?

Mr. CONDON. I do not.

Mr. TAYLER. Do you know Charles Greenwell?

Mr. CONDON. Yes, sir.

Mr. TAYLER. Is he reputed to be a polygamist?

Mr. CONDON. Not since the manifesto.

Mr. TAYLER. What has he done with his wives?

Mr. CONDON. What has he done with his wives?

Mr. TAYLER. Yes; has he separated from them, or are they dead?

Mr. CONDON. I never heard that he took one since the manifesto.

Mr. TAYLER. I am not talking about that. How many wives had he before the manifesto.

Mr. CONDON. I think he had two.

Mr. TAYLER. How many has he now?

Mr. CONDON. I do not know.

Mr. TAYLER. Is he reputed to have five wives, or four, or three, now?

Mr. CONDON. I never heard so.

Mr. TAYLER. Do you know a man named Burton?

Mr. CONDON. I know several by the name of Burton.

Mr. TAYLER. W. W. Burton?

Mr. CONDON. W. W. Burton? Yes; I think I do.

Mr. TAYLER. Is he reputed to be a polygamist?

Mr. CONDON. Not to my knowledge. I never heard so.

Mr. TAYLER. Do you know a man named Marriott?

Mr. CONDON. There are several Marriotts.

Mr. TAYLER. Maroni Marriott?

Mr. CONDON. Yes.

Mr. TAYLER. Is he reputed to be a polygamist?

Mr. CONDON. He was reputed to be a polygamist before the manifesto, and those were the three I had reference to—that I had already named over.

Mr. TAYLER. Is he reputed to be a polygamist now?

Mr. CONDON. He has the same wife that he had before the manifesto—the same plural wives.

Mr. TAYLER. The same plural wives?

Mr. CONDON. Yes, sir.

Mr. TAYLER. So that there is a third polygamist?

Mr. CONDON. Yes, sir; that is what I admitted.

Mr. TAYLER. Aaron Farr? Do you know him?

Mr. CONDON. Yes, sir.

Mr. TAYLER. Is he reputed to be a polygamist?

Mr. CONDON. He is dead.

Mr. TAYLER. He is dead?

Mr. CONDON. Oh, Aaron Farr. There are two Aaron Farris, father and son.

Mr. TAYLER. I am referring to the one who is living. Naturally I would. Is he reputed to be a polygamist?

Mr. CONDON. He does not live in Ogden.

The CHAIRMAN. Doctor, the question is what is his reputation.

Mr. CONDON. His reputation before he went away from Ogden was that he was in polygamy.

Mr. TAYLER. How long ago was that?

Mr. CONDON. A year or such matter—a year and a half, possibly.

Mr. TAYLER. Winslow Farr. Do you know him?

Mr. CONDON. If you will excuse me, I want to correct my testimony there. I had reference to Winslow Farr. I know nothing about Aaron Farr.

Mr. TAYLER. Winslow Farr, then, is reputed to be a polygamist?

Mr. CONDON. Yes, sir.

Mr. TAYLER. Do you know Margaret Geddes?

Mr. CONDON. No, sir.

Mr. TAYLER. Doctor, you have lived there, as you, said, how long; twenty-five years?

Mr. CONDON. Yes, sir.

Mr. TAYLER. When a woman lives in a community with a reputation for chastity, without a husband apparent, who has children and continues to be respectable, and is considered chaste according to the standard of morals of the Mormon people, you infer that she is married, do you not?

Mr. CONDON. I would. If I knew of the circumstance, I would.

Mr. TAYLER. I am assuming the circumstances to be as I have stated them.

Mr. CONDON. Yes.

Mr. TAYLER. Now, if Mrs. Margaret Geddes is in that state, a widow whose husband has been dead for twelve years or so; who has a child now five years old; who seems to be in fact, and who is believed to be in her community, a woman of good character and chaste, would you not say from your experience in that neighborhood that she is the wife of somebody now and was when this child was born?

Mr. CONDON. Well, Mr. Tayler, I think she was, or else there had been the exhibition of another miracle.

Mr. TAYLER. That is all.

The CHAIRMAN. Have you any other questions to ask this witness, gentlemen?

Mr. VAN COTT. That is all we have to-day.

The CHAIRMAN. Then the committee will stand adjourned until to-morrow morning at 10 o'clock.

The committee (at 5 o'clock and 15 minutes p. m.) adjourned until Tuesday, January 17, 1905, at 10 o'clock a. m.

WASHINGTON, D. C., *January 17, 1906.*

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

Present: Senators Burrows (chairman), McComas, and Overman; also Senator Smoot; also Robert W. Tayler, counsel for the protestants; and A. S. Worthington and Waldemar Van Cott, counsel for the respondent.

The CHAIRMAN. Is Judge McCarty here, do you know?

Mr. WORTHINGTON. He is.

The CHAIRMAN. I should like to ask the judge a question for my own information.

TESTIMONY OF W. M. McCARTY—Recalled.

W. M. McCARTY, having previously been duly sworn, was examined, and testified as follows:

The CHAIRMAN. I understood you to say, and the committee would like to be advised of it more fully, that in making up a State ticket or a national ticket—any ticket—it was generally understood that the offices should be divided between the Mormons and the Gentiles?

Mr. McCARTY. There is no settled and established rule, but that has always been the case. It is a matter that has caused, or rather was the source of considerable comment and a side discussion among the politicians, that it would not do to place too many Mormons or too many Gentiles, but that there must be a sort of an equilibrium.

The CHAIRMAN. I suppose—of course you know about it—that the Mormons would have the power to nominate the whole ticket?

Mr. McCARTY. Oh, they would have the absolute power to nominate and elect every officer in the State, except probably a few local officers in some of the mining camps, where the Gentiles are in the majority. But on the State ticket they could nominate every candidate from the governor down.

The CHAIRMAN. But they do not do it?

Mr. McCARTY. They do not do it.

And I will say, Mr. Chairman, in regard to the judiciary, while there is no understanding, yet they were practically turned over to the non-Mormons, with the exception of some of the district judges. The supreme court has been composed entirely of Gentiles since statehood.

The CHAIRMAN. I want to inquire, Judge, whether this tacit understanding that the offices are to be divided between the Mormons and the Gentiles is the result of a conference between members of the church and Gentiles?

Mr. McCARTY. Oh, no. That is due entirely to the politicians. As I stated yesterday, there is too much prominence given to the church there. I believe that the leaders of the church have a disposition to keep clear of those matters, but they are nagged, and politicians seek those conferences, interviews; in fact, while it did not come to the surface, I know that chairmen, especially in the Republican party, of which I am a member, have been selected; that is, that prominent Gentiles have insisted that certain men be elected chairmen, because in case they desired they could get the ear of the people on the hill, as they are termed.

The CHAIRMAN. Meaning whom?

Mr. McCARTY. The first presidency.

The CHAIRMAN. That is all.

Mr. VAN COTT. Sometimes the Representatives in Congress from Utah have all been Gentiles; have they not; none of them Mormons?

Mr. WORTHINGTON. You mean Senators and Representatives?

Mr. VAN COTT. Yes. I call your attention to the fact that at one time Senator Rawlins and Senator Kearns were here together, both Gentiles.

Mr. McCARTY. Yes, sir.

Mr. VAN COTT. And George Sutherland was in the House of Representatives?

Mr. McCARTY. Yes, sir.

Mr. VAN COTT. And he is a Gentile?

Mr. McCARTY. A Gentile.

The CHAIRMAN. I want a fuller statement as to the division between the Mormons and the Gentiles in Senatorial representation.

Mr. McCARTY. Yes. There is no express agreement or anything of that kind, but among the politicians and among the Gentiles and the Mormons generally—I am speaking of the masses now—there is an understanding that there will be one Gentile Senator and one Mormon Senator.

The CHAIRMAN. That is all.

Mr. VAN COTT. That is all, Judge.

The CHAIRMAN. Who is your next witness?

Mr. VAN COTT. R. W. Young.

The CHAIRMAN. Mr. Young, take the stand.

TESTIMONY OF RICHARD W. YOUNG.

RICHARD W. YOUNG, being duly sworn, was examined, and testified as follows:

Mr. VAN COTT. What is your age?

Mr. YOUNG. Forty-six.

Mr. VAN COTT. Where were you born?

Mr. YOUNG. Salt Lake City.

Mr. VAN COTT. Has that been your residence during your lifetime?

Mr. YOUNG. It has been my legal residence. I have been away considerably at times.

Mr. VAN COTT. Mr. Young, in your early life, did you attend West Point?

Mr. YOUNG. I did.

Mr. VAN COTT. And graduated there?

Mr. YOUNG. Yes, sir.

Mr. VAN COTT. And which was your department of service?

Mr. YOUNG. I was in the United States Artillery and also in the Judge-Advocate's department for a time.

Mr. VAN COTT. Did you serve in that department?

Mr. YOUNG. Which department?

Mr. VAN COTT. The Judge-Advocate's department?

Mr. YOUNG. Yes; for a couple of years.

Mr. VAN COTT. Before that had you qualified yourself in any way for the position?

Mr. YOUNG. Yes; I had graduated at the law school of Columbia College, in New York City.

Mr. VAN COTT. Were you in any special territory while you were judge-advocate, or was it general?

Mr. YOUNG. No; I was the judge-advocate of the Department of the East, stationed at Governors Island, New York City.

Mr. VAN COTT. Did you remain in the Army for any time?

Mr. YOUNG. I did for seven years after graduation; four years at the academy.

Mr. VAN COTT. Where were you stationed during that time?

Mr. YOUNG. At Governors Island and at Fort Douglas, in Utah.

Mr. VAN COTT. Then what did you do?

Mr. YOUNG. I resigned from the service for the purpose of practicing law in Salt Lake City.

Mr. VAN COTT. And did you practice law?

Mr. YOUNG. I did; yes, sir.

Mr. VAN COTT. You were in that profession for a number of years?

Mr. YOUNG. I was, and am still.

Mr. VAN COTT. From there did you go back into the Army?

Mr. YOUNG. I went into the volunteer service.

Mr. VAN COTT. When?

Mr. YOUNG. In May of 1898.

Mr. VAN COTT. And did you do service outside of the United States?

Mr. YOUNG. I did.

Mr. VAN COTT. Where?

Mr. YOUNG. In the Philippine Islands.

Mr. VAN COTT. How long were you with the Army?

Mr. YOUNG. I was there until the organization with which I was connected was sent home to be mustered out; approximately one year; and I returned for two years more to the islands.

Mr. VAN COTT. When were you mustered out?

Mr. YOUNG. In July of 1899.

Mr. VAN COTT. Did you still remain in the Philippines?

Mr. YOUNG. I did.

Mr. VAN COTT. And what did you do there?

Mr. YOUNG. I was a magistrate; subsequently the president of the criminal branch of the supreme court.

Mr. VAN COTT. Is that the highest court in the Philippine Islands?

Mr. YOUNG. It is.

Mr. VAN COTT. Is that an appointive Federal position?

Mr. YOUNG. It was a court that was established by General Otis as the military governor of the islands.

Mr. VAN COTT. And appointed how?

Mr. YOUNG. By General Otis.

Mr. VAN COTT. How long did you remain in the Philippine Islands?

Mr. YOUNG. Three years altogether.

Mr. VAN COTT. And then you came back to Utah?

Mr. YOUNG. Yes, sir.

Mr. VAN COTT. When did you return?

Mr. YOUNG. 1901, in July.

Mr. VAN COTT. And you have resided in Salt Lake City since?

Mr. YOUNG. I have.

Mr. VAN COTT. And in what practice?

Mr. YOUNG. The practice of the law.

Mr. VAN COTT. Since that time. In politics what are you?

Mr. YOUNG. A Democrat.

Mr. VAN COTT. Have you always been?

Mr. YOUNG. Always.

Mr. VAN COTT. Are you a member of the Mormon Church?

Mr. YOUNG. I am.

Mr. VAN COTT. Have you always been?

Mr. YOUNG. I have.

Mr. VAN COTT. Have you ever been a polygamist?

Mr. YOUNG. I never have.

Mr. VAN COTT. Are you any relation to Brigham Young?

Mr. YOUNG. I am a grandson.

Mr. VAN COTT. And your father's name was what?

Mr. YOUNG. Joseph A.

Mr. VAN COTT. Do you hold any official position now in the Mormon Church?

Mr. YOUNG. I do.

Mr. VAN COTT. What?

Mr. YOUNG. I am president of one of the four stakes into which the city of Salt Lake is divided.

Mr. VAN COTT. Formerly the Salt Lake Stake of Zion took in the whole of Salt Lake County?

Mr. YOUNG. Yes, sir.

Mr. VAN COTT. And Salt Lake City has been divided into four stakes?

Mr. YOUNG. Yes, sir; and the county has been divided into two additional stakes.

Mr. VAN COTT. Making six for the county?

Mr. YOUNG. Yes, sir; six for the county.

Mr. VAN COTT. Calling attention first to the city, when was Salt Lake City divided into these stakes?

Mr. YOUNG. In the early part of last year.

Mr. VAN COTT. Are you appointed by the first presidency?

Mr. YOUNG. I was.

Mr. VAN COTT. Who is president of one of the other stakes in the city?

Mr. YOUNG. Nephi L. Morris is president of Salt Lake Stake.

Mr. VAN COTT. Is he a monogamist or a polygamist?

Mr. YOUNG. He is a bachelor.

Mr. VAN COTT. A bachelor?

Mr. YOUNG. Yes.

Mr. VAN COTT. Who is president of one of the other stakes?

Mr. YOUNG. A man by the name of McLachlan.

Mr. VAN COTT. Is he a polygamist or reputed to be one, or a monogamist?

Mr. YOUNG. I have no information on that subject.

Mr. VAN COTT. Who is one of the others?

Mr. YOUNG. Hugh L. Cannon is president of the fourth stake.

Mr. VAN COTT. Is he a monogamist or a polygamist?

Mr. YOUNG. I understand he is a monogamist.

Mr. VAN COTT. And in the county, when were the stakes created?

Mr. YOUNG. Several years ago; three or four years ago.

Mr. VAN COTT. Who is president of one of them?

Mr. YOUNG. Frank Y. Taylor.

Mr. VAN COTT. Is he a monogamist or a polygamist?

Mr. YOUNG. I have no information on the subject; I believe him to be a monogamist.

Mr. VAN COTT. And who is president of the other stake?

Mr. YOUNG. A man by the name of Goff.

Mr. VAN COTT. What is the reputé as to whether he is a polygamist or a monogamist?

Mr. YOUNG. I have no information on the subject, or belief.

Mr. VAN COTT. Calling attention, now, to the polygamy question, have you, in your residence in Salt Lake City, traveled over the State considerably?

Mr. YOUNG. Yes, sir; considerably.

Mr. VAN COTT. In politics or otherwise?

Mr. YOUNG. Politics and otherwise.

Mr. VAN COTT. Have you been in most of the settlements in Utah?

Mr. YOUNG. Yes; one time or another in my life.

Mr. VAN COTT. What is the sentiment of the Mormon people regarding the entering into polygamy since the manifesto?

Mr. YOUNG. It is decidedly hostile.

Mr. VAN COTT. What would you say as to whether the mere issuance of the manifesto created a sentiment against polygamy, or whether the manifesto was the mere expression of a sentiment already existing in Utah?

Mr. YOUNG. I should say that it was the result both of a sentiment and the creation of a sentiment—an additional sentiment.

Mr. VAN COTT. What are your own views as to whether it is right to practice polygamy, since the manifesto?

Mr. YOUNG. I believe it is not right.

Mr. VAN COTT. Do you know whether there is any teaching or promulgation of polygamy, or whether it is discountenanced in the councils and quorums of the Mormon Church?

Mr. YOUNG. There has been, so far as my knowledge extends, and I have had, I suppose, good opportunities of observation, absolutely no teaching of the principle of polygamy since the manifesto.

I will state by way of explanation that the subject, of course, is referred to necessarily by reason of the large part that it has played in our history, and also owing to the fact that most of the non-Mormon world regard Mormonism and polygamy as being about the same thing; there is a necessity, a constant necessity, of answering some questions and referring to the subject in one way or another.

Mr. VAN COTT. Do you know of its being discouraged or not in the quorums and councils of the Mormon Church?

Mr. YOUNG. Certainly. There has been no other view of the subject taken than that of discouragement.

Mr. VAN COTT. Since the manifesto?

Mr. YOUNG. Yes, sir; since the manifesto.

Mr. VAN COTT. Calling your attention, now, to what has often been referred to here as the Charles E. Merrill case, where a man has a plurality of wives and his legal wife dies, and thereupon he does not marry one of his plural wives, but marries an entirely different woman, I should like to know the sentiment of the Mormon people on that proposition—and your sentiment.

Mr. YOUNG. I quite agree with the opinion that was expressed here yesterday by Judge Smith, that the Mormon sentiment is that the marriage ought to be with the plural wife; the one who had been the plural wife.

Mr. VAN COTT. Calling your attention, now, to politics, there has been mentioned this matter of whisperings. I wish you would explain your views about it, and who it is that does that, and whether or not it is resented by members of the Mormon Church?

Mr. YOUNG. We have heard whisperings in various political campaigns—that which seems to be denominated whisperings here. But I know of no instance where whisperings have been traced back to the authorities of the church, either generally or in the stake. What little experience I have had on that subject has been that those whisperings have originated with underlings in the church organization having political axes to grind.

Mr. VAN COTT. And when you undertake to run down to earth any of those underlings who claim that the church desires people to vote in a certain way, have you ever been able to find an instance where they would admit finally, when brought face to face with the charge, that they were so authorized?

Mr. YOUNG. I do not recall, Mr. Van Cott, any instance in which I have ever run one of them down.

Mr. VAN COTT. Or of anyone else?

Mr. YOUNG. I can only speak of the general understanding. My belief has been that the authorities of the church have been sincere in their declarations to the effect that they desired to exert no influence over the political actions of church members.

I might, perhaps, in this connection, refer to my own experiences in that regard.

Mr. VAN COTT. Yes.

Mr. YOUNG. No person has ever suggested or indicated what my politics should be. No person has ever suggested or indicated how I should vote. No person has ever endeavored to interfere in any way with my running for any office.

And, answering a question which you asked, the second or third question before this, the people do resent any attempt at interference with their political liberty.

Mr. WORTHINGTON. The Mormon people?

Mr. YOUNG. The Mormon people; and that for many reasons, one of which is this: The authorities of the church have declared time and again, they declared when this movement was first inaugurated, in the Salt Lake Times; President Woodruff declared later in an official document, which was published at the head of the editorial columns of the News, and repeatedly on other occasions, that they had no desire in any way to control the politics of the members of the church; and I think the Mormon people have accepted that in absolute good faith. I know that, personally, when I have heard the whisperings which have been referred to, I have taken very great pleasure in reading before political meetings these official declarations of the officers of the church as an answer, an authoritative answer, to anything of that sort.

Mr. VAN COTT. Do you know what the politics is in Washington County, Utah?

Mr. YOUNG. Washington County, Utah!

Mr. VAN COTT. Yes; whether Democratic or Republican?

Mr. YOUNG. That is the stronghold of the Democratic party in the State of Utah.

Mr. VAN COTT. About what per cent of the voters there would you say are Mormons?

Mr. YOUNG. I could only speak from general impression. I should think 95 per cent of the voters there are Mormons.

Mr. VAN COTT. Was Senator Smoot, when he was a candidate, able to carry that county for the Republican ticket?

Mr. YOUNG. I think the legislative ticket was quite badly defeated in that county.

Mr. VAN COTT. Has the Republican party ever been able to carry that county?

Mr. YOUNG. Never.

Mr. VAN COTT. I should like a little more fully on record here the intensity of the feeling of the Mormon people in regard to carrying out this manifesto and in abstaining from polygamy, and their feelings in regard to rumors and charges; as to how they feel against certain members of the Mormon Church who are reputed to have done that thing?

Mr. YOUNG. I may state that as I understand the figures—and in looking over the proceedings of this committee I saw estimates made, I believe, by Senator Dubois, which are presumed to be substantially correct, giving at least a large enough percentage of polygamists—I understand that not more than 20 to 25 per cent of the marriageable Mormons ever did go into polygamy, even in the days when polygamy was preached, and you may say enforced, so far as advice and counsel could enforce it upon the people, which I take it, if I may be allowed to offer the suggestion, was an indication that the people, the majority of the people, were never truly converted to the principle of polygamy, or at least to the living of it.

When the manifesto was issued, it was, of course, after a period of some seven or eight years of stress in our local affairs. Many people had been punished, fined, and had gone to the penitentiary, and many others were in hiding, and there was a great deal of distress by reason of that fact; and naturally that sort of thing would tire the people of any attempt to live the principle of polygamy.

I believe that the Mormon people have accepted the manifesto as an inspiration. I think they were thoroughly in harmony with the presidency who announced it. I think their sentiment, as you have previously suggested, was in favor of doing away with polygamy before it was announced—the sentiment of the overwhelming majority of the people. I think the majority of the people, regarding it as an inspiration, believe for that reason in observing it. I believe that practically all the people hold they are under obligations—obligations with the Gentile population of the State, and with the country, with the nation—to observe that manifesto in its spirit.

I may say that personally—and I fancy I have had some rather good opportunities of information—I never suspected, until within a year or so, that there had been any violation of the manifesto with reference to new marriages. The idea had not crossed my mind. I would have sworn, at least to my belief, that polygamous marriages had absolutely terminated, until the proceedings before the grand jury that were referred to yesterday were had, except in the one case,

I will state, of Apostle Abraham Cannon, concerning whom there were some rumors. As to the facts I knew nothing. I had no real impression upon that subject.

I believe I may state that the people—the great majority, practically all of the people—believe in the doing away of plural marriages, and that is not confined to the young Mormons. It includes the middle-aged and it includes those even who are polygamists. I have talked with polygamists—old-time polygamists—on this subject.

Mr. WORTHINGTON. You mean it is not confined to any one of those classes?

Mr. YOUNG. It is not confined to any one class. It is general throughout the church.

Mr. VAN COTT. Mr. Young, you must have heard more or less discussion about the repute of Abraham H. Cannon marrying Lillian Hamlin?

Mr. YOUNG. I have.

Mr. VAN COTT. Speaking of the discussion among Mormons, was it one of approval, or condemnation?

Mr. YOUNG. One of condemnation.

Mr. VAN COTT. So far as the abstract principle of polygamy is concerned—I refer merely to the belief and nothing else—I suppose, as a general rule, Mormons believe in the abstract principle?

Mr. YOUNG. Unquestionably; yes, sir.

Mr. VAN COTT. But so far as the practice is concerned and so far as concerns conforming to the law, the sentiment and the belief are as you have expressed them to be?

Mr. YOUNG. Yes, sir.

Mr. WORTHINGTON. Let me ask you a question or two. Have you been a candidate for office?

Mr. YOUNG. I have.

Mr. WORTHINGTON. For what office?

Mr. YOUNG. Since statehood?

Mr. WORTHINGTON. Yes.

Mr. YOUNG. I have twice been on the Democratic ticket for the supreme court of the State.

Mr. WORTHINGTON. Who was your opponent when you last ran? You were one of three?

Mr. YOUNG. At the first State election I was one of three.

Mr. WORTHINGTON. And at the last election?

Mr. YOUNG. I was the only candidate on the ticket for that office.

Mr. WORTHINGTON. In both cases Gentiles were elected?

Mr. YOUNG. Yes, sir; in both cases. At the first State election there were two Mormons upon the Democratic ticket—Judge Thurman, of Provo, and myself. Our opponents were Judge Miner, who was here yesterday, and Judge Zane, and Judge Barch, all three of whom were non-Mormons.

Mr. WORTHINGTON. It follows, perhaps, from what you have said, but I should like to ask you what your observation is, how closely the Mormons adhere to party lines, as Democrats and Republicans, as compared with non-Mormons?

Mr. YOUNG. I agree with the sentiment expressed by several of the witnesses yesterday, that I believe the Mormons are less independent in their voting than the non-Mormons of the State.

I believe that that is true largely because of their desire to avoid the

suspicion of being influenced by the church. I may say that that has been my own frame of mind many times when I have gone to the polls. I have voted for men on my ticket with whom I was not acquainted, who, perhaps, had been but a short time in the country, for whom I felt I would not have voted—whom I would have scratched, perhaps, in favor of some old-time friend of mine who was upon the opposition ticket, if I had not been controlled by the motive I mentioned; and I believe that extends very largely among the Mormon people.

Mr. WORTHINGTON. You made a remark awhile ago that is clear enough, but it might not be to those not familiar with your politics. You said Mr. Smoot did not carry Washington County when he was a candidate. Will you explain what you mean by the term "when he was a candidate?"

Mr. YOUNG. Two years ago last fall it was understood that Senator Smoot would be a candidate before the legislature for election to the Senate, and the issue, as has been described here, very largely turned upon Mr. Smoot's candidacy.

During that time—

Mr. WORTHINGTON. The issue in Washington County, which is almost wholly Mormon, was well understood to be, on the legislative ticket, that if the Republican candidates were elected they would vote for Smoot for Senator?

Mr. YOUNG. Yes, it was.

Mr. WORTHINGTON. And if the others were elected they would not vote for him?

Mr. YOUNG. Certainly.

Mr. WORTHINGTON. And the others were elected?

Mr. YOUNG. The others were elected.

Mr. WORTHINGTON. He being a Mormon and an apostle, and that being known?

Mr. YOUNG. Yes, sir.

Mr. WORTHINGTON. What have you observed as to whether the number of polygamous families has increased or decreased in Utah in the last fourteen years, since the manifesto?

Mr. YOUNG. Speaking from general impression—I have no figures upon the subject—the decrease has been very rapid.

Mr. WORTHINGTON. That is all.

The CHAIRMAN. Mr. Tayler, have you any questions?

Mr. TAYLER. How long have you been president of the stake?

Mr. YOUNG. Since April of last year.

Mr. TAYLER. Are you well acquainted with the other stake presidents in Salt Lake and in Salt Lake County?

Mr. YOUNG. Reasonably well acquainted. I have no intimate relations with them.

Mr. TAYLER. What do you say about Hyrum Goff? He is president of Jordan stake?

Mr. YOUNG. I say I know nothing about his status.

Mr. TAYLER. Do you know anything about his reputed status?

Mr. YOUNG. I know nothing about that, even.

Mr. TAYLER. You never heard he was a polygamist?

Mr. YOUNG. No; I am very slightly acquainted with him and with his reputation in that regard.

Mr. TAYLER. But of course you understand that you may not know

him at all, as of course I do not, and yet have some knowledge of his reputation.

Mr. YOUNG. I have absolutely none, Mr. Tayler.

Mr. TAYLER. As to William McLachlan, who is president of Pioneer stake?

Mr. YOUNG. I know Mr. McLachlan, but I do not know what his reputation is. If I have any suspicion on the subject at all, it would be that he is a polygamist. But it is very indefinite, in my mind.

Mr. TAYLER. I only ask for your knowledge, either of the fact of his life or status or the fact of his reputation. You have no knowledge as to either?

Mr. YOUNG. No knowledge as to either.

Mr. TAYLER. Are there polygamists in the organization of your stake?

Mr. YOUNG. My two counselors are both monogamists. The next officials in authority in that stake would be the high council, composed of 12 members and 6 alternates. I should have to think them over one by one—

Mr. TAYLER. As to the bishops, for instance, take them in the order in which they appear in this little book published by the Deseret News, with which you are doubtless familiar?

Mr. YOUNG. Yes, sir.

Mr. TAYLER. Robert Morris; is he a polygamist?

Mr. YOUNG. Well, I believe so. I have no—

Mr. TAYLER. Thomas Williams?

Mr. YOUNG. He is a monogamist, I understand.

Mr. TAYLER. Nelson Empey?

Mr. YOUNG. He is now dead. He died several months ago. His successor is a monogamist.

Mr. TAYLER. Orson F. Whitney?

Mr. YOUNG. He was a polygamist some years ago, but he is now a monogamist. One of his wives died.

Mr. VAN COTT. Did Mr. Whitney marry his plural wife when his legal wife died?

Mr. YOUNG. That is my belief.

Mr. TAYLER. George Romney?

Mr. YOUNG. George Romney is a polygamist.

Mr. TAYLER. Marcellus Wooley?

Mr. YOUNG. I feel quite certain he is a monogamist. I have never heard anything to the contrary.

Mr. TAYLER. James Maxwell?

Mr. YOUNG. The same with reference to him.

Mr. TAYLER. That completes the list of your bishops?

Mr. YOUNG. Yes; there are seven wards in that stake.

Mr. TAYLER. You were of those who felt that the manifesto was inspired?

Mr. YOUNG. That was my belief; yes, sir.

Mr. TAYLER. That is the belief of the church generally; I mean the church membership?

Mr. YOUNG. It is.

Mr. TAYLER. Did you understand that it was necessary that the church should meet in conference and vote that it was an inspiration before it would be accepted as such?

Mr. YOUNG. I understand that to be the rule.

Mr. TAYLER. What was the effect of the rule—to accept the inspiration or to admit that it was an inspiration or revelation?

Mr. YOUNG. I think probably you might say that it was both.

Mr. TAYLER. So that whatever God revealed as His will and wish upon His people was not to be obeyed by them unless they consented to it?

Mr. YOUNG. With reference to that point, my belief would be this: Whether the people accepted such a rule or not would not alter the fact as to whether it was inspired or revealed or not. It is a mere question whether the person voting for it desires to live in conformity with it or not.

Mr. TAYLER. Of course, there is not in the mind of any orthodox Mormon, I suppose—and I seek only knowledge now—the slightest doubt about the Divine origin and propriety of the revelation concerning polygamy?

Mr. YOUNG. Well, Mr. Tayler, there are all sorts of Mormons, as there are all sorts of people belonging to various organizations, and I believe that there are people and always have been people in the Mormon Church who have not accepted that revelation.

But, answering your question, I should say that the overwhelming majority of the members of the Mormon Church have always accepted, and do now accept, what is known as the revelation on celestial marriage as a revelation, and therefore, of course, the statement of a principle which is theoretically correct, true.

Mr. TAYLER. And the manifesto was a revelation, necessarily, of equal validity?

Mr. YOUNG. Yes; I so understood.

Mr. TAYLER. Of course it must have been if it was effective to bring about a suspension of the practice which originated in the first revelation. Now, such being your state of mind, and the state of mind of the Mormon people respecting the entering into polygamous marriage, were you surprised to learn that the charge was made that Apostle Abraham Cannon had taken a plural wife?

Mr. YOUNG. Very much so.

Mr. TAYLER. Did you ever learn of any inquiry being made or investigation pursued with a view of finding out if that was the truth?

Mr. YOUNG. Never.

Mr. TAYLER. Would you not, Colonel, have thought that a just regard for the convictions of the Mormon people as well as the belief and confidence of the rest of the country demanded that it be run to the ground?

Mr. YOUNG. It would seem so to me; yes, sir.

Mr. TAYLER. Did it surprise you to learn, in view of this state of mind in the membership of the church, that Joseph F. Smith, not then president of the church, but one of the counselors and an apostle, should learn, while traveling with Abraham Cannon, that he had a new wife, or that he was traveling with a young woman under such circumstances as must have carried the conviction that she was his new wife, and that Mr. Smith made no objection or inquiry even then, or ever?

Mr. YOUNG. I do not know, Mr. Tayler, whether he ever did make any objection or inquiry.

Mr. TAYLER. He says he did not.

Mr. YOUNG. But, assuming that he did not, I do not know that I would quite like to set myself up as a judge as to why Mr. Smith did or did not do that.

Mr. TAYLER. I did not mean to put you in the attitude of criticising an individual; I was rather inquiring as to a state of things existing. But I do not care to pursue that particular question further.

In view of the persistent charge made and proof of a certain kind that another apostle of the church has taken two plural wives since the manifesto, do you not think that those who are in authority in the church, and for that reason most interested in the attitude in which it appears before the people, should procure the attendance of such a man as a witness here when called for?

Mr. YOUNG. Well, I do not know that they could procure the attendance.

Mr. TAYLER. You do not know that they could? [A pause.] Did you ever hear of the plural marriage of Benjamin Cluff, jr., while president of the Brigham Young University?

Mr. YOUNG. I never heard it until I read the proceedings before this committee.

Mr. TAYLER. Had you ever heard the charge that Apostle Taylor had taken plural wives since the manifesto?

Mr. YOUNG. Never until I read it in these proceedings.

Mr. TAYLER. Had you ever heard that Apostle Cowley had taken a plural wife since the manifesto?

Mr. YOUNG. No; I had not. I do not—

Mr. TAYLER. Had you heard that Apostle Teasdale was charged with having taken a plural wife since the manifesto?

Mr. YOUNG. I saw some discussion of that a year or two ago somewhere; I do not remember just where it was.

Mr. TAYLER. Before this hearing commenced?

Mr. YOUNG. No; I believe not; probably it was subsequent to the hearing.

Mr. TAYLER. That came up last March here. Did you ever hear the charge, before this hearing, that Apostle Brigham Young, jr., had performed a plural marriage ceremony since the manifesto?

Mr. YOUNG. Never.

Mr. TAYLER. So that in respect to the subject of new plural marriages, you had no knowledge, and very slight information in the way of rumor?

Mr. YOUNG. The only case, as I have explained, Mr. Tayler, that I had heard a rumor about, was that of Abraham Cannon, prior to the investigation by the grand jury in Salt Lake County last year.

Mr. TAYLER. Last year?

Mr. YOUNG. Well, I think it was last year. The proceedings were introduced here.

Mr. TAYLER. Those that were referred to?

Mr. YOUNG. Yes, sir.

Mr. TAYLER. That was in 1903.

Mr. YOUNG. The year before last.

Mr. TAYLER. Then it was that you heard the charge made that Tanner had taken a plural wife?

Mr. YOUNG. Yea, sir; H. S. Tanner. That was discussed in the papers.

Mr. TAYLER. And that Silver had taken a plural wife?

Mr. YOUNG. I think not at that time. I have since, however, heard that rumor.

Mr. TAYLER. Had you ever heard it charged that Brigham Young, jr., an apostle, had himself taken a plural wife?

Mr. YOUNG. Never.

Mr. TAYLER. Since 1890?

Mr. YOUNG. Never.

Mr. TAYLER. You have been here for several days listening to the testimony?

Mr. YOUNG. Just yesterday.

Mr. TAYLER. Were you here when any of the witnesses testified respecting the obligation in the endowment ceremonies?

Mr. YOUNG. That was inquired into yesterday.

Mr. TAYLER. And the declination or refusal of the witnesses to state what was contained in the ceremony or in any part of it?

Mr. YOUNG. Yes, sir; I heard that.

Mr. TAYLER. That is fairly representative, I suppose, of the posture that all good Mormons take respecting the disclosure of what occurred in the case of that ceremony?

Mr. YOUNG. I think so, inevitably, from the obligation they feel themselves to be under.

Mr. TAYLER. Let me ask you if this is representative of the sentiment of any considerable number of the Mormon people? It was stated that at a meeting of the Young Men's or the Young Women's Mutual Improvement Society, I think it is called, or as one of the societies of the church is called, I believe—

Mr. YOUNG. There are two societies. There is the Young Men's Mutual Improvement Association and the Young Ladies' Mutual Improvement Association.

Mr. TAYLER. That is the organization of which President Smith testified he is the head?

Mr. YOUNG. Of the Young Men's Association.

Mr. TAYLER. It has been stated—and I want to know if this is possible or if it is what would be in the minds of many good Mormons—that Sunday night last, before a large number of members of the Young Men's Mutual Improvement Association—and Young Women's—at Eureka—where is Eureka?

Mr. YOUNG. It is about 90 miles southwest of Salt Lake City, in Juab County.

Mr. TAYLER. Bishop Daniel Connelly—do you know him?

Mr. YOUNG. I do not.

Mr. TAYLER. Denounced at much length persons who had betrayed temple and endowment oaths at Washington. That would not be an unnatural frame of mind, I suppose, for any good Mormon to be in to whom information had come, whether true or not, that temple and endowment oaths had been given out?

Mr. YOUNG. I presume that would be a natural frame of mind, particularly if the persons who made the disclosure were adherents of the church. It would depend very largely upon that.

Mr. TAYLER. And that he continued then and said:

"They are traitors, and I shall treat them as traitors. I have known men to be shot for betraying oaths. I advise you to not be-

tray your oaths, but to be true to them and not fall into the error of the traitors."

You do not think that fairly represents the state of mind of Mormons generally, do you?

Mr. YOUNG. There are several divisions of the subject, Mr. Tayler.

I would agree with his advice that people should not be traitors. The proposition that he has known traitors to be shot—if he made any such statement—certainly could not have any reference to the affairs of the Mormon Church. He never has heard, I undertake to say, of traitors to the Mormon Church being shot.

Mr. TAYLER. I would not dispute that at all, but I am speaking now wholly of the state of mind in which you would find——

Mr. YOUNG. I think, unquestionably, Mr. Tayler, speaking generally, that would indicate the frame of mind of the Mormon people toward people who would betray those oaths; that having betrayed them they were traitors to that extent, if you may use that expression.

Mr. TAYLER. And that when taken to task for the violence of his language he replied that he was indignant at the witnesses; did not know that a reporter was present or he would have been more careful; but said the United States shoots men for breaking their vows, but that to break the covenants with God, as witnesses had done, is much more sacred than to violate oaths to the Government. Is that a just expression of the state of mind of the Mormon people respecting that kind of a disclosure?

Mr. YOUNG. I scarcely think so. My own view is that an oath is an oath. An oath is always made to the Almighty, and the obligation of it rests upon a person, wherever it may be made, with equal force.

Mr. TAYLER. Do you not think that that is rather an intellectual view that you take of it, Colonel, than otherwise? I mean do you not arrive, with your educated intelligence, at that conclusion by an intellectual process—that an oath is an oath, but that each is equally entitled to your obedience?

Mr. YOUNG. I think not.

Mr. TAYLER. Let me go on, so that you may answer it.

Mr. YOUNG. Yes.

Mr. TAYLER. And that that would not be true of the majority of the people of the Mormon Church, as of any other set of people anywhere?

Mr. YOUNG. No; I do not think that it requires an educated intelligence nor any unusual understanding at all to conclude that the obligation of an oath is equal wherever the oath may be taken. That would be my judgment, and I believe that the Mormon community would take that view.

Mr. TAYLER. Then you think, for instance, that Mormons—and I do not use the word "Mormons" as different from any other kind of people, except as I must use them, for they are the only people referred to who take these ceremonial obligations—would be just as careful and particular in obeying an oath to testify in any sort of a proceeding, a trivial case in a justice's court, and that they would feel under the same obligation, and would as certainly obey that obligation, taken as a witness in a justice's court, as the obligation they take in the Endowment House?

Mr. YOUNG. I am under the impression they would. Of course this is mere speculation.

Mr. TAYLER. Yes.

Mr. YOUNG. But my belief would be that a person who would violate his oath before a justice of the peace would have little scruple in violating an oath he had taken anywhere else; that the same frame of mind which leads him to be a perjurer in one place would make him a perjurer in any place.

Mr. TAYLER. Do you understand that in matters pertaining to the church, Colonel, the church has recognized some latitude as respects the truth?

Mr. YOUNG. I have never understood so; no, sir.

Mr. TAYLER. Have you ever understood that the test—and I am speaking of what concerns the church as a church—of truth or of falsehood is that it is the telling of an untruth to one who is entitled to have the truth, and the question as to who is entitled to have the truth is answered by the person who is stating the fact? Have you ever felt or known that that was a rule or policy of the church?

Mr. YOUNG. Never; and I have no hesitation in denouncing it. It has never come to my knowledge.

Mr. TAYLER. Do you recall in the history of the church the denial of Joseph Smith and Hyrum Smith respecting the belief in or practice of polygamy?

Mr. YOUNG. I believe my attention was called to it a good many years ago; yes.

Mr. TAYLER. How do you explain that in harmony with your denunciation of what I have suggested as the possible policy of the church in respect to such things?

Mr. YOUNG. We are discussing oaths, Mr. Tayler. Were those gentlemen under oath?

Mr. TAYLER. No.

Mr. YOUNG. That puts, of course, a very different phase upon it. That is, I suppose it would.

Mr. TAYLER. Undoubtedly it would.

Mr. YOUNG. I think a truly honorable man ought to observe his word, whether he is under oath or not. But it is not the case you have been supposing.

Mr. TAYLER. I want your answer to be directed to the fact that this statement, whatever it was and whatever truth there was in it, was not a statement under oath.

Mr. YOUNG. I think I had concluded my answer.

Mr. TAYLER. Will you please read the answer?

The reporter read as follows:

“Mr. YOUNG. We are discussing oaths, Mr. Tayler. Were those gentlemen under oath?”

“Mr. TAYLER. No.

“Mr. YOUNG. That puts, of course, a very different phase upon it; that is, I suppose it would.

“Mr. TAYLER. Undoubtedly it would.

“Mr. YOUNG. I think a truly honorable man ought to observe his word whether he is under oath or not. But it is not the case you have been supposing.”

Mr. TAYLER. You recall, of course, that the revelation respecting celestial marriage was reduced to writing in 1843 by Joseph Smith?

Mr. YOUNG. That is my understanding.

Mr. TAYLER. As a matter of fact—I believe it is not a matter of dispute, and if it is I want to be corrected—this revelation had been received prior to that time; I do not know exactly when, but a year or two or three or four years!

Mr. YOUNG. I believe so.

Mr. TAYLER. And that to a very slight extent, in consequence of that revelation, polygamy had been practiced for a short time!

Mr. YOUNG. Yes, sir; that is the belief of the church, I understand. That is my understanding, but I do not know just when it was alleged that the revelation was first received. I think 1848 is the date usually given.

In answering your question I had in mind that the church practiced polygamy prior to the expulsion from Nauvoo and prior to the death of Joseph Smith, which occurred in June of 1844.

Mr. TAYLER. There is no doubt about that.

Mr. YOUNG. But how long before, I have no information.

Mr. TAYLER. Now, in Times and Seasons—and I think there is no dispute historically about the fact that Joseph and Hyrum did issue this proclamation in 1844—I find this:

“NOTICE.

“As we have lately been credibly informed that an elder of the Church of Jesus Christ”——

Mr. WORTHINGTON. What are you reading from?

Mr. TAYLER. I am really reading from the record. It is in the record.

Mr. WORTHINGTON. What was it read into the record from? There must be some starting point.

Mr. TAYLER. It has been published in a thousand places. I am now reading from a little book called “The Truth Defended.”

Mr. WORTHINGTON. It has been published in a thousand places that Senator Smoot is a polygamist, and it is not true.

Mr. TAYLER. Well, this is true.

Mr. WORTHINGTON. That settles it, I suppose.

Mr. TAYLER (reading):

“NOTICE.

“As we have lately been credibly informed”——

I am going to put in some more testimony that will convince even you.

Mr. WORTHINGTON. Very well.

“NOTICE.

Mr. TAYLER (reading):

“As we have lately been credibly informed that an elder of the Church of Jesus Christ of Latter-Day Saints, by the name of Hiram Brown, has been preaching polygamy and other false and corrupt doctrines in the county of Lapeer, State of Michigan:

“This is to notify him and the church in general that he has been cut off from the church for his iniquity; and he is further notified

to appear at the special conference, on the 6th of April next, to make answer to these charges.

"JOSEPH SMITH,
"HYRUM SMITH,
"Presidents of said Church."

Published in Times and Seasons, volume 5, page 423.

You have heard, have you not, of such a notice having been issued by the presidents of the church?

Mr. YOUNG. Yes, I have.

Mr. TAYLER. And Times and Seasons is a well-known little periodical which was published by the church in the early days?

Mr. YOUNG. In Nauvoo.

Mr. TAYLER. At Nauvoo; exactly. Now, what do you understand was the theory upon which these men, whom you and all good Mormons believe were good men, published this notice after the celestial marriage revelation had been received and reduced to writing and after polygamy had commenced to be practiced by Joseph Smith himself and some others?

Mr. YOUNG. What is the date of that publication, Mr. Tayler?

Mr. TAYLER. In 1844.

Mr. YOUNG. I might, possibly in a quibbling way, explain that notice in this way, that polygamy was not to be preached by the church at that time—that is quite generally conceded—and that any person who preached polygamy was subject to the discipline of the church. The language there used is that he had preached polygamy and other—

Mr. TAYLER. "False and corrupt."

Mr. YOUNG. "False and corrupt doctrines."

Mr. TAYLER. Yes.

Mr. YOUNG. I do not know that it is necessary, in the construction of that language, that the adjectives "false" and "corrupt" should apply to polygamy. He had preached polygamy, and he had preached other doctrines that were false and corrupt. But assuming that the language means what I fancy you have in mind, I could not and would not in my own feelings feel to excuse that denial; rather, I would have no sufficient explanation of it.

It does not necessarily follow, Mr. Tayler, because you or I may admire a man, believe him to be generally a righteous man, that we believe he never does a thing which is wrong. And I may, so far as I am concerned, accept Joseph Smith and his life work, without necessarily accepting any foibles of which he might have been guilty.

Mr. TAYLER. Now, on the 15th of March, 1844, from Nauvoo, this was published in the Times and Seasons:

"NAUVOO, March 15, 1844.

"To the brethren of the Church of Jesus Christ of Latter-Day Saints, living on China Creek, in Hancock County, greeting: Whereas brother Richard Hewitt has called on me to-day to know my views concerning some doctrines that are preached in your place, and states to me that some of your elders say that a man having a certain priesthood may have as many wives as he pleases, and that doctrine is taught here. I say unto you that that man teaches false doctrine, for there is no such doctrine taught here; neither is there

any such thing practiced here. And any man that is found teaching privately or publicly any such doctrine is culpable, and will stand a chance to be brought before the high council, and lose his license and membership also; therefore, he had better beware what he is about.

“HYRUM SMITH.

(“Times and Seasons, vol. 5, p. 474.”)

Do you understand that that was the proclamation of a truth or of an untruth?

Mr. YOUNG. I have never understood that the Mormon Church permitted any man to take all the wives he wanted. That never has been the doctrine of the Mormon Church. It was a matter that in the church was always regulated by the surrounding circumstances of the case.

Mr. TAYLER. Your interpretation of this would be that it is a mere denial of a doctrine that a man may have all the wives he wants?

Mr. YOUNG. My explanation of both of those notices would be this, that possibly the effect of each of them would be that they would be construed in the public mind to be a denial of the existence of polygamy. Technically, I think, they may escape that construction. But I think some justification for those announcements might be found in the exigency of the times and the circumstances.

Mr. TAYLER. The Deseret News, of course you know, is owned by the church, and it has always been the organ of the church, not that its statements are controlling upon anybody, but it has been the voice and mouthpiece of the church, as much as a newspaper can be?

Mr. YOUNG. I have understood that the Deseret News is the church organ in this sense: If the church has any authoritative announcement to make, it will be made through the columns of the News.

Mr. TAYLER. Charles W. Penrose has for many years been the editor of it?

Mr. YOUNG. Yes.

Mr. TAYLER. He was in 1886, at the time this particular issue was made, and he is now, and he is also an apostle now?

Mr. YOUNG. Yes, sir.

Mr. TAYLER. I find in the issue of May 20, 1886, an editorial entitled “Joseph Smith and celestial marriage.”

Mr. WORTHINGTON. What is the date?

Mr. TAYLER. May 20, 1886. It is a very able editorial. I think it ought all to go in, but I call your attention to this part of it:

“It has been frequently asserted by the enemies of the church that President John Taylor, in France, publicly denied that the church entertained the doctrine of plural marriage. Investigation for the purpose of learning facts will show that he did no such thing. Directly he denied nothing; indirectly he disputed the assertion that polygamy and certain infamous doings were part of the creed of the church. In answer to the charges he simply read a section of the doctrine and covenants relating to the subject of marriage.”

Now, of course, that means that he read from the Doctrine and Covenants, as that book existed prior to the introduction of the revelation on celestial marriage, you would understand?

Mr. YOUNG. I have no understanding on the subject. While I have an indefinite recollection of this incident, it is very indefinite.

MR. TAYLER. This was in 1846, or thereabouts, I believe, that John Taylor is said to have denied it. It was before the revelation was promulgated, and, of course, I need not ask you the question whether the celestial marriage revelation was in the book. If it was prior to 1852, of course it was not in the book, because it was not promulgated until 1852.

MR. YOUNG. That I believe to be the fact. That discussion, however, I think, if it is important, occurred in 1850 or 1851. That is my recollection.

MR. TAYLER. I think you are right about it. This editorial goes on to say:

"Until the open enunciation of the doctrine of celestial marriage by the publication of the revelation on the subject in 1852, no elder was authorized to announce it to the world. The Almighty has revealed things on many occasions which were for His servants and not for the world. Jesus enjoined His disciples on several occasions to keep to themselves principles that He made known to them. And His injunction, 'cast not your pearls before swine, lest they trample them under their feet and turn again and rend you,' has become as familiar as a common proverb. In the rise of the church the Lord had occasion to admonish His servants in regard to revelations that were afterwards permitted to be published."

Then he quotes from the Doctrine and Covenants:

"I say unto you, hold your peace until I shall see fit to make all things known unto the world concerning this matter.

"And now I say unto you, keep these things from going abroad into the world until it is expedient in me.

"But a commandment I give unto them that they shall not boast themselves of these things, neither speak of them before the world, for these things are given unto you for your profit and your salvation.'" (Doctrine and Covenants.)

Then the editorial continues:

"Under these instructions elders had no right to promulgate anything but that which they were authorized to teach. And when assailed by their enemies and accused of practicing things which were really not countenanced in the church, they were justified in denying those imputations and at the same time avoiding the avowal of such doctrines as were not yet intended for the world. This course which they have taken when necessary, by commandment, is all the ground which their accusers have for charging them with falsehood."

That editorial, you understand, of course, as being the explanation of the editor of this paper of these statements that were made by Joseph and Hyrum Smith and by John Taylor?

MR. YOUNG. Yes, sir.

MR. TAYLER. That is all.

THE CHAIRMAN. I understood you, I think correctly, that the sentiment among your people is against polygamy?

MR. YOUNG. Yes, sir.

THE CHAIRMAN. What is the sentiment among prominent members of your organization against polygamous cohabitation?

MR. YOUNG. Judging from the practice of the people and from expressions of opinion, I should say it is not so general nor so strong.

THE CHAIRMAN. Polygamous cohabitation, I believe, exists among prominent members of your organization?

Mr. YOUNG. Yes, sir; I believe it does.

The CHAIRMAN. From the president of the church down?

Mr. YOUNG. It seems so; yes, sir.

The CHAIRMAN. I will ask you in this connection a question. Did you understand that the manifesto prohibited polygamous cohabitation as well as new marriages?

Mr. YOUNG. That was not my understanding of the effect of it. I believe I may correctly say that it is not included within the language of the manifesto until President Woodruff subsequently construed it that way.

The CHAIRMAN. When did he place that construction upon it?

Mr. YOUNG. I believe it was about two years after the manifesto was issued.

The CHAIRMAN. Was he at that time the president of the church?

Mr. YOUNG. I believe he was.

The CHAIRMAN. And he spoke by authority of God, I suppose.

Mr. YOUNG. Well, I would not presume to say by what authority he spoke.

The CHAIRMAN. He was at that time the head of the church?

Mr. YOUNG. Yes, sir.

The CHAIRMAN. Revelator and seer?

Mr. YOUNG. So sustained by the people.

The CHAIRMAN. Since that interpretation of this manifesto by Woodruff, has polygamous cohabitation continued among prominent members of the church?

Mr. YOUNG. To a certain extent it has.

The CHAIRMAN. It has continued with the president of the church?

Mr. YOUNG. I should judge from the testimony of Mr. Joseph F. Smith it has continued with him. There was, however, a president of the church between Mr. Woodruff and Mr. Smith—Mr. Lorenzo Snow.

The CHAIRMAN. I had an impression—and I think it must be an error—that abstractly you regard the practice of polygamy as right?

Mr. YOUNG. If I might modify, or not answer the question categorically—

The CHAIRMAN. Certainly.

Mr. YOUNG. I regard the principle abstractly as right, not the practice.

The CHAIRMAN. If it were not for the laws of the land prohibiting it, you would then believe that the practice would be right?

Mr. YOUNG. I would.

The CHAIRMAN. And would advise and counsel it?

Mr. YOUNG. I can not say as to that.

The CHAIRMAN. Are you married?

Mr. YOUNG. I am.

The CHAIRMAN. You have only one wife, I presume?

Mr. YOUNG. Only one.

The CHAIRMAN. The only thing you think that restrains your people from entering into polygamy—those who have the belief that you have—is the law against it?

Mr. YOUNG. I think that is true of such proportion of the Mormon people as might consider it a duty and whose circumstances might be such as to permit it, which I fancy would be, as in the past, but a small minority of the marriageable Mormons.

The CHAIRMAN. I think you spoke of several bishops in your stake living in polygamy.

Mr. WORTHINGTON. He said they were reputed to be polygamists.

Mr. YOUNG. Reputed to be polygamists.

Mr. VAN COTT. Two, I think.

The CHAIRMAN. Do I understand you now, at the suggestion of counsel, to say that none of those bishops in your stake are living in polygamous cohabitation?

Mr. YOUNG. I know nothing about Bishop Morris's married relation. He is the bishop of the eleventh ward of Salt Lake City. He is one of the two mentioned. Bishop Romney, as I believe, is living in polygamous cohabitation, unlawful cohabitation.

The CHAIRMAN. I simply want to get at the facts. What steps have you taken to dissuade him from that practice?

Mr. YOUNG. None whatever.

The CHAIRMAN. Have you ever mentioned the subject to him?

Mr. YOUNG. Never.

The CHAIRMAN. And yet he is one of your bishops?

Mr. YOUNG. Yes, sir.

The CHAIRMAN. Have you spoken to the other bishop concerning whom there are rumors that he is living in polygamous cohabitation—

Mr. YOUNG. Never.

The CHAIRMAN. To ascertain whether it was true or not?

Mr. YOUNG. Never.

The CHAIRMAN. Have you made any inquiry among your people in the stake to ascertain the extent to which polygamous cohabitation is practiced?

Mr. YOUNG. No special inquiry; no, sir.

The CHAIRMAN. Have you made any general inquiry?

Mr. YOUNG. No further than my observation would extend.

The CHAIRMAN. And you have taken no steps, either by council or otherwise, to dissuade people from that practice?

Mr. YOUNG. From living in polygamous cohabitation?

The CHAIRMAN. Yes.

Mr. YOUNG. No, sir; none whatever.

The CHAIRMAN. You have been asked about the endowments. You have been through the endowments?

Mr. YOUNG. I have.

The CHAIRMAN. Would you object to disclosing the endowments?

Mr. YOUNG. Yes, sir; I would consider myself under an obligation not to do so, the committee permitting witnesses not to answer the question.

I should like to say this, Mr Chairman: I take that position with regret, appreciating that inferences may be drawn from it which, if I may be allowed to make the statement, might be, in my judgment, very unfair to our people and to myself. We are practically bound and gagged on that subject by reason of the obligations we have taken, and people may, if they wish, draw the very worst conclusions from that condition.

The CHAIRMAN. By reason of that, if you could state what the obligation is, it would prevent the conclusion which you have suggested. But I understand you, and I do not want to press the question.

Has the president of the church any control over the movements of the apostles?

Mr. YOUNG. In religious matters the presidency of the church, in conjunction with the council of apostles, controls their movements.

The CHAIRMAN. Would it be within the power of the president to order the apostles who are now abroad to come back to this country?

Mr. YOUNG. I should think not. This matter is not a religious matter. It is political.

The CHAIRMAN. You misunderstand me.

Mr. YOUNG. To come back?

The CHAIRMAN. Yes; I am not speaking of this matter.

Mr. YOUNG. To come into the United States?

The CHAIRMAN. Yes.

Mr. YOUNG. I should suppose if the president of the church desired those apostles, who are absent, to perform some ecclesiastical duty within any part of the world, they would be amenable to his directions.

The CHAIRMAN. Without regard to ecclesiastical duty, has the first president the power or the authority to summon the apostles now abroad back to the United States?

Mr. YOUNG. In the performance of their religious duties; yes, sir.

The CHAIRMAN. Without stating that, suppose he issued an order, "I want you to come to the United States by first steamer." Suppose he does not disclose the purpose?

Mr. YOUNG. I should say they would have the right to ascertain upon what business that order was issued.

The CHAIRMAN. Then they have a right to obey or disobey the first president?

Mr. YOUNG. Oh, yes.

The CHAIRMAN. And would not be amenable——

Mr. YOUNG. Except in ecclesiastical matters, as I say; that would be my judgment about it.

The CHAIRMAN. "Important ecclesiastical matters make it necessary for you to return to the United States." Suppose such an order was issued?

Mr. YOUNG. I should suppose if they appreciated their good standing in the church they ought to obey the order.

The CHAIRMAN. You would expect that they would obey?

Mr. YOUNG. I would expect it.

The CHAIRMAN. In other words, the president of the church has control over the apostles, and people who are now abroad could, upon the direction or request of the first presidency, be required to appear in the United States?

Mr. YOUNG. I think I have answered that, Mr. Chairman.

The CHAIRMAN. Something has been said about the reorganized church. That is a church holding to belief in the Mormon Bible or doctrine. Wherein does that organization differ from yours? I call your attention directly to the point of polygamy.

Mr. YOUNG. I understand. The reorganized church entertains the view that Joseph Smith never taught polygamy and never practiced it. Our own church combats both of those propositions.

The CHAIRMAN. What do you say as to the reorganized church teaching and practicing polygamy now?

Mr. YOUNG. I have no idea that they do either.

The CHAIRMAN. Do you know whether they have any ceremony by which the adherents are oath-bound to anything?

Mr. YOUNG. I can only speak from general impression. I understand they have no temples, no ceremonies corresponding to the temple ceremonies. Whether they have any other ceremonies or not, I am unable to state.

The CHAIRMAN. But they have nothing corresponding to that?

Mr. YOUNG. I believe not.

The CHAIRMAN. Do you know whether any of the membership of the reorganized church is in Utah?

Mr. YOUNG. They have some branches there, some chapels, and are doing some missionary work among the people of Utah.

The CHAIRMAN. Do you attend their services?

Mr. YOUNG. It is possible that I have been there once, yes, sir; just out of curiosity, however.

The CHAIRMAN. They have no temples and no ceremonies?

Mr. YOUNG. Not in Utah.

The CHAIRMAN. I mean of the character you have?

Mr. YOUNG. No, sir; I understand not.

Senator McCOMAS. How numerous are they in Utah?

Mr. YOUNG. The reorganized?

Senator McCOMAS. Yes.

Mr. YOUNG. Speaking from general impression, there can not be more than a few hundred of them.

Senator McCOMAS. Does your church extend a friendly hand to them? Do the people of your church manifest any friendship for those people who oppose polygamy and have reorganized the Mormon Church to oppose polygamy?

Mr. YOUNG. No. The attitude of the two churches is one of considerable antagonism from a doctrinal point of view.

Senator McCOMAS. Is it because the one favors polygamy and the other opposes it?

Mr. YOUNG. No. I think that is merely one phase of the situation.

Senator McCOMAS. Is there any distinctive doctrinal difference?

Mr. YOUNG. I believe there is. The main point of distinction between the two churches, I understand, revolves upon the question of the presidency of the church, our own church taking the view that upon the death of Joseph Smith, who was the president, the original founder of the church, the succession devolved upon the quorum of the twelve apostles, at the head of which was Brigham Young, and that, I understand, is disputed by the reorganized church.

Senator McCOMAS. What do they say?

Mr. YOUNG. They dispute that proposition.

Senator McCOMAS. About that point, I mean.

Mr. YOUNG. And Joseph Smith, jr., the son of the founder of the church, subsequently became—I think some ten or twelve years after the death of Joseph Smith—the head of the reorganized church.

Senator McCOMAS. That was my impression.

Mr. YOUNG. Yes; and he is still the head of the church.

The CHAIRMAN. He is now?

Mr. YOUNG. He is now.

Senator McCOMAS. In that church do they maintain that the choice of succession and power is dependent upon the will of the people of

the church as opposed to the close corporation controlling the succession in the regular Mormon Church?

Mr. WORTHINGTON. In the regular Mormon Church the people have to sustain the officials.

Senator McCOMAS. I understand that. I will come to that in a moment. I was asking the witness.

Mr. YOUNG. I do not know what they claim about the methods of perpetuating or continuing the presidency of the church.

Senator McCOMAS. Is or is it not a distinctive difference that in the Mormon Church the succession is practically controlled by the apostles, from generation to generation, president to president, while in the reorganized Mormon Church, headed by Joseph Smith, jr., and those who follow him, there is more liberality in church government and more control by the people and more influence by the congregations, rather than by the hierarchy?

Mr. YOUNG. I can only repeat what I said before, that I know nothing about their methods of selecting the president of the church.

Of course, you will understand, Senator, that with us, practically, the nomination of the president of the church has been with the quorum of apostles after the death of one of our presidents.

Senator McCOMAS. I so understand.

Mr. YOUNG. And the person so nominated becomes the president of the church by and with the advice and consent, if I may use such an expression, of the people, subject to rejection and to a subsequent nomination. The quorum of apostles has substantially the power of nomination that the President of the United States has with reference to Federal officials, the people exercising the same power that the United States Senate does of rejection or acceptance.

Senator McCOMAS. With this difference, that the people of the United States may turn out one President and put in another of another sort; but the Mormon Church, with the machinery you have spoken of, it unerringly and always results in the choice of the man whom the first presidency and the apostles desire.

Mr. YOUNG. That has been the rule with reference to the presidency of the church.

Senator McCOMAS. That has been the result, too?

Mr. YOUNG. It has appeared in the record here, as I observe, having looked over the record, that quite a number of times the people have rejected nominations which have been made by the apostles for minor offices, such as bishops; and it is quite possible and quite within the scope of the doctrines of the church, as I understand them, that the people might reject a nomination that was made by the apostles.

Senator McCOMAS. They might reject the nomination of an apostle?

Mr. YOUNG. Yes, sir.

Senator McCOMAS. Or of a president?

Mr. YOUNG. Yes, sir.

Senator McCOMAS. But they never did?

Mr. YOUNG. I am under the impression that in Nauvoo, in the days of Joseph Smith, the people declined to sustain Sidney Rigdon as his first counselor.

Senator McCOMAS. Have they since the days of Joseph Smith?

Mr. YOUNG. Not for one of those offices.

Senator McCOMAS. Never?

Mr. YOUNG. I believe not.

Senator McCOMAS. If I understood you rightly, you said that a large majority of the Mormon Church are opposed to the teachings of polygamy and the practice of polygamous cohabitation consequent upon polygamous marriages?

Mr. YOUNG. I think you did not understand me.

Senator McCOMAS. State what I should have understood you to say.

Mr. YOUNG. I stated that I believed the overwhelming sentiment of the Mormon people is against new polygamous marriages.

Senator McCOMAS. Is against new polygamous marriages—meaning by that marriages since the Woodruff manifesto?

Mr. YOUNG. Yes, sir.

Senator McCOMAS. Is that sentiment so strong and so overwhelming that if a person were submitted to the general conference of the people as an apostle of the church for approval who was known to have celebrated between himself and some woman a polygamous marriage since the Woodruff manifesto the people would be induced to reject such an apostle?

Mr. YOUNG. Well, I can not say. In fact, I believe there has been a conference since some of these disclosures have come out and that those rejections have not been made by the people upon the disclosures that have been made here.

Senator McCOMAS. Rejections have not been made?

Mr. YOUNG. No.

Senator McCOMAS. Then you think the sentiment is not so strong and overwhelming that the mass of the Mormon people in their conference would reject a man for the office of apostle or president who had since the Woodruff manifesto violated the laws of the land and the manifesto of the president of the church denouncing plural marriages?

Mr. YOUNG. I can only say that so far they have not done so in the light of the evidence they have had before them. What they may do, or might do, I can not state.

Senator McCOMAS. You live in Utah and Salt Lake City. Do you infer from that that they are strongly opposed to polygamy? If the mass of the people are opposed to it and have the power to reject every nomination, and they know that a man has consummated a plural marriage since the manifesto and has lived in cohabitation with his newly taken wife, in violation of the laws of the land, which President Woodruff, by revelation, admonished them to obey, do you think they would refuse to reject such a nomination because they hesitate to oppose the hierarchy? You say they are opposed to polygamy, and yet they do not reject the nominations of men who are living in polygamy. Is it because they are in fear of the hierarchy?

Mr. YOUNG. No; it would be difficult for me to explain just why they would not exercise that power of rejection.

Senator McCOMAS. How far do you think—

Mr. YOUNG. If you will allow me, Senator—

Senator McCOMAS. Certainly.

Mr. YOUNG. My belief would be that the people might possibly exercise some leniency in that direction, largely from their conviction that any such case as a new polygamous marriage is an extremely rare event, and from the deep conviction the community has, both

Mormon and Gentile, as I believe I may correctly state, that polygamy is practically dead, and that any new marriage is an expiring flicker of the old situation.

Senator McCOMAS. If, in a general conference, the people having the power, as I understand you, the head of the church should submit the name of an apostle who had been guilty of a polygamous marriage within the period we have mentioned, would it be within the province and the power of the conference to nominate A on the ground that he is a monogamist and a true Mormon, and to substitute his name for that of the apostle who is a polygamist and who had been nominated by the first presidency?

Mr. YOUNG. I understand not. I understand that following a rejection there must be a new nomination.

Senator McCOMAS. I see. Then if a general conference of the Mormons, who are so overwhelmingly opposed to polygamy, should reject a man on the ground that he was a polygamist, and indicate in the debate and conference by resolution that they would not accept him who had violated the law of the land and the manifesto of President Woodruff—would a man, in your judgment, nominated by the head of the church as an apostle, be rejected by the general conference on that ground?

Mr. YOUNG. I wish the stenographer would read the question. The sentence, as I gather it, lacks a conclusion.

Senator McCOMAS. If so I will supply a conclusion.

The reporter read the question as follows:

"Senator McCOMAS. I see. Then if a general conference of the Mormons, who are so overwhelmingly opposed to polygamy, should reject a man on the ground that he was a polygamist, and indicate in the debate and conference by resolution that they would not accept him who had violated the law of the land and the manifesto of President Woodruff—would a man, in your judgment, nominated by the head of the church as an apostle, be rejected by the general conference on that ground?"

Mr. YOUNG. That sentence is not clear to me. You start out by saying if the conference should reject such a man—

Senator McCOMAS. I will put the question to you to your satisfaction.

Mr. YOUNG. Very well.

Senator McCOMAS. If you, opposed, not on principle, but upon grounds of policy and upon other grounds, to polygamy, to new plural marriages, should rise in the next conference and say, "I oppose the ratification of Apostle A," the man named, "because he has practiced polygamy and has taken a plural wife since the manifesto, and I move his rejection on that ground," would the Mormon conference, in your judgment, overwhelmingly sustain you and your motion?

Mr. YOUNG. Notwithstanding the fact that he had been nominated by the president?

Senator McCOMAS. Notwithstanding the fact that he was presented by the hierarchy and the president of the church.

Mr. YOUNG. My answer must necessarily be speculative.

Senator McCOMAS. I understand that. You are giving your opinion as to the opinion of the Mormons on this question. What is your opinion, in answer to my question?

Mr. YOUNG. I think it would depend very largely upon the debate and the strength with which the opposition might be urged, and the excuses, the extenuating circumstances that might be urged, if there were any, in behalf of the apostle. But my belief is they would reject him.

Senator McCOMAS. You think they would?

Mr. YOUNG. Yes, sir.

Senator McCOMAS. And that awe or fear of the president or apostles would not deter men who agree with you, in the policy you mention as your view, from rejecting such an apostle?

Mr. YOUNG. It would not be a question of fear of the hierarchy, as you term it. It would be more a respect for their judgment as to the general qualifications of the man to hold the position.

Senator McCOMAS. Now, further, in your opinion, since the sentiment of the church is so strongly against polygamy and new polygamous marriages, is it not strange that so many men in the chief offices of the church happen to be living in polygamous cohabitation, and several of them are believed now to have contracted plural marriages since the manifesto?

Mr. YOUNG. Senator, I do not think that you are more profoundly surprised than I was or than the majority, practically all of the membership of the Mormon Church, have been upon learning that there have been any such marriages since the manifesto. But, with reference to unlawful cohabitation, the sentiment against that does not exist to the extent——

Senator McCOMAS. I understand.

Mr. YOUNG. Anything like the extent.

Senator McCOMAS. You made the distinction between the two, but I tacked the two together.

Mr. TAYLER. Let him finish the sentence.

Mr. YOUNG. I think it was concluded.

At 12 o'clock meridian the committee took a recess until 2 o'clock p. m.

AFTER RECESS.

The committee reassembled at the expiration of the recess.

The CHAIRMAN. Gentlemen, could you call some other witness than Mr. Young? Senator McComas is not here now, and I understand he desires to ask some questions of Mr. Young. Or would you prefer to wait? I will send for him if you prefer.

Mr. WORTHINGTON. We would rather wait a few minutes, Mr. Chairman.

The CHAIRMAN. He may not desire to ask any further questions.

Mr. VAN COTT. We have some redirect.

Mr. WORTHINGTON. But we can not go on with the redirect until the cross-examination is finished.

Mr. VAN COTT. Our next witness is not in the room just now.

Mr. TAYLER. I have a question or two that I want to ask Mr. Young.

The CHAIRMAN. Mr. Young, you may take the stand, and Mr. Tayler, you may inquire.

TESTIMONY OF RICHARD W. YOUNG—Resumed.

RICHARD W. YOUNG, having been previously sworn, was examined, and testified as follows:

Mr. TAYLER. Colonel Young, in the same issue of the Deseret News to which I called your attention, appears, in the next column to the editorial referred to, a communication entitled "Celestial marriage; how and when the revelation was given," signed by Joseph F. Smith, in which I find the following. I would like to know if this expresses your view of the attitude of the church authorities generally as to what they ought to do under the circumstances existing at the time when the denial was made of polygamous practices in the form in which it was made:

"It must be borne in mind that this great and glorious principle"—

That is, of celestial marriage—

"was first revealed to Joseph Smith in 1831 or 1832 (I have not the exact date with me); but, being forbidden to make it public or to teach it as a doctrine of the gospel at that time, he confided the facts to only a very few of his most intimate associates. Among them were Oliver Cowdery and Lyman E. Johnson, the latter confiding the fact to his traveling companion, Elder Orson Pratt, in the year 1832. (See O. Pratt's testimony.) And this great principle remained concealed in the bosoms of the prophet Joseph and the few to whom he revealed it, until he was commanded, about 1842, to instruct the leading members of the priesthood and those who were most faithful and intelligent and best prepared to receive it, in relation thereto, at which time and subsequently, until his martyrdom, the subject in connection with the great principles of baptism, redemption, and sealings for the dead, became the great themes of his life, and, as the late President George A. Smith repeatedly said to me and others, 'the prophet seemed irresistibly moved by the power of God to establish that principle, not only in theory in the hearts and minds of his brethren, but in practice also,' he himself having led the way. While this doctrine was thus being taught by the prophet to those whom he could trust, those who had faith, righteousness, and integrity to believe and accept it with all its consequences (which are no trifling things), it remained an 'unwritten law' and commandment of the Almighty to the faithful *only* of his saints, designed to be enlarged as intelligence and fidelity to the laws of God increased, until the 12th day of July, 1843, when a *portion* of the revelation was written in the manner and (at that time) for the purpose set forth in this statement of Elder Clayton's, now submitted to the world, and as indicated in the revelation itself, as follows: 'Verse 66. And now, as pertaining to this law, verily, verily, I say unto you, *I will reveal more unto you hereafter.* Therefore let this suffice for the present.'

Then the Smith letter proceeds:

"Let all the Latter-Day Saints *know* that Joseph Smith, the martyred prophet, is responsible to God and the world for this doctrine, and let every soul know that he and his brother Hyrum did practice the doctrine in their lifetime and until their death, notwithstanding their *seeming*."

The word "*seeming*." is in italics here—

"their *seeming* denials, as published in the Times and Seasons, and which are so fervently relied upon as evidence against the fact by a certain class of antipolygamists. Those denials can be explained and have been, and while they are true in the sense and for the purpose for which they were designed, they are not denials of plural or celestial marriage as taught by Joseph Smith and practiced at the time by both of them and many others in prominent standing in the church. These seeming denials themselves are specific proofs of the existence of the *true coin*, the counterfeit of which they denounced."

Mr. YOUNG. Now, will you read the question, Mr. Reporter?

The reporter read as follows:

"Mr. TAYLER. Colonel Young, in the same issue of the Deseret News to which I called your attention appears, in the next column to the editorial referred to, a communication entitled 'Celestial Marriage: How and When the Revelation was Given,' signed by Joseph F. Smith, in which I find the following. I would like to know if this expresses your view of the attitude of the church authorities generally as to what they ought to do under the circumstances existing at the time when the denial was made of polygamous practices in the form in which it was made."

Mr. YOUNG. I do not understand that that extract expresses what the church should do. It is rather a discussion as to the inception of polygamy. I understand that it represents the attitude of the church so far as it goes.

Mr. TAYLER. And on the subject of these seeming denials of Joseph Smith?

Mr. YOUNG. I would be willing to accept that, so far, as the attitude of the church.

Mr. TAYLER. That is to say, that the interpretation which the church puts upon these communications issued by Joseph and Hyrum Smith, in the first place, and by Hyrum Smith later, which I read, is that they were the truth, and that in consequence of their promulgation Joseph Smith is not to be subjected to the criticism which perhaps, from your reference to it, he might be, that he was not a perfect man, and that in this particular instance it was not made under oath and might not have been intended to be the truth?

Mr. YOUNG. I can not say that I know what the attitude of the church would be. That would be the most authoritative source of my opinion upon that subject.

Mr. TAYLER. One other question. Is it a fact that, in theory at least, the title of the first presidency and the twelve apostles to their several places in the hierarchy is as much dependent upon their being semiannually sustained by a conference of the church as that their original nomination should be approved by a conference of the church people?

Mr. YOUNG. I do not recall ever having seen that point discussed, but my impression would be that that would not be the case. That is, that having been originally put in the position, if for any reason—there might be no conference, for instance—

Mr. TAYLER. Yes.

Mr. YOUNG. That they would continue until such time as there might be.

Mr. TAYLER. But suppose there was a conference; they must be sustained——

Mr. YOUNG. That is the rule.

Mr. TAYLER. By the conference, as certainly as originally their nomination was sustained!

Mr. YOUNG. I think that is correct; yes, sir.

Mr. TAYLER. So that if there is any criticism of the original election of a polygamist as an apostle, that act of election is not to be differentiated, in its importance and validity, from the semiannual sustaining of others, who, prior to that time, may have been chosen apostles and were polygamists?

Mr. YOUNG. Well, there is a rule of the church, as I understand, that a person having been elected, appointed, upheld for a position in the church, shall not lose that position until he shall have had his day in court, until charges shall have been preferred against him, and he shall have been tried. That, perhaps, is somewhat aside from the question of sustaining a man by conference. I do not think that an apostle would necessarily lose his position by reason of not having been sustained. I think there would be, in addition to that, a trial, and that upon that trial he might be dropped from his position. The effect of not sustaining him would simply be that the exercise of his office would be held in abeyance for the time being.

Mr. TAYLER. I am glad to get this information. That is what I want. So that if at any of the semiannual conferences, at the temple or the tabernacle, wherever they are held, each one of the apostles' names being read out to be sustained, the people should by uplifted hand dissent and refuse to sustain any particular apostle, that refusal thus expressed would not operate to vacate his seat?

Mr. YOUNG. You are discussing questions that I do not feel quite competent to settle, because I have never examined them to any extent. I may express my impression, and that would be that should the conference absolutely vote against a man, that would vacate the position. But, following the order of the church, as I understand it, the conference would refuse to do so, unless he had been previously tried and condemned by some tribunal having authority of the church for the offense that led to his suspension.

Mr. TAYLER. So that in truth and in fact, as a practicality in your church organization, the people in conference are powerless to depose an apostle?

Mr. YOUNG. I would not say that. My last answer stated that I feel satisfied—at least I meant to say, that I feel satisfied that a conference would not do it without the previous trial. However, if the conference should do it, taking that method, I am under the impression that office would be vacated.

Mr. TAYLER. In the case of Moses Thatcher, he was first tried before another tribunal, was he not, before the matter came before the conference?

Mr. YOUNG. I am a little uncertain as to the sequence of dates, but my impression is that he had the opportunity of a trial, but neglected to appear as he had been requested to do, in accordance with his own request. I believe his trial before the high council of the Salt Lake stake was subsequent to his——

Mr. TAYLER. Deposition?

Mr. YOUNG. Deposition from the apostleship; yes, sir.

Mr. TAYLER. He was deposed by the apostles, and then, initiated by the apostles, the matter of his deposition came before the conference!

Mr. YOUNG. Yes, sir.

Mr. TAYLER. And there the act of the apostles was sustained. Is that right?

Mr. YOUNG. My recollection is that at the first conference his name merely was not presented; that is, after the difficulty.

Mr. TAYLER. I see.

Mr. YOUNG. And the matter being held in abeyance for final decision.

Mr. TAYLER. I guess you are right.

Mr. YOUNG. But that at a subsequent conference, probably the first or second after that, his successor was named. His name was not presented, and a successor was named. The quorum of the twelve was thereby filled up, and by necessity he was removed from his position. That is my recollection.

Mr. TAYLER. The idea is that the initiation of it was by the apostles and the first presidency, in that they omitted to present to the conference the name of Moses Thatcher?

Mr. YOUNG. That is my belief; yes, sir; my recollection.

Mr. TAYLER. We have had this before. I will just refresh your memory, and put it in at this moment, because it clarifies the situation. It is in the Church Chronology, published by the church on the 4th of April, 1896.

Mr. YOUNG. Pardon me, Mr. Tayler. The Church Chronology, if I am correctly informed, is a private enterprise.

Mr. TAYLER. Well, it is compiled by Andrew Jensen, assistant church historian.

Mr. YOUNG. Yes.

Mr. TAYLER. And published at the office of the Deseret News, Salt Lake City, Utah.

Mr. YOUNG. The Deseret News will publish your argument in this case or any other matter.

Mr. TAYLER. I understand.

Mr. YOUNG. It is a publishing house; but perhaps would not stand behind all propositions.

Mr. TAYLER. I will read this, and perhaps it will refresh our recollection of mere historical facts:

"Saturday, the 4th of April, the sixty-sixth annual conference of the church convened in"—

Mr. WORTHINGTON. In what year, Mr. Tayler?

Mr. TAYLER. 1896.

"Convened in Salt Lake City. It was continued for three days. In voting for the general church authorities on the 6th Charles W. Penrose was sustained as an assistant church historian. Moses Thatcher was not upheld as one of the twelve because of his refusal to sign a manifesto issued by the general authorities of the church to the saints, in which the leading men of the church were requested to seek counsel before accepting political offices which would interfere with their ecclesiastical duties."

Then:

"On Thursday, the 19th of October, at a council of the apostles

held in Salt Lake City, Moses Thatcher was dropped from the council of twelve apostles."

Is that about as you remember the occurrence?

Mr. YOUNG. That is about as I remember it, except as to this: I think Mr. Jensen's statement as to the causes for the dropping of Moses Thatcher is incomplete. It alleges but one reason. I have always understood there were a number of reasons. I think they have appeared in the record.

Mr. TAYLER. Yes. That is all.

The CHAIRMAN. Mr. Young, I want to ask a question. Do you know of any instance where the church has tried members for living in polygamous cohabitation?

Mr. YOUNG. I do not, sir.

The CHAIRMAN. Since the manifesto?

Mr. YOUNG. No, sir.

The CHAIRMAN. Or at any time?

Mr. YOUNG. I know of no such instance at any time.

The CHAIRMAN. Do you know of any instance where the church, before the manifesto, tried its adherents for polygamy?

Mr. YOUNG. None whatever.

The CHAIRMAN. That is all.

Mr. WORTHINGTON. Before the manifesto, it was a part of the church doctrine, was it not?

Mr. YOUNG. It was.

Mr. WORTHINGTON. And as I understand you, since the manifesto there have been no prosecutions, in church courts, of those who have been living in polygamous cohabitation?

Mr. YOUNG. That is correct.

Mr. WORTHINGTON. All of them being, to your understanding, people who were married before the manifesto?

Mr. YOUNG. Yes.

Mr. WORTHINGTON. Is the feeling that those men should not be prosecuted confined to Mormons, or does it pervade the Gentile community in Utah, too?

Mr. YOUNG. It is my conviction that it pervades the entire community, Gentile and Mormon.

Mr. WORTHINGTON. And for reasons which have been stated here, I suppose you have heard?

Mr. YOUNG. For reasons that were very well stated, I think, by Judge McCarty in the case in Richfield, that was read before the committee yesterday.

Mr. WORTHINGTON. Now, Mr. Young, the Chairman asked you about the endowment ceremony, and you expressed your unwillingness to state what it was. Have you any objection to stating whether it included in any form or shape any invocation of vengeance or retribution against this nation?

Senator McCOMAS. Just a moment. I understand he does not want to state it directly or indirectly. I suggest that if he makes an exception and states anything at all, he should state the whole thing, or nothing.

Mr. WORTHINGTON. A dozen witnesses here have done that, and the Chair has stated that they would not be pressed. The very question I am asking now is one that Senator Knox asked of Mr. Dougall.

— The CHAIRMAN. The Chair stated that if they should state their

own conclusion in regard to it, the committee ought to have the oath itself—the obligation.

Mr. WORTHINGTON. I do not understand they are stating any conclusion. They are stating the fact that it did not contain anything about vengeance on this nation.

The CHAIRMAN. That is stating what the oath is, in his judgment, or what it was; and I think the witness then should be called upon to state the whole oath.

Mr. YOUNG. I was about to state, if the Chairman please, that I would be pleased to answer that if it were held that I would not be compelled to go further. I would be pleased to answer that question and to add what, with respect to citizenship, there is in those ceremonies, for what my opinion might be worth, appreciating, of course, that the committee not having the opportunity of knowing what the entire ceremony is, could not judge with complete accuracy. It would only go to the extent of my judgment. But I would respectfully ask to decline to answer if the Chairman or the committee would insist that the examination should proceed further.

Mr. WORTHINGTON. Mr. Chairman, as to six or eight witnesses, they have already been informed that under the circumstances they would not be pressed. It was so with Apostle Lyman. It was so with Mr. Roberts. It has been so with the four witnesses who testified here the other day on that subject.

The CHAIRMAN. My recollection is that the witness, having given his interpretation of the obligation, was then requested to state for the benefit of the committee the obligation itself, so that the committee might decide.

Mr. WORTHINGTON. Precisely.

The CHAIRMAN. Thereupon the witness refused to state, and then the Chair stated it would not be pressed.

Mr. WORTHINGTON. That is the situation exactly.

The CHAIRMAN. But the Chair thinks if he should give his interpretation of the obligation he ought to give the obligation itself.

Mr. WORTHINGTON. If I thought he was giving the interpretation I would not ask the question. I would like to find that out from the witness without his saying what was said or not said.

Can you answer the question, Mr. Young, not whether what takes place may be interpreted as calling for a retribution against this nation, but whether there is anything on the subject of retribution against this nation or against this Government?

Senator McCOMAS. I have been here in the instances spoken of by counsel, but it seems to me that a witness who, within his right, says: "I will not disclose an oath I have taken, verbatim or in substance," when he is interrogated as to whether certain things are in the oath which he declines to disclose, is in a much better situation when he says, "I decline to make any answer in respect to that oath." The committee would be glad, I am sure, to hear him give the oath, and if he felt free to do it, we would probably get rid of a great many misapprehensions on the subject; but if he does not, and categorically answers no to any question as to whether this is in or that is in, it seems to me proper that he should state the oath itself.

Mr. WORTHINGTON. Mr. Chairman, and Senators, as counsel for this witness, of course that would be an argument which would

appeal very strongly to my reason; but I am here representing Senator Smoot. The testimony of three witnesses here, who have passed through the endowment ceremony, is to the effect that those who pass through it take an obligation against the nation, an oath of disloyalty, practically, and there is other testimony tending to show that the ceremony has always been the same. Now, if I were asking this witness as to whether the interpretation which is to be given to what took place is one thing or the other, then it would be impossible for me to make any reply to the argument which Senator McComas has made.

But let me suppose this case. There are, I suppose, among the Senators, those who are members of other organizations, the Masons, or the Odd Fellows, or others, all of whom, as appears in this record, take obligations of some kind, and make a further agreement that they will not disclose them. Suppose somebody should choose to file a charge here against one of the Senators, as a member of one of those orders, that he ought to be expelled from the Senate because he belongs to that secret organization, whatever it may be, and they take an oath of disloyalty to the United States. Would anybody hold that when a member of one of those orders, a Mason, or an Odd Fellow, or what not, was called as a witness on that subject, and he should say, "There is nothing in our obligation on that subject at all," he should then be compelled to go on and tell us the whole secrets of the Odd Fellows, the Masons, or anything of that kind? It seems to me not.

I heard a member of this committee say here the other day that he was a member of one such organization, and that he would very freely and cheerfully answer any such question as I have put to this witness, but he would not answer disclosing what takes place in those ceremonies.

It seems to me that there is a very clear and strong line of demarcation between asking a witness whether anything was said on a certain subject and asking him whether what took place was capable of such and such an interpretation. In one case, if there is nothing at all said upon the subject, then no inquiry can be made except whether that was true or not. Or I might have had a private conversation with somebody upon the street about a matter which would not, in the eye of the law, be protected from being disclosed if it was anything that was necessary in a judicial investigation. But suppose somebody who was near there and saw me talking with that man came along and said he heard me threaten to kill Senator Smoot or somebody, and that came up in the course of the investigation, and he was asked the question, "Was anything said about shooting Senator Smoot, or shooting anybody?" and he would say "No." Would that make that person liable to tell what was said, which might refer to any one of a hundred or a thousand different subjects? I think not.

I may say that this thing has been gone over. It was gone over in the case of Mr. Roberts very fully. It was gone over in the case of Apostle Lyman. It was gone over in the case of Mr. Dougall, and of Mr. Noon. I do not remember any others. Meakin, I think, was not asked on the subject.

Mr. VAN COTT. Yes; he was.

Mr. WORTHINGTON. In those cases the very same line was gone

over. They answered in precisely the same way. Each of them said there was nothing on the subject of disloyalty to or revenge or vengeance against this nation or anything of the kind; and they said, more than that, that the ceremony was entirely of a religious character.

Now, is Senator Smoot to be held to this rule, that because the witness is under an obligation which he feels binds his conscience it does not really relate at all to the subject of inquiry here? Are we to be prevented from obtaining from him the statement that, as a matter of fact, those witnesses who came here and said the obligation included one of retribution against this nation stated what was false? It seems to me Senator Smoot has some rights here as well as the witness.

The CHAIRMAN. I understand the witness stated, in reply to your inquiry, that he would not like to answer it unless he could be assured that no further questions to that effect would be answered. I think, in fairness to the witness, I ought to state that if the question is asked and answered as to his interpretation of what the oath contains, or what it does not contain, he will then be requested to state what the oath was.

Mr. WORTHINGTON. I have stated, Mr. Chairman, that I do not intend to ask him about any interpretation of anything that was said, but whether anything was said about this nation or this Government.

The CHAIRMAN. That is the very thing that the other witnesses testified was said.

Mr. WORTHINGTON. No; I beg your pardon.

The CHAIRMAN. I think it is fair to the witness that the committee will want the witness to state the obligation, then.

Mr. YOUNG. In detail?

Mr. TAYLER. I was going to say, Mr. Chairman, that I understood the chairman and the committee not to be disposed to use the power of the Senate to compel an answer to these questions, for sentimental reasons, and because, perhaps, it was not worth while; but Mr. Worthington's argument proceeds upon the theory that the Senate would be powerless to compel an answer to such a question or to punish as for contempt if the question were not answered. Certainly there is no soundness in that position. The witness could be compelled to answer or suffer the consequences of his refusal to answer.

Mr. WORTHINGTON. Do you say that under the circumstances I have suggested a Mason could be required to tell here what the Masonic ceremony is?

Mr. TAYLER. Of course he could, in a proper case.

Mr. WORTHINGTON. Is this a proper case? That is the question.

Mr. TAYLER. Surely. These things have a basis of reason in them. Nobody is going to question the right of anybody who is a Mason to sit in the Senate because he is a Mason. Therefore the question is not a practical one; but suppose it were true? Assume that a great committee of this great legislative body is seriously gathered together for the purpose of seriously inquiring whether the obligations that a Mason took disqualify him to serve his country as a legislator. No Mason could keep his mouth shut if the pertinent inquiry was did he take an unpatriotic oath. Masonry can be no more said to be higher than the Government than the Mormon Church can, and it must yield if the exigencies of the public good demand that it should yield up its

innermost secrets; but everybody knows that no occasion for that will ever arise.

Now, these witnesses have not been pressed, for manifest reasons, and when a witness puts himself in the position in which this frank witness puts himself then it certainly is not just to him, or to the committee, or to anybody else involved in the case to say: "Now, give us your interpretation of this oath. We will permit you to give your interpretation of it, and we will be bound by your interpretation of it, but we will not permit ourselves to ask you to give us a chance to put our interpretation on it."

Mr. WORTHINGTON. Mr. Chairman, I yield to nobody in my deference to the powers of the United States Senate, which this committee now represents; but we must all take notice of the fact that there is a limitation upon the power even of a House of Congress. It is not so many years ago that my friend can not remember it that a committee sitting at the other end of this building undertook to require a citizen of this District to answer certain questions and produce certain papers. He refused to do so and was sent to jail for contempt by the House, with the result that the Supreme Court of the United States held that he was right in refusing to answer the question, and the Government finally had to pay, on behalf of the Sergeant-at-Arms, a large sum of money.

The CHAIRMAN. The committee is familiar with that case.

Mr. WORTHINGTON. Of course I am dealing here with the legal question whether the question which it is suggested may be asked this witness, if he answers my question, is one which the committee has power here to ask. That committee was proceeding under the direct authority of the House of Representatives to do just what it was doing, but it was held that the House had no power to authorize the committee to do that thing. Here the question is as to the qualifications of Senator Smoot to a seat in the Senate. The particular charge with which we are concerned now is that he has at some time taken an obligation which it is said is inconsistent with his duty as a Senator, and the claim is made that that binds him to it, and that he would have to yield to it and not to the oath that he took when he took his seat.

My friend, Brother Tayler, insists upon using the word "interpretation." I would like to have the determination of the committee upon the question whether if a man says that nothing on a certain subject took place in a certain conversation, a ceremony, or at any place you may please, because he says that nothing on a certain subject took place, he can be required to discuss everything that was said on any other subject. I submit there is no such rule as that, and that is all I am contending for, and that this committee even would have no power, because a man said on a certain occasion, as to which it had a right to inquire, that nothing at all took place which concerns the matter before this committee, you could then require him to go into private disclosures about other things, including the agreements he made with the Almighty, or which he thought related to himself and the Almighty alone. The plain distinction I am making here is that this man says he has taken the same obligation, which concerns his religious duties with his God, and because I ask him whether he took any obligation which

concerns this nation the committee can therefore require him to disclose what took place in his obligation to his Maker.

That is my argument, and I say it ought not to be allowed.

Just let me say this. This is a suggestion which my associate, Mr. Van Cott, very aptly makes here. When Mr. Lyman was upon the stand and Mr. Roberts was upon the stand they were asked by the chairman of the committee, both of them, about this matter, and they went as far as I am asking this witness to go. If that could be done on behalf of the committee, why can not it be done in our behalf?

The CHAIRMAN. Mr. Reporter, will you read the question?

The reporter read as follows:

"Mr. WORTHINGTON. Now, Mr. Young, the chairman asked you about the endowment ceremony, and you expressed your unwillingness to state what it was. Have you any objection to stating whether it included in any form or shape any invocation of vengeance or retribution against this nation?"

Mr. WORTHINGTON. I will withdraw that question and put it this way:

In that ceremony is there anything which relates to your duties or obligations to your Government or to this nation?

Mr. YOUNG. I do not know that I just understand the present situation. I certainly have no desire to be in contempt of this committee. That would be very far from my sentiments and desires. So the question in my mind is, Does an answer to this question open the entire matter to further questioning, or may I answer this and then decline?

The CHAIRMAN. The Chair will state that when you have answered that question you will be requested to give the committee the whole ceremony—what did occur—so that the committee can judge whether that was in or not.

Mr. YOUNG. Under the circumstances I shall decline to answer the question, if I may be permitted.

The CHAIRMAN. The Chair thinks he ought to state that in fairness to the witness.

Mr. WORTHINGTON. I will ask you this question: Whether in that ceremony you took any vow or incurred any obligation or anything incompatible with your giving full and supreme allegiance to the United States or which obligated you to anything incompatible with your fully performing your duties as a citizen of the United States?

Mr. YOUNG. I suppose that question is open to the same objection. Therefore I decline.

Mr. WORTHINGTON. It is a question which a member of the committee asked of another witness, so I thought perhaps it might be allowed. Am I to understand the same ruling is made to that, Mr. Chairman, as to the other question?

The CHAIRMAN. There is no ruling about it, except I think that without any question the committee will want to know what the ceremony was. The committee would like very much to know what it is.

Mr. WORTHINGTON. So would I, from curiosity.

The CHAIRMAN. Have you anything further?

Mr. WORTHINGTON. Oh, yes; we have some other questions.

Perhaps you would not object to answering this question, then, Major Young: Is it common knowledge in Utah that for many years past persons who had taken this endowment ceremony have

published or made known what purported to be this obligation and the vow of vengeance, and the penalties, and all that sort of thing!

Mr. YOUNG. I have seen various publications which purport to give the ceremony.

Mr. WORTHINGTON. As emanating from persons who had gone through the ceremonies!

Mr. YOUNG. Yes, sir.

Mr. WORTHINGTON. Have you ever heard of anybody having his throat cut, or his bowels cut out, or anything of that kind in consequence of it?

Mr. YOUNG. Never.

Mr. WORTHINGTON. There was a book called the "Stenhouse Book," published some years ago, which contained something about that, was there not?

Mr. YOUNG. There are two Stenhouse books. Mrs. Stenhouse published a work called "Tell it All;" that has a chapter on that subject. Mr. Stenhouse published the Rocky Mountain Saints.

Mr. WORTHINGTON. Now, about the Moses Thatcher case. I understand you to say that your understanding is that at the first conference where that matter came up he was not submitted to the conference to be sustained, and that left his place with nobody filling it?

Mr. YOUNG. That is my recollection, Mr. Worthington.

Mr. WORTHINGTON. At the next conference the apostles having dropped him they proposed somebody else in his place?

Mr. YOUNG. That is as I remember it.

Mr. WORTHINGTON. Who was sustained, and that put him out?

Mr. YOUNG. Yes, sir.

Mr. WORTHINGTON. Was it not entirely competent for the conference to refuse, as a similar conference many years before in Sidney Rigdon's case refused, to confirm the person nominated for the vacancy, and so leave him still an apostle?

Mr. YOUNG. I think so; yes, sir. That would be my judgment.

Mr. WORTHINGTON. Questions have been asked you as to what would have happened if something had happened at a conference. I believe the idea conveyed is what could be done in case it should turn out at a conference that the presidency and apostles should propose somebody who is known to have entered into a plural marriage since the manifesto. Has anything of that kind happened since the manifesto, where somebody was proposed whom it was known, whom you knew, for instance, was in polygamy, or simply rumors of it?

Mr. YOUNG. Simply rumors. So far as my knowledge goes the membership of the church has had no suspicion that any of the apostles had violated the manifesto of 1890 until the investigations before this committee. That, at least, is my own frame of mind, and I may say that I do not understand that the fact has been proven beyond being mere rumors that there have been any such cases. Of course, before this committee there has been testimony with reference to Mr. Taylor. With reference to Mr. Cowley, I have heard stated that he has not entered into polygamous relations since the manifesto, and that he is not here is due, possibly, to the fact that he may have known that somebody has entered into polygamous relations, or may have performed a ceremony. Various suggestions were made, but the impression so far as I have come in contact with it is that Mr.

Cowley has not violated that manifesto, and that is also the general impression—it all rests in rumor and speculation—with reference to Mr. Teasdale.

Senator McCOMAS. What did you say as to Taylor? I did not catch it. Is that rumor also?

Mr. YOUNG. Yes. I stated, Senator, that I knew nothing more about it, and I thought that was the general frame of mind, further than what has come out in this committee. Speaking generally of the church, it may be that people living in certain localities had reason for suspicions which the majority of the people did not have.

Mr. WORTHINGTON. You do not mean to say that the people in conference assembled, believing that an apostle had entered into polygamous marriage since the manifesto, sustained him?

Mr. YOUNG. I can only repeat what I stated in answer to Mr. Taylor, that my idea is that as a general procedure the church would demand something more than rumor, and that is particularly so where, as with us in Utah, there is no end of rumors. There is a very violent opposition, of course, in certain quarters to the Mormon Church and Mormon practices, and it seems that the opposition to the church and those practices does not stop short of manufacturing rumors. As a matter of fact, I believe I correctly state the attitude of the people generally, both Mormons and Gentiles, when I say that we accept most everything that pertains to these subjects, which are acrimoniously discussed, with a considerable grain of salt.

Senator McCOMAS. But if it were true, if the fact were known to everybody in the conference, what then would you answer?

Mr. YOUNG. I would still say, Senator, that following what I understand to be the proper procedure the conference would insist upon the matter being tried and investigated. We have our tribunals for investigating those matters.

Senator McCOMAS. And if it were tried and found to be true—that is just what I was going to ask—what then would the conference in your opinion do?

Mr. YOUNG. I do not question that the conference would reject him. I will take this opportunity of stating I believe that the overwhelming majority of the Mormon people, as I have before stated—possibly you were not present, Senator—are in good faith in this matter of new marriages and feel that we are placed in a very false and unjust position before the world by reason of the marriages that have been performed, if there have been any, since the manifesto. It subjects what has been the reputation, as I have understood it, of the Mormon people for trustworthiness to considerable question. I believe the bulk of the Mormon people dislike to be placed in that attitude. Speaking for myself, I know that I do.

Mr. WORTHINGTON. As to what has been asked you last by Senator McComas, from what you know personally or by reputation of the presidency and the apostles, do you believe that if one of the apostles had been tried and convicted of having taken a plural wife since the manifesto, they would even propound him to the conference to be sustained?

Mr. YOUNG. I do not think they would; no, sir.

The CHAIRMAN. May I ask you your opinion as to whether they would have proposed to the conference a man for the apostolate who was known to be living in polygamous cohabitation?

Mr. YOUNG. They have already proposed Mr. Penrose to the conference, and Mr. Penrose, I presume, is known to them (the rest of the community believing, so far as we are acquainted with him) to be a polygamist. As to his living in polygamous relations, I do not know as to that.

The CHAIRMAN. His name has been proposed?

Mr. YOUNG. And sustained; yes, sir.

The CHAIRMAN. And sustained?

Mr. YOUNG. Yes, sir. I think that is already before this committee.

The CHAIRMAN. I understand so. Mr. Tayler, have you any further questions?

Mr. TAYLER. Nothing else.

Mr. WORTHINGTON. Penrose was married before the manifesto?

Mr. YOUNG. I understand so. I understand his marriages are of very old date.

Mr. TAYLER. Did you say something about the attitude of both the Mormons and Gentiles in Utah respecting this matter of polygamous living?

Mr. YOUNG. Yes, sir.

The CHAIRMAN. I want to ask just one question, Mr. Tayler, before you proceed, because I have it in my mind. I may be mistaken, and I think I was. I thought you used the terms plural and celestial marriage as synonymous, meaning the same thing.

Mr. YOUNG. I do not remember, Senator, that I used the two expressions; but they are not synonymous with us.

The CHAIRMAN. They are not?

Mr. YOUNG. No, sir; what is called the revelation on celestial marriage—I believe, it has been explained; if so, I do not care to take the time of the committee—

The CHAIRMAN. Yes; it has been.

Mr. YOUNG. It includes the idea of marriage for time and for eternity.

The CHAIRMAN. And that is all that signifies?

Mr. YOUNG. Celestial marriage?

The CHAIRMAN. Celestial marriage.

Mr. YOUNG. Yes; I think that is all that signifies.

The CHAIRMAN. Now, Mr. Tayler, proceed.

Mr. TAYLER. I have in my hand here a telegram from the pastor of a Methodist Church at Salt Lake, in which he says that at the services of the church Sunday evening, January 15, a resolution was adopted and ordered to be sent to Washington, in these words:

“Resolved, That we protest against the aspersions cast upon the law-abiding Gentiles of Utah by witnesses for the defense in the Smoot case, wherein they accuse us of condoning the crimes acknowledged by the witnesses for the protestants.”

Do you understand that that expresses the view of any considerable body of the Gentiles of Salt Lake?

Mr. YOUNG. I think, Mr. Tayler, that that matter has, perhaps, been much better explained than I could explain it, by the witnesses who were on the stand yesterday, who were nonmembers of the church. I refer to Judge McCarty and Judge Morris and Judge Miner, in this way, that the attitude of the non-Mormons of Utah has been one rather of toleration than condonation; and I feel very sure

of my ground that they have at least tolerated it because there have been no, or comparatively few, complaints made for a violation of it. If they do not condone unlawful cohabitation, I do not see why they do not take the matters into the courts. Not only that, but I have talked with a great many of the non-Mormons, and they say they are perfectly indifferent as to the old conditions so long as no new marriages are performed. I might, however, draw this distinction, which I think is a distinction that is drawn both by non-Mormons and Mormons—that is, between unlawful cohabitation in what I might call its lighter aspects and unlawful cohabitation which results in the maintenance of the marriage relations. I think the community draws quite a distinction there. I think there is a sentiment in the Mormon community, even in relation to old polygamous marriages, against bringing children into the world who, under the laws, are necessarily illegitimate children and who must bear that onus the rest of their lives.

The committee no doubt is aware of the fact that what has been construed to be unlawful cohabitation by even the Supreme Court of the United States has been the holding out as a wife of more than one woman, and our own courts in Utah have gone to the extent even of declaring that to go over to the house of the polygamous wife to chop some wood or in any way to recognize her is unlawful cohabitation.

Mr. WORTHINGTON. I would like to remark here, Mr. Tayler, as you have read this telegram into the record, that I do not recall any witness for the defense who has testified that the people of Utah or any part of them have condoned the crimes referred to. They all expressly disclaimed that word. That was a word that fell from one of your witnesses, Joseph F. Smith.

Mr. TAYLER. He was one of our witnesses. I plead guilty.

The CHAIRMAN. Have you any further questions to ask this witness, gentlemen? If not, who is your next?

Mr. VAN COTT. Mr. E. D. R. Thompson.

TESTIMONY OF E. D. R. THOMPSON.

E. D. R. THOMPSON being duly sworn, was examined, and testified as follows:

Mr. VAN COTT. What is your age?

Mr. THOMPSON. I am 47.

Mr. VAN COTT. Where were you born?

Mr. THOMPSON. I was born in Wisconsin; in Waukesha County.

Mr. VAN COTT. And grew to manhood there?

Mr. THOMPSON. Yes, sir.

Mr. VAN COTT. And were educated there?

Mr. THOMPSON. Yes, sir.

Mr. VAN COTT. Did you finally go to Utah?

Mr. THOMPSON. I went to Utah in 1889.

Mr. VAN COTT. And where have you resided since that time?

Mr. THOMPSON. In Salt Lake City.

Mr. VAN COTT. Have you a profession?

Mr. THOMPSON. I am an attorney at law.

Mr. VAN COTT. How long have you been practicing that profession?

Mr. THOMPSON. Since 1879.

Mr. VAN COTT. Are you a member of the Mormon Church?

Mr. THOMPSON. No, sir.

Mr. VAN COTT. Have you ever been?

Mr. THOMPSON. Never.

Mr. VAN COTT. Have you had any official position in Utah?

Mr. THOMPSON. Well, I have been judge of elections—something of that kind.

Mr. VAN COTT. But no judicial position?

Mr. THOMPSON. No.

Mr. VAN COTT. Have you taken an interest in politics since you have been in Utah?

Mr. THOMPSON. Yes, sir.

Mr. VAN COTT. And what are your politics?

Mr. THOMPSON. I am a Republican.

Mr. VAN COTT. Have you attended the Republican conventions?

Mr. THOMPSON. Very often.

Mr. VAN COTT. Which? State, county, or both?

Mr. THOMPSON. Both.

Mr. VAN COTT. Many times or not?

Mr. THOMPSON. Almost every time they had one.

Mr. VAN COTT. How general is your acquaintance in Salt Lake City?

Mr. THOMPSON. It is extensive.

Mr. VAN COTT. And in Salt Lake County?

Mr. THOMPSON. The same.

Mr. VAN COTT. And in the State of Utah?

Mr. THOMPSON. My acquaintance is general in the State.

Mr. VAN COTT. When you went to Utah, how did you find the conditions there as to whether everything was pleasant among the different classes, or whether there were bitter animosities?

Mr. THOMPSON. The situation when I went to Utah was very much disturbed, socially and politically.

Mr. VAN COTT. And religiously?

Mr. THOMPSON. And religiously; yes, sir.

Mr. VAN COTT. Are you a member of a church?

Mr. THOMPSON. No, sir, I am not, although I attend the Congregational Church.

Mr. VAN COTT. Mr. Thompson, during the years from 1889 up to the present have you taken an interest in public affairs?

Mr. THOMPSON. Yes, sir.

Mr. VAN COTT. And of course you have known, in a general way, about the rumors of unlawful cohabitation and polygamy, and such things as that?

Mr. THOMPSON. Yes, sir.

Mr. VAN COTT. What is the sentiment among the Gentiles in regard to violations of the law against unlawful cohabitation where the marriages were performed prior to the manifesto?

Mr. THOMPSON. Well, they have always been treated by the Gentiles in a spirit of toleration.

Mr. VAN COTT. Does that express your full idea on the subject? If it does, I will proceed. Were you in Salt Lake City when Joseph F. Smith testified for the protestants in this case?

Mr. THOMPSON. Yes, sir.

Mr. VAN COTT. Were you connected in any way at that time with finding out what the sentiment was on that particular subject?

Mr. THOMPSON. Yes, sir; in this way: There was a meeting called in Salt Lake City by some of the non-Mormon citizens to take some steps with reference to sending a protest here against the view taken by Joseph F. Smith in his testimony, in which he stated, I believe, that the non-Mormon community had condoned these offenses. I signed that protest, and at that meeting I was appointed chairman of a committee to investigate the advisability of forming an opposition, politically, to the Mormons there in Salt Lake County. In that capacity, and at the suggestion of the meeting that this committee should be increased to twenty-five, I submitted the proposition to certain prominent Gentiles as to whether they would become members of the committee. I approached several prominent Gentiles on the subject and they refused to have anything to do with it. They refused to become members of the committee and stated that they thought it was ill advised and injudicious, and that it would be a great deal better to leave matters as they were; that they would finally adjust themselves. I also discussed the matter with other people, non-Mormons, and saw several interviews with prominent men, like W. S. McCornick, in the Deseret News, as to what they thought of the movement; and although at a subsequent meeting the committee was completed by the addition of twenty members and power given me to call this committee together, on account of the sentiment that I found existing among the majority of the Gentiles in regard to the matter, the committee was never called together, and nothing was done at that time.

Mr. VAN COTT. As I understand, you do draw a distinction between what is termed "condonation" and what is termed "toleration," and you use the word advisedly?

Mr. THOMPSON. Yes, sir.

Mr. VAN COTT. Have you heard of men who were married before the manifesto living in unlawful cohabitation?

Mr. THOMPSON. Well, generally reported so. I lived for many years opposite Bishop Morris, of the Eleventh Ward.

Mr. VAN COTT. Is that the gentleman who was referred to this morning?

Mr. THOMPSON. Yes, sir; his family and his children were at my house nearly every day, and mine at his house. I have known Bishop Morris for eleven or twelve years.

Mr. VAN COTT. You know he is a polygamist, I suppose?

Mr. THOMPSON. I suppose so. I have that idea.

Mr. VAN COTT. And if you have no positive knowledge on the question, I suppose you have a belief as to whether he is living in unlawful cohabitation?

Mr. THOMPSON. I believe he is.

Mr. VAN COTT. Now, Mr. Thompson, what is the sentiment of the Gentiles in Utah, why they do not inform and report on these cases? I wish you would give it as fully as you can, so that we will have a correct appreciation.

Mr. THOMPSON. Well, the general idea has been that this condition of things would gradually die away by the lapse of time. It has been generally repugnant to most people to take any position as against the Mormons in this matter which would imply either prosecution or persecution. In other words, they did not care to be informers.

Mr. VAN COTT. Now, in regard to other offenses. Salt Lake City is just like other cities, in a way, is it, in that there are violations of the law?

Mr. THOMPSON. Yes, sir.

Mr. VAN COTT. And do Gentiles, or do Mormons, whenever they know of a violation of law, go and report it?

Mr. THOMPSON. No, sir; they would not report, and have not reported, these cases of unlawful cohabitation any more than they have reported offenses against public morals in the way of gambling or of liquor selling on Sunday, which is carried on there all the time to the knowledge of everyone.

Senator McCOMAS. They do not tell on each other?

Mr. THOMPSON. They do not tell; no.

Mr. VAN COTT. Do you mean that they do not tell on each other, Mr. Thompson?

Mr. THOMPSON. No; I do not mean that.

Mr. VAN COTT. You do not mean that all the men there indulge in these practices?

Mr. THOMPSON. Oh, no.

Mr. VAN COTT. You have mentioned Bishop Morris as living across the road from your house, and his children being at your house. Have you seen what is called by the Supreme Court of the United States this offensive flaunting of the polygamous relation?

Mr. THOMPSON. No, sir; I never saw it.

Mr. VAN COTT. And do you know of it with anyone else besides Bishop Morris?

Mr. THOMPSON. I know that certain Mormons have been generally reported to be living in unlawful cohabitation—sustaining those relations—but I have never heard of it being flaunted in any way.

Mr. VAN COTT. While you have lived in Salt Lake have you taken this general interest in politics that most men do, or have you been close down among the voters to know their sentiments and how they work?

Mr. THOMPSON. Yes, sir; I have been a candidate for office myself, and when I am I generally get close to them if I can. [Laughter.]

Mr. VAN COTT. Then I would like to know your opinion as to the constancy of the Mormon voters in adhering to their party lines.

Mr. THOMPSON. They have always been more faithful to their party affiliations than the non-Mormons. I know that from personal experience.

Mr. VAN COTT. You have analyzed the vote for that purpose, have you?

Mr. THOMPSON. Yes, sir.

Mr. VAN COTT. What did you discover about Mormons being influenced like other people in their political convictions or their political opinions?

Mr. THOMPSON. I have never discovered that they are more than any other people. They may be governed by their friendships or acquaintance.

Mr. VAN COTT. Have you run for a judicial position in Salt Lake County?

Mr. THOMPSON. Yes, sir; I was a candidate for one of the judgeships in what is called the third judicial district at the first State election on the Republican ticket.

Mr. VAN COTT. Who was your opponent?

Mr. THOMPSON. Mr. Legrand Young.

Mr. VAN COTT. Is he a practicing lawyer?

Mr. THOMPSON. Yes, sir.

Mr. VAN COTT. And a Mormon?

Mr. THOMPSON. Yes, sir.

Mr. VAN COTT. And how does he stand in the community, with Gentiles and Mormons?

Mr. THOMPSON. Well, Mr. Young is a very prominent and well thought of citizen.

Mr. VAN COTT. How did you hold up with your associates who were Mormons, on your ticket in the Mormon precinct, if you had occasion to notice?

Mr. THOMPSON. Well, I ran ahead of Mr. Young in many Mormon communities.

Mr. VAN COTT. When you first went to Utah—

Mr. THOMPSON. And I also ran ahead of my Mormon associate on my own ticket.

Mr. VAN COTT. I see. When you went to Utah, Mr. Thompson, did you take any interest in studying what is denominated the Mormon question?

Mr. THOMPSON. Yes, sir.

Mr. VAN COTT. And you did study it, did you?

Mr. THOMPSON. Yes, sir.

Mr. VAN COTT. And are these sentiments that you have expressed here the result of the study and the association that you have had in Utah, or have you ever changed your opinion on the situation since you have been there?

Mr. THOMPSON. Well, I have changed my opinion—

Mr. VAN COTT. In what way?

Mr. THOMPSON. Very much in the last two years—I may say in the last year.

Mr. VAN COTT. Just express yourself a little more clearly, please, and fully.

Mr. THOMPSON. Well, I have investigated the question with reference to the so-called church influence in politics this last year closer than I ever did before, for the purpose of finding out for my own satisfaction. I took quite a prominent part in the last Republican State convention. The nomination of the candidate for governor was charged by certain non-Mormons to be the result of church dictation. I know positively that is not true. The contest was carried on purely on political lines, leading Mormons taking an active part in the canvass of each of the leading candidates. I speak of that convention because it was charged afterwards that the nomination of Mr. Cutler, the present governor, was secured by church dictation.

Mr. VAN COTT. By those who were defeated?

Mr. THOMPSON. The non-Mormons in that convention were, I should say, about equally divided in their support of the two candidates. I have reason to know that the Mormons, although they by their numbers control, or could control the political situation, have always—at any rate for the last three or four years—treated the Gentiles very fairly, most fairly, in the distribution of offices and political honors.

Mr. VAN COTT. Taking the last city election, in your opinion was the result there brought about by the influence of the Mormon Church?

Mr. THOMPSON. No; it was not.

Mr. VAN COTT. Was it due, in your opinion, to other causes?

Mr. THOMPSON. It was.

Mr. VAN COTT. What is your opinion as to whether polygamy is dying out, and also as to the sentiment of Mormons on that question?

Mr. THOMPSON. I think, from my experience and from what I know of the situation there, that polygamy is dying out, and that the sentiment of the younger Mormons, at any rate, is decidedly against polygamy and its relations.

Mr. VAN COTT. How long have you known Reed Smoot?

Mr. THOMPSON. I have known Senator Smoot intimately for four years.

Mr. VAN COTT. Has he been prominent in the politics of the Republican party in Utah?

Mr. THOMPSON. He has been very prominent for the last four years to my certain knowledge.

Mr. VAN COTT. Do you know whether he was before that?

Mr. THOMPSON. I think he was.

Mr. VAN COTT. What is your opinion as to whether the fact that he was an apostle helped or handicapped him in the race for United States Senator?

Mr. THOMPSON. I do not think it helped him any.

Mr. VAN COTT. What would you say, taking the political conditions as they existed at the time of his candidacy, as to whether he was a logical candidate for the position?

Mr. THOMPSON. He was the logical candidate for many reasons.

Mr. VAN COTT. For many reasons?

Mr. THOMPSON. Or, I will say for a number of reasons.

Senator OVERMAN. What were the reasons? State the reasons.

Mr. THOMPSON. Well, in the first place, geographically, as we term it in politics, he was the logical candidate, because he lived in Utah County, and it was not desirable that both Senators should come from Salt Lake County. He was the logical candidate in that respect. He was a logical candidate because at the time of the State convention, four years ago, he was talked of prominently as a candidate for governor and was considered the Republican leader in what we call the southern section of the State.

Mr. VAN COTT. Have you finished, Senator?

Senator OVERMAN. Yes.

The CHAIRMAN. Are there any further questions?

Mr. VAN COTT. Yes; one or two more. Do you know whether or not men who supported Mr. Smoot for the Senatorship after he was an apostle later on opposed him?

Mr. THOMPSON. I do not know that I have any personal knowledge of that.

Mr. VAN COTT. Do you have any repute?

Mr. THOMPSON. Yes; it is reputed so.

Mr. VAN COTT. You have that. Do you know Angus M. Cannon, jr., personally?

Mr. THOMPSON. Yes.

Mr. VAN COTT. Do you know his general reputation in the community in which he lives for truthfulness?

Mr. THOMPSON. Yes.

Mr. VAN COTT. Is it good or bad?

Mr. THOMPSON. Bad.

Mr. VAN COTT. Would you believe him under oath?

Mr. THOMPSON. Well, I do not like to answer that question.

Mr. VAN COTT. Well, I am informed by Colonel Worthington that that is the proper question in this District, although the last question is not proper in the State of Utah. That is the reason I asked it.

Mr. WORTHINGTON. I do not know that the rule in the District would govern the Senate.

Mr. VAN COTT. I will not press the question any further on that particular subject. That is all I have.

Mr. TAYLER. Where did you live with reference to the place where Bishop Morris lived?

Mr. THOMPSON. Right across the street.

Mr. TAYLER. Across the street?

Mr. THOMPSON. Yes.

Mr. TAYLER. How long have you lived across the street from him?

Mr. THOMPSON. Well, I have lived there for about twelve years.

Mr. TAYLER. And he for how long?

Mr. THOMPSON. Well, he was living there when I came to Salt Lake. I do not know how long he lived there.

Mr. TAYLER. How many wives is he reputed to have?

Mr. THOMPSON. I think he was reputed to have three at one time.

Mr. TAYLER. And at that one place, too?

Mr. THOMPSON. Yes.

Mr. TAYLER. They lived there together, did they not; not in one house, but in adjoining properties?

Mr. THOMPSON. Well, they had two or three houses on the same lot.

Mr. TAYLER. Yes. Then, did you hear of the death—is it a fact that his legal wife died?

Mr. THOMPSON. I can not answer that from personal knowledge. One of his wives did die. Which one I do not know.

Mr. TAYLER. Did you hear of his taking another after the death of that one?

Mr. THOMPSON. No.

Mr. TAYLER. Did he have children by these wives?

Mr. THOMPSON. Yes, sir.

Mr. TAYLER. That is, children born to them since 1890?

Mr. THOMPSON. I do not know.

Mr. TAYLER. You do not know? You do not know whether there were small children about in the last ten years?

Mr. THOMPSON. Well, so far as I know, I do not think he had any children born since 1890. That would be my recollection of it from what I know of the children.

Mr. TAYLER. What?

Mr. THOMPSON. From what I know of the children and their ages I should say not.

Mr. TAYLER. Did you read with "amazement, indignation, and disgust" the testimony of President Smith?

Mr. THOMPSON. I think I did.

Mr. TAYLER. Your memory is indistinct about it, is it?

Mr. THOMPSON. I know that I signed a protest. I can not recollect what the language of that protest was.

Mr. TAYLER. Did you most emphatically repudiate and repel the allegations, in substance, that "knowing of President Smith's defiant lawlessness" you are accessories to his crime?

Mr. THOMPSON. Yes, sir.

Mr. TAYLER. Did you say that, on the contrary, "he and the other polygamists have surrounded themselves with an impenetrable wall of secrecy?"

Mr. THOMPSON. I can not remember the exact wording of the protest, Mr. Tayler, but if that is the protest you are reading from, and I signed it, I certainly did.

Mr. TAYLER. You believed all that was in it?

Mr. THOMPSON. Bishop Morris did not have any impenetrable wall about his several homes, did he? I was not condoning his offenses either.

Mr. TAYLER. Did you believe a year ago, or last spring, that the "public sentiment of the law-abiding people in Salt Lake has at all times been zealous for the punishment of polygamy and polygamous practices as well as of other crimes?"

Mr. THOMPSON. Colonel Nelson, who wrote that protest——

Mr. TAYLER. Yes; I know——

Mr. WORTHINGTON. Oh, let him answer, Mr. Tayler.

Mr. TAYLER. I want him to answer whether he believed that. This is a personal question to him.

Mr. WORTHINGTON. You might as well let him answer about Colonel Nelson, because I will ask him about it if you do not.

Mr. TAYLER. Mr. Worthington, you are always full of threats. I would rather let him answer than to have you do that. Go on with the answer.

Mr. THOMPSON. If I had written that protest myself it is possible that I might not have colored it so highly as Colonel Nelson has, I not having his rhetorical powers of diction.

Mr. TAYLER. That hardly answers my question.

Mr. THOMPSON. What was it?

Mr. TAYLER. Possibly you might not have colored it so highly. Is it a fact that the public sentiment of the law-abiding people of Salt Lake has at all times been zealous for the punishment of polygamy and polygamous practices as well as of other crimes?

Mr. THOMPSON. I do not think it has, in that sense of the word.

Mr. TAYLER. How much are you going to shade that adjective "zealous;" are you going to run it down to "tolerate?"

Mr. THOMPSON. Well, I am not going to shade it at all. I am going to just leave it.

Mr. TAYLER. Leave it? Then it is a fact, is it?

Mr. THOMPSON. It is a fact that the community in that sense of the word has not always been zealous in regard to that, I should imagine.

Mr. TAYLER. Then you signed this ill-advisedly, did you?

Mr. THOMPSON. I knew in a general way. I had heard it read, and I signed it. I knew what I was signing.

Mr. TAYLER. You did know what you were signing?

Mr. THOMPSON. Yes, sir.

Mr. TAYLER. Well, now, was this signature of yours carelessly given, or have you changed your mind?

Mr. THOMPSON. I do not think I have changed my mind since I signed that.

Mr. TAYLER. Then that part of what you signed did not express your conviction?

Mr. THOMPSON. What part?

Mr. TAYLER (reading):

"The public sentiment of the law-abiding people of Salt Lake has at all times been zealous for the punishment of polygamy and polygamous practices."

Is that right?

Mr. THOMPSON. The sentiment may have been zealous, but it has not been carried out, certainly.

Mr. TAYLER. I wish you would read the question I asked, Mr. Reporter.

The reporter read as follows:

"Mr. TAYLER. Then that part of what you signed did not express your conviction?"

"Mr. THOMPSON. What part?"

"Mr. TAYLER. 'The public sentiment of the law-abiding people of Salt Lake has at all times been zealous for the punishment of polygamy and polygamous practices.' Is that right?"

Mr. THOMPSON. Yes.

Mr. TAYLER. It did not express your conviction?

Mr. THOMPSON. Yes; it did.

Mr. TAYLER. I did not want to misunderstand you. Is it a fact that at this time last spring, "owing to the power and control of the polygamist hierarchy over their people, and the pressure they have constantly brought to bear upon them in support of the special crime to which they are prone, it has become a matter of discipline with all who are under that domination to refrain from talking about polygamous relations, and to deny knowledge of the same on all occasions?" Was that true?

Mr. THOMPSON. I do not think that is quite true.

Mr. TAYLER. What?

Mr. THOMPSON. I do not think that is quite true.

Mr. TAYLER. Was it true then?

Mr. THOMPSON. No; it was not any more true then than it is now.

Mr. TAYLER. "The one who would reveal his knowledge of these matters has been stigmatized as a traitor, a spy, and an informer, and among the devotees of the Mormon Church is held to be infamous." Was that true then?

Mr. THOMPSON. I think that is true; yes.

Mr. TAYLER. "Whoever betrays the polygamist is subject to ostracism, abuse, deprivation of business, and to every penalty which unbridled, unscrupulous power can inflict." Is that true?

Mr. THOMPSON. No; I do not think that is true.

Mr. TAYLER. What part of it was not true; or was none of it true?

Mr. THOMPSON. Well, I do not think people have been persecuted because they said anything about a polygamist.

Mr. TAYLER. You do not? Did you believe then that "startling

as the disclosures were, certainly there are deeper depths than have yet been sounded?"

Mr. THOMPSON. Well, I do not know exactly what the colonel meant by that.

Mr. TAYLER. You did not undertake to erase any part of this business when you signed it?

Mr. THOMPSON. Oh, no.

Mr. TAYLER. Were you in a frenzy at the time?

Mr. THOMPSON. No.

Mr. TAYLER. Were you in a state of high excitement of any sort?

Mr. THOMPSON. No.

Mr. TAYLER. You did it coolly?

Mr. THOMPSON. I did not want to destroy——

Mr. TAYLER. What?

Mr. THOMPSON. I did not propose to destroy the Colonel's handiwork. I was willing to let it go.

Mr. TAYLER. This was just a little thing. You would, of course, sign a document of this sort, addressed to the Senate of the United States, without any particular regard to whether it was true or not?

Mr. THOMPSON. No; I would not.

Mr. TAYLER. Well, you did, did you not?

Mr. THOMPSON. No; I signed that with the best intentions and in the best of faith.

Mr. TAYLER. But your intentions were not so good but that even a determination to tell the truth would not permit you to meddle with Colonel Nelson's rhetoric. Is that right?

Mr. THOMPSON. Read that question, please.

Mr. TAYLER. Now, we will get rid of the rhetoric and take the kernel—not Colonel Nelson, but the heart of this. Did you believe that, notwithstanding the remarkably startling disclosures, "deeper depths were yet to be sounded?" It is very hard to express that any better, but did you think so?

Mr. THOMPSON. Well, as I said before, I do not know what that means.

Mr. TAYLER. You do not?

Mr. THOMPSON. No.

Mr. TAYLER. Well, now, suppose that he meant—I would like to be able to help you—that startling as the things were that had been disclosed, there were still more startling things, if the truth were known. Did you believe that?

Mr. THOMPSON. I believed that it might be so.

Mr. TAYLER. Did you believe this: "We also most earnestly protest against the continuance of the state of degradation and immoral living the testimony referred to discloses, and demand that the laws against this crime shall be enforced with such vigor as to compel the defiant transgressors to come within the law and keep good faith with our generous nation?"

Mr. THOMPSON. I believed that.

Mr. TAYLER. Do you believe it now?

Mr. THOMPSON. Yes.

Mr. TAYLER. You still believe these men are defiant transgressors, do you?

Mr. THOMPSON. Well——

Mr. TAYLER. Do you?

Mr. THOMPSON. I think so. Some of them are.

Mr. TAYLER. And you think that the people out there tolerate defiance?

Mr. THOMPSON. I do not think the people generally understood the situation until this investigation was had.

Mr. TAYLER. I understand. But it is had now, up to a certain point. The use of the word "defiant" followed the testimony, did it not, Joseph F. Smith?

Mr. THOMPSON. Yes, sir.

Mr. TAYLER. Now, do the people out there tolerate what they call defiant disobedience to the law?

Mr. THOMPSON. No.

Mr. TAYLER. Do they recognize that anybody is defiantly disregarding the law?

Mr. THOMPSON. Well, many of them do.

Mr. TAYLER. Many of them. You signed this along with many others, who did not read it, I suppose, like you?

Mr. THOMPSON. Yes.

Mr. TAYLER. That is all.

Mr. VAN COTT. That is all, Mr. Chairman, for the present.

The CHAIRMAN. Who is your next witness?

Mr. VAN COTT. Mr. De Moisy?

TESTIMONY OF CHARLES DE MOISY.

CHARLES DE MOISY, being duly sworn, was examined and testified, as follows:

Mr. VAN COTT. Your name is Charles De Moisy?

Mr. DE MOISY. Yes, sir.

Mr. VAN COTT. Where do you live, Mr. De Moisy?

Mr. DE MOISY. In Salt Lake City, Utah.

Mr. VAN COTT. Where were you born?

Mr. DE MOISY. I was born in East Tennessee.

Mr. VAN COTT. How long did you live there?

Mr. DE MOISY. In East Tennessee?

Mr. VAN COTT. Yes.

Mr. DE MOISY. Until the fall of 1864.

Mr. VAN COTT. What age were you?

Mr. DE MOISY. When I left there?

Mr. VAN COTT. Yes.

Mr. DE MOISY. Nearly 14 years of age—between 13 and 14.

Mr. VAN COTT. And where did you go then?

Mr. DE MOISY. I went to Cincinnati.

Mr. VAN COTT. And you lived in different places, did you?

Mr. DE MOISY. I went to Cincinnati, and from there I went into the western country and finally reached Utah.

Mr. VAN COTT. When?

Mr. DE MOISY. In October of 1889, I think.

Mr. VAN COTT. Where did you live in Utah?

Mr. DE MOISY. I lived in southern Utah during that winter; the next March—March of 1890—I came to Provo City and I lived there until a year ago last August, when I moved to Salt Lake City.

Mr. VAN COTT. What is your age?

Mr. DE MOISY. I am 53, past.

Mr. VAN COTT. Do you hold any position in Utah?

Mr. DE MOISY. Yes, sir.

Mr. VAN COTT. What?

Mr. DE MOISY. I am commissioner of the State bureau of statistics.

Mr. VAN COTT. Under the law of Utah are you compelled to reside at the capital?

Mr. DE MOISY. No, sir.

Mr. VAN COTT. Oh, you are not one of those officers?

Mr. DE MOISY. No, sir; I moved to Salt Lake City on account of the schools—for convenience.

Mr. TAYLER. What is his office?

Mr. VAN COTT. What was your office?

Mr. DE MOISY. I have charge of the bureau of statistics—commissioner.

Mr. VAN COTT. Are you a member of the Mormon Church?

Mr. DE MOISY. No, sir.

Mr. VAN COTT. Have you ever been?

Mr. DE MOISY. No, sir.

Mr. VAN COTT. Do you belong to a church?

Mr. DE MOISY. Yes and no.

Mr. TAYLER. This is too much. I wish you would not ask that question at all.

Mr. VAN COTT. I want to get a man who belongs to some one of the churches.

Mr. DE MOISY. I suppose I do belong to a church. I was born and brought up in the Episcopal Church and I have never left it.

Mr. VAN COTT. Your family, at least, belong to that church?

Mr. DE MOISY. No.

Mr. VAN COTT. Oh, they do not?

Mr. DE MOISY. No; my wife is a Methodist, and that is the reason I have not attended the Episcopal Church very much.

Mr. VAN COTT. That is it has influenced you to keep away from the Episcopal Church? I see. Were you in Provo before the division on party lines?

Mr. DE MOISY. Yes, sir.

Mr. VAN COTT. And I suppose in those early days you knew Mr. Smoot?

Mr. DE MOISY. I think I got acquainted with Mr. Smoot in the fall of 1890 or the winter of 1890-91.

Mr. VAN COTT. Have you taken an interest in politics and public affairs?

Mr. DE MOISY. Yes, sir.

Mr. VAN COTT. Have you been in the political conventions?

Mr. DE MOISY. I think I have been in every convention, since the division on party lines, as a delegate.

Mr. VAN COTT. And what about the county conventions?

Mr. DE MOISY. In Utah County I think I never missed a convention.

Mr. VAN COTT. In politics what are you?

Mr. DE MOISY. I am a Republican.

Mr. VAN COTT. Were you in the convention that was held at Ogden, where it was stated by Judge Powers that it was reputed that Judge Booth nominated himself for Congress?

Mr. DE MOISY. Yes, sir; I was a delegate to that convention. I was a member of the committee on platform.

Mr. VAN COTT. Are you personally acquainted with Judge Booth?

Mr. DE MOISY. Yes, sir.

Mr. VAN COTT. Is he at the present time a district judge of the territory that takes in Provo and Utah County?

Mr. DE MOISY. Yes, sir; he is the judge of the fourth judicial district, which includes Utah County, Wasatch County, and Uinta County.

Mr. VAN COTT. As you were present, I would like from you a statement about Judge Booth in that convention, and in regard to him nominating himself, as was stated.

Mr. TAYLER. Is this one of your men of straw that you got Judge Powers to construct, and now are you going to knock him down?

Mr. VAN COTT. No; I think you drew it out.

Mr. TAYLER. Well, it will take less time to let him tell it.

Mr. DE MOISY. That was in 1896, at the time the Republicans of Utah lost their heads and went crazy after Bryan. The Silver Republicans, so called, met in Salt Lake City and nominated a man living in Provo, named Holbrook, for Congress. We held the regular Republican convention at Ogden following that, and at that time the Silver Republicans attempted to force the nomination of Mr. Holbrook upon the Republican party. There was a great deal of opposition, especially from the Republicans of Utah County. We had no candidate to name, but we named John E. Booth. There was a good deal of bitter feeling at that convention, a good deal of pretty hard talk; and Judge Booth at that time—that was before he was judge—was discussing some political point, and the house had made a ruling that nobody should have the floor except for the purpose of nominating a candidate or seconding the nomination of somebody who had been nominated. They raised a point of order on Judge Booth that he was not either nominating a candidate or seconding the nomination of a candidate. The chair ruled him out of order, and he answered back: "I am seconding the nomination of John E. Booth."

Mr. VAN COTT. That was himself?

Mr. DE MOISY. That was himself. The house took it good-naturedly and allowed him to finish his argument.

Mr. VAN COTT. Was it taken there seriously that Judge Booth was nominating himself for Congress?

Mr. DE MOISY. Not seriously. They simply appreciated his wit in holding the floor as against the ruling of the chair.

Mr. VAN COTT. While you have been connected with the politics of Utah County what have you observed about the constancy of the Mormon voters in adhering to their party lines?

Mr. DE MOISY. The only precincts in Utah County that ever cast a straight Republican vote are overwhelmingly Mormon precincts. There is one precinct in Utah County—

Mr. WORTHINGTON. A straight Republican vote, did you say?

Mr. DE MOISY. Yes, sir; that the vote of the Republican party is always straight. Whatever one candidate gets the other gets. That is Alpine. I think the Mormons have voted closer to their party ticket than the Gentiles have.

Mr. VAN COTT. And as to the offices of Utah County, what would you say as to the division between Mormons and Gentiles?

Mr. DE MOISY. The Gentiles have always had their share, and a little more.

Mr. VAN COTT. Take the legislators at the present time from Utah County. How many are there for the Utah legislature?

Mr. DE MOISY. Utah County is entitled to four representatives and two senators—State representatives and State senators.

Mr. VAN COTT. What is the division just at present as to them?

Mr. DE MOISY. One of the senators is a Mormon and one is a Gentile. Two of the representatives are Mormons and two are Gentiles.

Mr. VAN COTT. You are well acquainted in Provo, are you?

Mr. DE MOISY. Yes, sir.

Mr. VAN COTT. About what is the population?

Mr. DE MOISY. About 7,000.

Mr. VAN COTT. Do you know many people there?

Mr. DE MOISY. Yes; until a year ago I knew nearly everybody there, man, woman, and child.

Mr. VAN COTT. According to your knowledge or according to the repute at that time, what have you to say as to the number of polygamists in Provo?

Mr. DE MOISY. Well, I do not know. There are quite a number of people living in Provo—quite a number of men living there who had been polygamists, but a good many of them had lost their wives through death.

Mr. VAN COTT. Yes.

Mr. DE MOISY. I suppose, probably, in Provo there are maybe 18 or 20 polygamists now.

Mr. VAN COTT. Have you checked them off lately?

Mr. DE MOISY. I ran through my mind to recall who were reputed polygamists.

Mr. VAN COTT. Do you think there are that many?

Mr. DE MOISY. Yes; I think there are.

Mr. VAN COTT. Mr. De Moisy, I will ask you to check that over carefully. I will not stop now to have you do it, but I will recall you for the purpose of checking over the list to see if you are right in that number. Do you know whether any of the polygamists have kept the manifesto so far as it pertains to unlawful cohabitation?

Mr. DE MOISY. I think several of them have. I am satisfied the president of the stake has.

Mr. VAN COTT. Who is he?

Mr. DE MOISY. Mr. David John. I have talked with him frequently about it, and he has always insisted that he obeyed the law ever since the manifesto, and I believe he has.

Mr. VAN COTT. When you spoke of the eighteen or twenty polygamists did you mean those who have been polygamists or did you mean those who were living in polygamy?

Mr. DE MOISY. Oh, I mean those who have been polygamists, of course.

Mr. VAN COTT. Oh! How many are there who live in polygamy?

Mr. DE MOISY. At this time?

Mr. VAN COTT. Yes.

Mr. DE MOISY. Practicing polygamous relations?

Mr. VAN COTT. Yes.

Mr. DE MOISY. I do not think there are over two or three.

Mr. VAN COTT. What is the sentiment, as you know it, regarding the punishment of those who live in polygamous cohabitation where the marriages were celebrated before the manifesto?

Mr. DE MOISY. I think there is a matter of indifference about it.

Mr. VAN COTT. With the Gentiles?

Mr. DE MOISY. Yes, sir.

Mr. VAN COTT. You have known of some two or three men in Provo who have been living contrary to the law of unlawful cohabitation?

Mr. DE MOISY. I think I have.

Mr. VAN COTT. What is the sentiment about informing and reporting those cases?

Mr. DE MOISY. Well, I judge the others feel a good deal like I do about it. They act the same way. I myself have thought that the less said about those things the better. When I first went into Provo about 75 per cent of the criminal cases on the calendar were charges of violations of the sexual relation, and I had to scan every paper that came into my house, because I did not care for my children to read that kind of matter.

The CHAIRMAN. What year was that?

Mr. DE MOISY. That was in 1889.

The CHAIRMAN. When you went to Provo?

Mr. DE MOISY. Yes, sir. It has always seemed to me that it was a great deal better to pay no attention to those things than to make them public. The others have acted just like I have.

Mr. VAN COTT. What is the sentiment among the Mormons as to new polygamous marriages since the manifesto, and what is the sentiment also of the younger Mormons as to polygamy?

Mr. DE MOISY. I think there is a growing sentiment—I have noticed it for some time—not only among the younger, but among a good many other Mormons, that they are opposed to the practice of polygamy; not only opposed to the marriage, but opposed to the unlawful cohabitation.

Mr. VAN COTT. How do you find the Mormons as to being independent in politics?

Mr. DE MOISY. Well, I do not know. I find them just like other people. There are good, bad, and indifferent among them. There are some of them you can not trust around the corner and there are some you can put all the dependence in the world in.

Mr. VAN COTT. Have you noticed anything about the Mormon Church interfering in politics since the division on party lines?

Mr. DE MOISY. I think the talk of church interference is a bugaboo created purely for the benefit of disgruntled politicians.

Mr. VAN COTT. I suppose you have heard what has been called in this case "whisperings?"

Mr. DE MOISY. Yes, sir; I have heard them and traced them down.

Mr. VAN COTT. And is the result what you have already expressed about that, when you have traced them down?

Mr. DE MOISY. Yes, sir; there are men in both parties who, to gain some little temporary advantage, will go around and suggest to the members of the church that the church wants so and so done; and in every instance where I have investigated the matter I have found that it simply grew out of the jealousy of the party who wanted that condition.

Mr. VAN COTT. In the campaign preceding the election of Mr. Smoot to the United States, I will ask you what was the most prominent part of the campaign—that is, the most prominent issue in the campaign?

Mr. DE MOISY. What year is that, Mr. Van Cott?

Mr. VAN COTT. The year preceeding Mr. Smoot's election to the United States Senate.

Mr. DE MOISY. 1902?

Mr. VAN COTT. Whichever year that was. Yes, that would be the year. The election would be in 1902, and in January following would be the election of United States Senator.

Mr. DE MOISY. Yes, that is right. Mr. Smoot announced his candidacy, I think, in May of 1902. He announced publicly that he would be a candidate for United States Senator. The Democratic papers published day after day, not immediately, but while the campaign was on, that the vote for the Republican party was a vote for Smoot for Senator. I think that was the issue in that fight.

Mr. VAN COTT. And what is your opinion as to whether the fact that Mr. Smoot was an apostle in the Mormon Church assisted or handicapped him in that campaign.

Mr. DE MOISY. I do not think it made any difference. He gained some by it and he lost some by it.

Mr. VAN COTT. Have you ever been a member of the school board in Provo?

Mr. DE MOISY. Yes, sir.

Mr. VAN COTT. Have you ever taken an interest there in school matters?

Mr. DE MOISY. Yes, sir.

Mr. VAN COTT. What have you to say as to whether competent Gentile school-teachers are discriminated against in any particular?

Mr. DE MOISY. I think I was elected on the school board in 1892 or 1893, I do not remember now which; but at that time there were employed in the schools in Provo 2 or 3 Gentile teachers out of 17 teachers, I think, at the time—16 or 17 teachers at the time. I do not think there has been a time since that but what there have been from 2 to as many as 5 Gentile teachers employed in those schools.

Mr. VAN COTT. Calling your attention to Utah County and also to the election for United States Senator that was held before that, in the first campaign for United States Senator, was it generally understood that it would be a Gentile?

Mr. DE MOISY. Yes, sir. That is, in 1900.

Mr. VAN COTT. Yes. Now, in that campaign what gain did the Republican party make in Utah County?

Mr. DE MOISY. I think at the special election that was held just prior to the regular election in 1902 Judge King carried Utah County for Congress by a little over 700 majority—that is, Democratic majority. In the fall of 1900 Utah County gave McKinley 309 majority.

Mr. VAN COTT. That would be a change of about a thousand votes?

Mr. DE MOISY. Yes, sir.

Mr. VAN COTT. In the campaign where the most prominent issue was Mr. Smoot's candidacy, what was the increase of the Republican vote in Utah County?

Mr. DE MOISY. I think the average majority of the Republicans elected in Utah County in 1902 was about 700, an increase of 400.

Mr. VAN COTT. An increase of 400?

Mr. DE MOISY. Yes, sir.

Mr. WORTHINGTON. You seem to have lived in Provo and know a good deal about Senator Smoot. You knew about him before he was announced as a candidate for the Senate?

Mr. DE MOISY. Yes, sir.

Mr. WORTHINGTON. It has been testified by a witness here that he was not seriously considered as a possible candidate for the Senate until he became an apostle, that he had no standing in the party which would have entitled him to be considered as a candidate. How do you agree with that?

Mr. DE MOISY. That is not true.

Mr. WORTHINGTON. You know that is not true, do you?

Mr. DE MOISY. I know that is not true. I know it as well as I know anything.

Mr. WORTHINGTON. That is all.

Mr. TAYLER. When did he become an apostle?

Mr. DE MOISY. I think it was in the spring of 1900.

Mr. WORTHINGTON. That is right.

Mr. DE MOISY. It was just before our election for governor, I think, four years ago.

Mr. TAYLER. You lived in Provo how long?

Mr. DE MOISY. I lived continuously in Provo from March of 1890 until August of 1900.

Mr. TAYLER. And when you left there there were only two polygamists, so far as you know or heard of there; is that right?

Mr. DE MOISY. That is, that were living in active unlawful cohabitation; but I can not think of but two now.

Mr. TAYLER. Who are they?

Mr. DE MOISY. I think one of them is John C. Graham, and the other is J. W. Bean.

Mr. TAYLER. Did you know Benjamin Cluff, jr?

Mr. DE MOISY. Yes, sir.

Mr. TAYLER. Was he a polygamist?

Mr. DE MOISY. He is not living in Provo now.

Mr. TAYLER. I am not talking about now, but when you lived there.

Mr. DE MOISY. He is reputed to be; yes, sir.

Mr. TAYLER. Did he not take several wives?

Mr. DE MOISY. I do not know how many. I know he is reputed to be a polygamist.

Mr. TAYLER. Was he not reputed to have married a new plural wife about 1899?

Mr. DE MOISY. Well, I think I did hear some talk about it.

Mr. TAYLER. You think you did hear some talk about it?

Mr. DE MOISY. Yes, sir.

Mr. TAYLER. It did not excite you at all?

Mr. DE MOISY. No, sir.

Mr. TAYLER. Not at all?

Mr. DE MOISY. No, sir.

Mr. TAYLER. So that it is not so that you care anything about whether new polygamous marriages are performed?

Mr. DE MOISY. Yes, sir.

Mr. TAYLER. Did you not tell us a minute ago that this did not excite you at all?

Mr. DE MOISY. Of course it did not excite me, because I had no way of verifying it. If you had lived in Utah as long as I have you would know the air is full of all kinds of talk for which there is no foundation.

Mr. TAYLER. Exactly. So you do not believe any of it?

Mr. DE MOISY. No.

Mr. TAYLER. Do you believe now that Benjamin Cluff took a wife three or four years ago?

Mr. DE MOISY. I do not know anything about it.

Mr. TAYLER. I did not ask you whether you know anything about it. The trouble with you is that you want to see the marriage performed before you believe it.

Mr. DE MOISY. No, sir; I never have heard anybody say, except in a general kind of street talk; it was said that Mr. Cluff took a wife some time—I think about, as you say, 1899.

Mr. TAYLER. Yes.

Mr. DE MOISY. But I never have talked with anybody who has purported to know the fact, so I am not in a place to know anything about it.

Mr. TAYLER. So that when it came into one ear it passed out through the other?

Mr. DE MOISY. Yes, sir.

Mr. TAYLER. And it was not a subject that you cared to find out or know anything about. The greater your ignorance the better would be your satisfaction. That is right, is it not?

Mr. DE MOISY. No, sir; I do not think that is true. It never came to me from anybody whom I relied upon as being truthful in the matter.

Mr. TAYLER. Did any of your children go to this school?

Mr. DE MOISY. What school?

Mr. TAYLER. The Brigham Young Academy.

Mr. DE MOISY. No, sir; I never sent one of my children to the Brigham Young Academy.

Mr. TAYLER. It is a large school, is it not?

Mr. DE MOISY. Yes, sir.

Mr. TAYLER. A thousand pupils?

Mr. DE MOISY. Something in that neighborhood; a thousand or eleven hundred.

Mr. TAYLER. Half of them girls?

Mr. DE MOISY. About half and half, I should judge, of the sexes.

Mr. TAYLER. And there did not seem to be any public spirit in your community that called for an inquiry or investigation into the question as to whether the president of that institution had in fact taken a new plural wife?

Mr. DE MOISY. I did not feel called upon to investigate it. There was no relation between Mr. Cluff and myself. I was not a patron of the school.

Mr. TAYLER. And the fact that he had three plural wives did not make him morally any worse than if he had two, did it, particularly?

Mr. DE MOISY. No; I do not think it made any difference whether

he had 2 or 10. If he had the second one, it was just as bad as though he had 10.

Mr. TAYLER. Exactly; so far as the moral question was concerned.

Mr. DE MOISY. Yes.

Mr. TAYLER. Did you ever hear of his successor being a polygamist?

Mr. DE MOISY. Who; Mr. Brimhall?

Mr. TAYLER. Yes.

Mr. DE MOISY. Yes; I understood Mr. Brimhall has been a polygamist long ago.

Mr. TAYLER. He had been?

Mr. DE MOISY. Yes.

Mr. TAYLER. What do you mean? Do you mean that if a man has two wives and the legal wife is sick, afflicted, the man is any the less a polygamist if he lives with the plural wife and does not live with the afflicted one?

Mr. DE MOISY. I do not know which one he is living with.

Mr. TAYLER. Suppose that is so. Does that make any difference in your view?

Mr. DE MOISY. No; if his legal wife was afflicted, as Mr. Brimhall's wife is, and he lived with the plural wife, he would be guilty of unlawful cohabitation.

Mr. TAYLER. Would he not be a polygamist?

Mr. DE MOISY. Yes. Now, I do not know whether he is or not.

Mr. TAYLER. You do not know if that is so? Did you ever hear of Mr. Hickman being a polygamist?

Mr. DE MOISY. I never heard of that until this investigation. I never knew of Mr. Hickman except simply to know who he was.

Mr. TAYLER. Did you ever hear of a man named Mr. Simmons?

Mr. DE MOISY. Simmons?

Mr. TAYLER. Yes; as being a polygamist.

Mr. DE MOISY. In Provo?

Mr. TAYLER. In Provo; yes.

Mr. DE MOISY. I only know one man named Simmons there, and he is not a Mormon. I know Doctor Simmons, who lives there. He is not a Mormon.

Mr. TAYLER. Who?

Mr. DE MOISY. Doctor Simmons.

Mr. TAYLER. You do not know any other Simmons there?

Mr. DE MOISY. I do not remember any such name now.

Mr. TAYLER. Do you know a man named Johns?

Mr. DE MOISY. I know David John; yes, sir.

Mr. TAYLER. Is he reputed to be a polygamist?

Mr. DE MOISY. Yes, sir.

Mr. TAYLER. Do you know a man named Vogelberger?

Mr. DE MOISY. Yes. He is not there now.

Mr. TAYLER. Was he there, though, when you left?

Mr. DE MOISY. No; I think he left Provo four or five years ago.

Mr. TAYLER. How many wives had he?

Mr. DE MOISY. He was reputed to have two wives.

Mr. TAYLER. Albert Jones?

Mr. DE MOISY. Yes; I know Albert Jones.

Mr. TAYLER. Is he a polygamist?

Mr. DE MOISY. I think he is reputed to be.

Mr. TAYLER. John C. Graham you named?

Mr. DE MOISY. Yes.

Mr. TAYLER. Do you know a man named Nick Muhlenstein?

Mr. DE MOISY. No; he lives out northeast of town. I do not know much about him. He lives up on the mountain side.

Mr. TAYLER. Is he a polygamist?

Mr. DE MOISY. I do not know.

Mr. TAYLER. Reputed, I mean?

Mr. DE MOISY. I do not know anything about him.

Mr. TAYLER. Do you know Sam Thurman?

Mr. DE MOISY. Yes, sir.

Mr. TAYLER. Is he reputed to be a polygamist?

Mr. DE MOISY. Well, I have heard it said that he is, and I have heard it disputed.

Mr. TAYLER. That is all.

Mr. VAN COTT. Have you heard what Mr. Thurman has said on that subject?

Mr. DE MOISY. I never talked to Mr. Thurman about it.

Mr. WORTHINGTON. When did I understand you left Provo?

Mr. DE MOISY. In August of 1908, a year ago last August.

Mr. WORTHINGTON. How long has it been since Mr. Cluff has been living there?

Mr. DE MOISY. I do not know whether it is one or two years. It has been some time since he has been at that school.

Mr. WORTHINGTON. Do you mean one or two years before you left there?

Mr. DE MOISY. No.

Mr. WORTHINGTON. About the time you left there?

Mr. DE MOISY. No; about the time I left I think that year Mr. Brimhall took charge of the school.

Mr. WORTHINGTON. When was it he left in relation to the time you heard these rumors that he had recently taken a plural wife?

Mr. DE MOISY. It was while he was gone on an expedition. They went down into Central America, or somewhere, on an expedition in connection with the school, and it was somewhere about that time that I heard the talk.

Mr. WORTHINGTON. Was he ever there any considerable length of time after this talk began?

Mr. DE MOISY. Who; me?

Mr. WORTHINGTON. No; Cluff.

Mr. DE MOISY. I can not say just how long Mr. Cluff was back there. I know he came back from that expedition. I met him several times, but I do not remember exactly how long he remained.

Mr. WORTHINGTON. He is away now, is he not?

Mr. DE MOISY. I do not think he is in Provo now. I have not seen him for a long time.

Mr. WORTHINGTON. Do you know by repute where he has been keeping himself lately?

Mr. DE MOISY. No, sir; I have not thought anything about him until to-day for some time.

Mr. TAYLER. Who was this last wife he was said to have taken?

Mr. DE MOISY. I never heard her name. It was said he took a wife in Mexico was all I ever heard.

Mr. TAYLER. Did you know Florence Reynolds?

Mr. DE MOISY. Florence Reynolds?

Mr. TAYLER. George Reynolds's daughter.

Mr. DE MOISY. I do not know. I know a Miss Reynolds, but I do not know whether her first name is Florence or not.

Mr. TAYLER. Is it not she that Cluff is said to have married—that her father says he married?

Mr. DE MOISY. Well, I do not know about that. I say I only know one Miss Reynolds. She taught in the university there.

Mr. WORTHINGTON. I do not think it is quite accurate to say that her father says he married her.

Mr. DE MOISY. The only Miss Reynolds I know is a teacher in the B. Y. Academy.

Mr. TAYLER. She was a teacher there?

Mr. DE MOISY. Yes. I do not know whether she is teaching now or not. I saw her a few days ago in Salt Lake City.

Mr. TAYLER. The report was that Cluff married somebody, whether it was Miss Reynolds or some one else, while he was down in Mexico or Central America?

Mr. DE MOISY. Yes; that is the talk I heard.

Mr. TAYLER. Three or four years ago, was it?

Mr. DE MOISY. Yes.

Mr. TAYLER. After that he returned to Provo and ran the school there for two or three years and then went away. Is not that right?

Mr. DE MOISY. I do not remember just how long he stayed in the school after he came back.

Mr. TAYLER. It was some period of time?

Mr. DE MOISY. Yes; he was there some time.

Mr. TAYLER. That is all.

The CHAIRMAN. Is there a temple at Provo?

Mr. DE MOISY. No, sir.

The CHAIRMAN. Is there a Mormon Church service held there?

Mr. DE MOISY. Oh, yes; I think they have eight wards, and most of them have meetinghouses. Then they have a stake tabernacle at Provo.

The CHAIRMAN. I want to ask you what steps have been taken by the church authorities in Provo to discipline these people who are living or have been living in polygamous cohabitation or have taken new wives?

• Mr. DE MOISY. I never heard of them taking any steps in the matter one way or the other.

The CHAIRMAN. Did you ever hear them giving any counsel against it or doing anything to stop it?

Mr. DE MOISY. No; I do not think I ever heard anything in regard to the matter at all.

The CHAIRMAN. You do not know of any arrests having been made among them?

Mr. DE MOISY. Yes; there have been one or two arrests that I remember.

The CHAIRMAN. When?

Mr. DE MOISY. Mr. Graham was arrested.

The CHAIRMAN. For what?

Mr. DE MOISY. For unlawful cohabitation.

The CHAIRMAN. When?

Mr. DE MOISY. Now, I do not know that. It seems to me that was about three years ago.

The CHAIRMAN. Do you know the result of the trial?

Mr. De MOISY. He got off some way. I don't know how. He was never convicted.

The CHAIRMAN. Any other that you know of?

Mr. De MOISY. Yes; there was a case from Springville. Springville is just 6 miles from Provo. There was a man named Harmon, who was arrested there charged with adultery, but the general impression was that it was a case of polygamy. It is the only case of polygamy that I really knew anything of taking place since the manifesto.

The CHAIRMAN. The plural wife in that case was taken since the manifesto? What was the result of that trial?

Mr. De MOISY. He was convicted of adultery and sent to the State prison.

The CHAIRMAN. When was that?

Mr. De MOISY. I just can not say when it was. It was two or three years ago.

The CHAIRMAN. Are you acquainted with the composition of the legislature that elected Senator Smoot, as between the Gentiles and the Mormons—which, if either, was in the ascendancy?

Mr. De MOISY. There were more Mormons in the legislature than Gentiles.

The CHAIRMAN. Do you know of your own knowledge the proportion, the number?

Mr. De MOISY. No; if I had a list of that legislature I could soon tell, though.

The CHAIRMAN. We can probably ascertain that later; but there were more Mormons than Gentiles?

Mr. De MOISY. Yes, sir.

The CHAIRMAN. There were about 20 Gentiles, were there not, in both houses, and the balance were of the Mormon faith?

Mr. De MOISY. I could not say as to the number unless I looked into it.

The CHAIRMAN. Well, possibly you can look at that and let me know in the morning.

Who is your next witness?

Mr. VAN COTT. Mr. Fernstrom.

TESTIMONY OF F. S. FERNSTROM.

F. S. FERNSTROM, being duly sworn, was examined and testified as follows:

Mr. VAN COTT. What is your age?

Mr. FERNSTROM. Fifty-three.

Mr. VAN COTT. Where do you reside?

Mr. FERNSTROM. Salt Lake City.

Mr. VAN COTT. How long have you resided there, Mr. Fernstrom?

Mr. FERNSTROM. I have resided there since 1866; about twenty-nine years.

Mr. VAN COTT. Are you a member of the Mormon Church?

Mr. FERNSTROM. Yes, sir.

Mr. VAN COTT. And you have been for how long?

Mr. FERNSTROM. For over thirty years.

Mr. VAN COTT. Do you know August W. Lundstrom?

Mr. FERNSTROM. I do.

Mr. VAN COTT. How long have you known him?

Mr. FERNSTROM. I have known him about fourteen years.

Mr. VAN COTT. Has he resided in Salt Lake City?

Mr. FERNSTROM. Part of the time.

Mr. VAN COTT. Where has he resided the other time?

Mr. FERNSTROM. He came, I believe, from Ogden to Salt Lake. From there he went to Provo, and then he came back from Provo to Salt Lake. He went to Idaho, and from Idaho he came back to Salt Lake County. He lived outside the city for some time. Now he is residing in Salt Lake City.

Mr. VAN COTT. Do you know his general reputation for truth in the community in which he lives there in Salt Lake?

Mr. FERNSTROM. I do.

Mr. VAN COTT. Is it good or bad?

Mr. FERNSTROM. Is it bad.

Mr. VAN COTT. Would you believe him under oath?

Mr. FERNSTROM. I would not.

Mr. VAN COTT. You may take the witness.

Mr. TAYLER. That is, you would not believe him at all?

Mr. FERNSTROM. I would not.

Mr. TAYLER. No; he lies all the time?

Mr. FERNSTROM. Most of the time.

Mr. TAYLER. Most all the time?

Mr. FERNSTROM. That is the reputation he has.

Mr. TAYLER. That is the reputation he has. That is the reputation you give him. Did you ever have any trouble with him?

Mr. FERNSTROM. Not me, personally; no.

Mr. TAYLER. None at all?

Mr. FERNSTROM. No, sir.

Mr. TAYLER. Did he write a book on the Mormon Church?

Mr. FERNSTROM. Not that I know of.

Mr. TAYLER. You never saw it?

Mr. FERNSTROM. I never saw the book.

Mr. TAYLER. You never heard of a book he had written on it?

Mr. FERNSTROM. No; I have heard that he held meetings against the Mormons, but I never heard that he wrote a book.

Mr. TAYLER. You never heard that he wrote anything on the subject? He has been making speeches against the Mormon Church for some time, has he not?

Mr. FERNSTROM. Yes; I heard about that.

Mr. TAYLER. And you heard that he has been lying about the Mormon Church?

Mr. FERNSTROM. Yes; and a good many other propositions he has lied about.

Mr. TAYLER. Does he owe you any money?

Mr. FERNSTROM. No; he does not.

Mr. TAYLER. Do you know why he should lie about the Mormon Church?

Mr. FERNSTROM. Not more than he generally does on other propositions.

Mr. TAYLER. Not any more than he would on other propositions.

He just lies because he would prefer to lie than tell the truth. Is that right?

Mr. FERNSTROM. I believe from my acquaintance with him—I believe this, that very few transactions does he do without he misrepresents or lies about it.

Mr. TAYLER. He prefers to lie rather than to tell the truth?

Mr. FERNSTROM. I do not say that he prefers to; I would not be a judge on that.

Mr. TAYLER. Why should he lie about the Mormon Church? Do you know any reason why he should lie about it?

Mr. FERNSTROM. Yes; I believe I do.

Mr. TAYLER. Now, why? That is what I want to get at.

Mr. FERNSTROM. When he lived in our ward he went to the bishop, and he asked him to let him have some money.

Mr. TAYLER. Yes.

Mr. FERNSTROM. For to buy some lumber. He were acting then as a carpenter. He claimed he had some kind of a job.

Mr. TAYLER. Yes.

Mr. FERNSTROM. And he was going to finish it, and he had no money to buy the lumber for it; so the bishop let him have the money, and he promised to return the money just as soon as he had the job done.

Mr. TAYLER. Yes.

Mr. FERNSTROM. Well, he did not do it.

Mr. TAYLER. No?

Mr. FERNSTROM. And then the bishop asked him for it.

Mr. TAYLER. Yes.

Mr. FERNSTROM. Well, the answer he gave to him were that he did not intend to pay it. The church owed him a living. He had been doing some mission work in the old country sufficient for the church to keep him, and he did not propose to pay it, and for that reason I believe he had a kind of grudge against the church that he did not want to do it.

Mr. TAYLER. This bishop loaned him the church's money, did he?

Mr. FERNSTROM. He did.

Mr. TAYLER. It was the church's money that he loaned him, was it?

Mr. FERNSTROM. Yes, sir. Well, it were money that was collected for supporting our poor.

Mr. TAYLER. For what?

Mr. FERNSTROM. Money donated or collected for the support of the poor of the ward.

Mr. TAYLER. And the bishop had it?

Mr. FERNSTROM. The bishop had the money.

Mr. TAYLER. And the bishop loaned it to this man who had been a missionary?

Mr. FERNSTROM. Yes.

Mr. TAYLER. The bishop told you about this, did he?

Mr. FERNSTROM. Yes, sir.

Mr. TAYLER. That is all.

Mr. VAN COTT. That is all.

The CHAIRMAN. Who is your next witness?

Mr. VAN COTT. Mr. Andersen.

TESTIMONY OF C. V. ANDERSEN.

C. V. ANDERSEN, being duly sworn, was examined and testified as follows:

Mr. VAN COTT. Mr. Andersen, what is your name?

Mr. ANDERSEN. C. V. Andersen.

Mr. VAN COTT. Where do you live?

Mr. ANDERSEN. Salt Lake City.

Mr. VAN COTT. How long have you resided there?

Mr. ANDERSEN. Since 1882.

Mr. VAN COTT. What is your age?

Mr. ANDERSEN. Forty-four.

Mr. VAN COTT. Are you a member of the Mormon Church?

Mr. ANDERSEN. I am.

Mr. VAN COTT. How long have you been such?

Mr. ANDERSEN. Since 1886.

Mr. VAN COTT. What business are you engaged in?

Mr. ANDERSEN. I am assistant editor of the Danish-Norwegian paper.

Mr. VAN COTT. By birth you are a Swede?

Mr. ANDERSEN. I am.

Mr. VAN COTT. How long have you been assistant editor of that paper?

Mr. ANDERSEN. Seven years.

Mr. VAN COTT. Do you know August W. Lundstrom?

Mr. ANDERSEN. I do.

Mr. VAN COTT. How long have you known him?

Mr. ANDERSEN. I became acquainted with him in 1890.

Mr. VAN COTT. And you have known him since?

Mr. ANDERSEN. Yes; what little I have seen of him. He has not been much in the city.

Mr. VAN COTT. Has he resided in Salt Lake part of the time?

Mr. ANDERSEN. Yes; part of the time.

Mr. VAN COTT. Where at other times?

Mr. ANDERSEN. He first came to Ogden and then Salt Lake City. Then he went to Provo and stayed there from, I believe, in the summer of 1892 to the spring of 1893. Then he came back to Salt Lake City and stayed until 1895, and, I believe, then went to Idaho, and then came back to Salt Lake City in 1901.

Mr. VAN COTT. Do you know August W. Lundstrom's general reputation for veracity in Salt Lake City?

Mr. ANDERSEN. Yes, I do.

Mr. VAN COTT. Is it good or bad?

Mr. ANDERSEN. It is bad.

Mr. VAN COTT. From his general reputation would you believe him under oath?

Mr. ANDERSEN. Why, I do not think I would.

Mr. VAN COTT. You may take the witness.

Mr. TAYLER. That is, you would not believe him at all?

Mr. ANDERSEN. Why, no; I do not think I would.

Mr. TAYLER. You would not believe him at all?

Mr. ANDERSEN. I do not think I would.

Mr. TAYLER. There is nothing respecting which he could tell the truth! You are the editor of a Mormon paper, are you not?

Mr. ANDERSEN. Yes, sir.

Mr. TAYLER. That is all.

The CHAIRMAN. Who is your next witness?

Mr. VAN COTT. Mr. Hayward.

The CHAIRMAN. Mr. Hayward, will you take the stand?

TESTIMONY OF H. J. HAYWARD.

H. J. HAYWARD, being duly sworn, was examined and testified as follows:

Mr. VAN COTT. What is your name?

Mr. HAYWARD. H. J. Hayward.

Mr. VAN COTT. What is your age?

Mr. HAYWARD. Fifty-two.

Mr. VAN COTT. Where do you reside?

Mr. HAYWARD. Salt Lake City.

Mr. VAN COTT. How long have you lived there?

Mr. HAYWARD. About fifty-one years.

Mr. VAN COTT. Are you a member of the Mormon Church?

Mr. HAYWARD. I am, sir.

Mr. VAN COTT. And for how long?

Mr. HAYWARD. All my lifetime.

Mr. VAN COTT. In what business are you engaged?

Mr. HAYWARD. I am engaged in building, contracting, and the lumber business.

Mr. VAN COTT. In Salt Lake City?

Mr. HAYWARD. In Salt Lake City; yes, sir.

Mr. VAN COTT. How long have you been engaged in that occupation?

Mr. HAYWARD. About seventeen or eighteen years.

Mr. VAN COTT. Do you know August W. Lundstrom?

Mr. HAYWARD. Yes, sir.

Mr. VAN COTT. How long have you known him?

Mr. HAYWARD. I do not remember when I first was acquainted with him. It was through business, a good many years ago. Just how many I can not remember.

Mr. VAN COTT. Was he ever employed by you or your company?

Mr. HAYWARD. I believe he was at one time.

Mr. VAN COTT. Do you know Mr. Lundstrom's general reputation for truth and veracity in Salt Lake City?

Mr. HAYWARD. Well, I know some of it; yes, sir.

Mr. VAN COTT. Is it good or bad?

Mr. HAYWARD. It is bad.

Mr. VAN COTT. From his reputation, would you believe him under oath?

Mr. HAYWARD. I would not.

Mr. VAN COTT. You may take the witness, Mr. Tayler.

Mr. TAYLER. Is he a sober man?

Mr. HAYWARD. I do not know that.

Mr. TAYLER. What?

Mr. HAYWARD. I do not know whether he is a sober man or not.

Mr. TAYLER. Oh, you do not?

Mr. HAYWARD. No, sir.

Mr. TAYLER. Are you acquainted with him? Have you ever seen him?

Mr. HAYWARD. Yes, sir.

Mr. TAYLER. Do you know him?

Mr. HAYWARD. I did know him; yes, sir.

Mr. WORTHINGTON. He said Lundstrom had been in his employ.

Mr. TAYLER. How long ago?

Mr. HAYWARD. I do not remember how many years ago it was. I knew him through business.

Mr. TAYLER. When did you last see him?

Mr. HAYWARD. I do not remember that.

Mr. TAYLER. Did you ever see him?

Mr. HAYWARD. Have I ever?

Mr. TAYLER. Yes.

Mr. HAYWARD. Yes, sir; I have seen him.

Mr. TAYLER. How long ago?

Mr. HAYWARD. I do not know.

Mr. TAYLER. You do not?

Mr. HAYWARD. No, sir; I can not tell you.

Mr. TAYLER. Do you know where he lives now?

Mr. HAYWARD. No, sir; I do not. I believe he lives in Idaho.

Mr. TAYLER. Does he live in Salt Lake? Are you sure?

Mr. HAYWARD. No; I ain't sure.

Mr. TAYLER. That is all.

The CHAIRMAN. Who is your next witness?

Mr. VAN COTT. Mr. Langton. He appears to have gone out, Mr. Chairman. I will call Mr. Neilsen.

TESTIMONY OF JENS CHRISTIAN NEILSEN.

JENS CHRISTIAN NEILSEN, being duly sworn, was examined and testified as follows:

Mr. VAN COTT. What is your name, Mr. Neilsen?

Mr. NEILSEN. Jens Christian Neilsen.

Mr. VAN COTT. Is it Neilson or Neilsen?

Mr. NEILSEN. Neilsen.

Mr. VAN COTT. What is your age?

Mr. NEILSEN. Sixty-five.

Mr. VAN COTT. In what country were you born?

Mr. NEILSEN. In Denmark.

Mr. VAN COTT. Did you ever live in Utah?

Mr. NEILSEN. Yes, sir.

Mr. VAN COTT. Do you know Mrs. Annie Elliott?

Mr. NEILSEN. Yes, sir.

Mr. VAN COTT. I want to read to you from the examination of Mrs. Annie Elliott, on page 191 of the record, Volume II:

"Mr. WORTHINGTON. Was it before or after the death of your first husband?

"Mrs. ELLIOTT. Why, it was after.

"Mr. WORTHINGTON. What time in 1897 did he die?

"Mrs. ELLIOTT. He died in October."

Were you the husband of Mrs. Elliott?

Mr. NEILSEN. Yes, sir.

Mr. TAYLER. What page is that?

Mr. VAN COTT. 191. She was your wife at one time?

Mr. NEILSEN. Yes, sir.

Mr. VAN COTT. And she obtained a divorce from you?

Mr. NEILSEN. Yes, sir.

Mr. VAN COTT. When?

Mr. NEILSEN. It was about six years ago. I don't just exactly recollect the time.

Mr. VAN COTT. Did you marry her while she was—had she ever had a husband before you?

Mr. NEILSEN. No, sir.

Mr. VAN COTT. Did you marry her in the old country?

Mr. NEILSEN. Yes, sir. She was mother to three children before she left Denmark.

Mr. VAN COTT. Take the witness.

Mr. TAYLER. What is this witness's name?

Mr. VAN COTT. Jens Chrstian Neilsen.

Mr. TAYLER. You were the husband of whom?

Mr. NEILSEN. To Annie Elliott.

Mr. TAYLER. Annie Elliott?

Mr. NEILSEN. I believe that is the name.

Mr. TAYLER. Where did you marry her?

Mr. NEILSEN. I married her in Denmark.

Mr. TAYLER. When?

Mr. NEILSEN. I don't recollect exactly. It must have been in 1872.

Mr. TAYLER. In 1872?

Mr. NEILSEN. Either 1872 or 1873. I don't recollect exactly.

Mr. TAYLER. And when did you come to this country?

Mr. NEILSEN. In 1877. In the fall of 1877 I come.

Mr. TAYLER. When did she come?

Mr. NEILSEN. She come a year before, in the spring of 1876.

Mr. TAYLER. You are the man to whom Mrs. Elliott referred, whom she says died some six or seven years ago?

Mr. NEILSEN. That I don't know. I have been her husband and raised eight children with her.

Mr. TAYLER. When did you separate from her?

Mr. NEILSEN. About six years ago.

Mr. TAYLER. When?

Mr. NEILSEN. In Elsinore, Sevier County.

Mr. TAYLER. What year was it you separated from her?

Mr. NEILSEN. I don't exactly remember, but I always thought I would forget all about that as much as I could.

Mr. TAYLER. You would forget it?

Mr. NEILSEN. Yes, sir.

Mr. TAYLER. Where are the children?

Mr. NEILSEN. Three of them are in Canada and two of them in Elsinore—the two girls.

Mr. TAYLER. Where do you live?

Mr. NEILSEN. I live in Canada.

Mr. TAYLER. How many of them live with you?

Mr. NEILSEN. None.

Mr. TAYLER. None?

Mr. NEILSEN. They are grown.

Mr. TAYLER. Are they all grown?

Mr. NEILSEN. Well, there is one with his mother—the youngest.

Mr. TAYLER. One with the mother?

Mr. NEILSEN. One of them—the youngest.

Mr. TAYLER. The youngest is with the mother?

Mr. NEILSEN. Yes, sir.

Mr. TAYLER. And none of them with you?

Mr. NEILSEN. They are in the same town where I live. They are grown.

Mr. TAYLER. Was it about 1897 that you separated from her?

Mr. NEILSEN. It was between five and six years since.

Mr. TAYLER. Where did you go right away; to Canada?

Mr. NEILSEN. Not right away. I stayed.

Mr. TAYLER. Where did you live after you separated from her?

Mr. NEILSEN. I lived in Elsinore.

Mr. TAYLER. Where did she live?

Mr. NEILSEN. She went over to Price.

Mr. TAYLER. To Price?

Mr. NEILSEN. In Carbon County, I believe it is. She went over there and married again.

Mr. TAYLER. She went over there and married?

Mr. NEILSEN. Again.

Mr. TAYLER. Had you had any other wife?

Mr. NEILSEN. No, sir.

Mr. TAYLER. Only the one?

Mr. NEILSEN. Only the one.

Mr. TAYLER. How long have you been a Mormon?

Mr. NEILSEN. Since I was 22 years of age.

Mr. TAYLER. You became a Mormon before you came to this country?

Mr. NEILSEN. Yes, sir.

Mr. TAYLER. That is all to-night. I will ask a few more questions some other day.

Mr. WORTHINGTON. Mr. Neilsen, I have a certified copy of the divorce record here, and I want to read it now and find out whether you are the party referred to and whether Mrs. Elliott, who testified here, is the other party. Have you seen this divorce record?

Mr. NEILSEN. No, sir.

Mr. WORTHINGTON. I will read it.

“In the district court of the sixth judicial district, Sevier County, State of Utah. Annie M. Neilsen, plaintiff, v. James C. Neilsen, defendant.”

Annie M. Neilsen was your wife's name?

Mr. NEILSEN. Yes, sir.

Mr. WORTHINGTON. And James C. Neilsen is your name?

Mr. NEILSEN. Yes, sir.

Mr. WORTHINGTON. You were both living in Sevier County?

Mr. NEILSEN. Yes, sir.

Mr. WORTHINGTON. In 1899?

Mr. NEILSEN. Yes, sir.

Mr. WORTHINGTON (reading):

"This cause came on regularly, to be heard upon the amended complaint as filed by the plaintiff, by leave of the court first had, and upon the testimony thereupon adduced by the plaintiff, the defendant having voluntarily appeared in said cause by filing his voluntary appearance in writing, but having failed and refused to otherwise appear or plead therein, the plaintiff appearing in person and by Messrs. Rapp and Bean, her counsel herein. This 20th day of March, 1899."

Did you enter a voluntary appearance there? You did not make any defense, did you?

Mr. NEILSEN. No, sir.

Mr. WORTHINGTON. You were sick at the time, were you not?

Mr. NEILSEN. Yes, sir.

Mr. WORTHINGTON. In bed?

Mr. NEILSEN. Yes, sir.

Mr. WORTHINGTON. I will not go on and read about the proceedings. There was evidence on various subjects, and then it concludes:

"From the foregoing facts, the court draws the following conclusions of law:

"First. That said plaintiff is entitled to a decree of the court dissolving the marriage existing between herself and said defendant, as prayed for in her said amended complaint.

"Second. That plaintiff is entitled to the custody of said children and also an award of said real estate above described.

"Third. That the plaintiff is entitled to her costs herein expended.

"Done in open court, this 20th day of March, 1899."

Then there is a decree which follows those findings and gives a divorce, which decree is dated the 20th of March, 1899, this record being certified to be a true record by John G. Jorgensen, the clerk of that court; and Judge McCarty was the judge.

Mr. NEILSEN. Yes, sir.

Mr. WORTHINGTON. This Mrs. Elliott who was here is the woman who filed that petition?

Mr. NEILSEN. Yes, sir.

Mr. WORTHINGTON. And got the divorce from you, who were her husband?

Mr. NEILSEN. Yes, sir.

Mr. WORTHINGTON. Down to the date of that decree, which was in March, 1899, and up to that time you had been living with her as her husband, had you not?

Mr. NEILSEN. Yes, sir.

Mr. WORTHINGTON. Do you know any cause or reason for her coming here and swearing that you died at Elsinore in 1897?

Mr. NEILSEN. I do not, sir.

Mr. WORTHINGTON. She knew it was false, did she not?

Mr. NEILSEN. I did not understand you.

Mr. WORTHINGTON. She knew when she swore here that you died in 1897 that it was not true, did she not?

Mr. NEILSEN. Certainly; yes, sir. She knowed it was not true. She knowed I was in Canada—living in Canada. She knowed that well enough.

Mr. WORTHINGTON. How did she know you were in Canada when she testified you were dead?

Mr. NEILSEN. She knew through her children. She has been in Elsinore and visited her children.

Mr. WORTHINGTON. Have you been corresponding with your children there?

Mr. NEILSEN. Yes, sir.

Mr. WORTHINGTON. So that you knew where they were?

Mr. NEILSEN. Yes, sir.

Mr. TAYLER. So that your wife got a divorce from you, as shown by that, in 1899?

Mr. NEILSEN. Yes, sir.

Mr. TAYLER. And when she married Elliott she was not your wife?

Mr. NEILSEN. No, sir.

Mr. TAYLER. You will note in this examination that she does not use the word "die" or "death" herself, ever. I put the word in her mouth. There is no reason why she should lie about it. That is what I mean.

Mr. WORTHINGTON. Oh, no; there is no reason why she should lie.

Mr. TAYLER. She probably misunderstood, if this is her husband.

Mr. VAN COTT. You mean was her husband.

Mr. TAYLER. Or if the fact was, yes. I do not believe for a moment that the woman intended to deceive anybody about it.

Mr. WORTHINGTON. What you may think about what that woman intended is of very little consequence in the case. It is a question of what this committee will think she intended, after they hear the argument about it.

In reference to what Mr. Tayler has said, I want to have this go in the record right here. Mr. Tayler asked Mrs. Elliott this question, after she had said that her husband followed her here—came on later:

"Is he living now—that is, the husband whom you married in Denmark?"

"Mrs. ELLIOTT. No, sir."

The words were not put in her mouth.

Mr. TAYLER. She did not say in terms that he died. She did not use the word.

Mr. WORTHINGTON. No; she said he was not alive. She did not say he died. Talking about technicalities, I say that beats the worst.

Mr. TAYLER. We all know about her unfamiliarity with the English tongue. Why do you not put somebody on the stand to testify what the oath was, my friend? Then you will get rid of all this discussion.

Mr. VAN COTT. You are changing the subject.

Mr. TAYLER. Yes, sir.

Mr. WORTHINGTON. Mr. Chairman, I want to put in this divorce record.

Mr. TAYLER. Let it go in.

The CHAIRMAN. There is no objection to that. Let it go in.

The paper referred to is as follows:

In the district court of the sixth judicial district, Sevier County, State of Utah. Annie M. Nielsen, plaintiff, v. James C. Nielsen, defendant.

FINDINGS.

This cause came on regularly to be heard upon the amended complaint, as filed by the plaintiff by leave of the court first had, and upon the testimony thereupon adduced by the plaintiff, the defendant

having voluntarily appeared in said cause by filing his voluntary appearance in writing, but having failed and refused to otherwise appear or plead therein, the plaintiff appearing in person and by Messrs. Rapp & Bean, her counsel herein, this 20th day of March, 1899.

Thereupon the said plaintiff and her witnesses were sworn and testified in her behalf in said cause, from which said testimony the court finds the following facts:

First. That the plaintiff and defendant intermarried in Denmark in the year 1868, and ever since have been and now are husband and wife.

Second. That for more than one year immediately preceding the commencement of this action the plaintiff was and is a constant resident and citizen of said county and State.

Third. That for more than three years last past the defendant has wholly and willfully failed and neglected to provide the plaintiff and her children with any of the necessities of life, although the said defendant was at all of said time and now is an able-bodied man, and fully competent and able to do so, and plaintiff has by reason of such neglect on the part of said defendant been obliged to rely upon her individual labor and the charity of friends for maintenance and support and the maintenance of said children.

Fourth. That there are now living as the issue of said marriage the following-named children, to wit: Clara E. Nielsen, aged 16 years, and Alma Nielsen, aged 14 years, and Franklin Nielsen, aged 11 years.

Fifth. That there now exists in said county the following described real estate belonging to defendant, to wit: Lot 2, in block 20, Elsinore additional town site, in section 29, township 24, south of range 3 west of Salt Lake meridian, United States survey. Also, commencing 7.95 chains south and 34.92 chains west of the northeast corner of the southeast quarter of section 32, township 24 south, range 3 west, Salt Lake meridian, United States survey, and running thence south 11.80 chains; thence west 6.36 chains; thence north 19 degrees and 45 minutes east, 12.54 chains; thence east 2.12 chains to the place of beginning, containing 5 acres of land.

Sixth. That it is essential and necessary that plaintiff have said real estate awarded to her for the support and maintenance of herself and said children.

Seventh. That plaintiff has no property or money wherewith to pay the expenses of this suit or her counsel fees.

From the foregoing facts the court draws the following conclusions of law:

First. That said plaintiff is entitled to a decree of this court dissolving the marriage existing between herself and said defendant, as prayed for in her said amended complaint.

Second. That plaintiff is entitled to the custody of said children, and also an award of said real estate above described.

Third. That plaintiff is entitled to her costs herein expended.

Done in open court this 20th day of March, 1899.

W. M. McCARTY, *Judge.*

In the district court of the sixth judicial district, county of Sevier, State of Utah. Annie M. Nielsen, plaintiff, v. James C. Nielsen, defendant.

DECREE.

This cause coming on regularly to be heard this 20th day of March, 1899, before the court, upon the amended complaint of the plaintiff filed herein, and the written voluntary appearance of the defendant, also filed herein, the defendant having failed and refused to otherwise plead in said cause.

And upon the proofs and testimony given at the trial of said cause from which said proofs and testimony the court found all the allegations set forth in said amended complaint fully sustained by the said testimony and evidence free from all legal exceptions and objections.

And it also appearing to the court that said defendant had voluntarily appeared in said cause, and that each and every matter and thing was done to give the court full and complete jurisdiction in said cause, and all and singular the law and the premises being fully understood by the court and fully considered.

Wherefore it is hereby ordered, adjudged, and decreed, and this court does order, adjudge, and decree, that the marriage existing between the said plaintiff, Annie M. Nielsen, and defendant, James C. Nielsen, be, and the same is hereby, dissolved, and that each of said parties are hereby released from all the obligations thereof.

And it is further ordered that the following-named children, the issue of said marriage, be, and the same are hereby, awarded to plaintiff, to wit: Clara E. Nielsen, Alma Nielsen, and Franklin Nielsen.

And it is hereby further adjudged and decreed that the following described real estate situated in said Sevier County be and the same is awarded to plaintiff, to wit: Lot 2, in block 20 of Elsinore additional town-site survey, the same being in section 29, township 24, south of range 3 west, Salt Lake meridian.

Also commencing at a point 7.95 chains south and 34.92 chains west of the northeast corner of the southeast quarter of section 32, township 24, south of range 3 west of Salt Lake meridian, United States survey, in said Sevier County, and running thence south 11.80 chains, thence west 6.36 chains, thence north 19 degrees and 45 minutes east, 12.54 chains, thence east 2.12 chains to place of beginning, and containing 5 acres of land.

And it is hereby further ordered that said defendant pay the costs of this action, hereby taxed at \$13.10.

Done in open court this 20th day of March, 1899.

W. M. McCARTY, *Judge.*

Filed March 20, 1899.

H. N. HAYES, *Clerk.*

STATE OF UTAH, *County of Sevier, ss:*

I, John G. Jorgensen, county clerk of Sevier County, Utah, and ex officio clerk of the sixth judicial district court of the State of Utah, in and for Sevier County, do hereby certify that the above and foregoing is a full, true, and correct copy of the original "findings

of facts, conclusions of law, and decree " as now appears on file and of record in the above-entitled action in my office.

Witness my hand and the seal of said court hereto affixed at Richfield, Utah, this 30th day of December, A. D. 1904.

[SEAL.]

JOHN G. JORGENSEN, *Clerk.*

The CHAIRMAN. Who is your next witness?

Mr. VAN COTT. Mr. Langton.

TESTIMONY OF WILLIAM LANGTON.

WILLIAM LANGTON, being duly sworn, was examined, and testified as follows:

Mr. VAN COTT. What is your name?

Mr. LANGTON. William Langton.

Mr. VAN COTT. Where do you reside?

Mr. LANGTON. Salt Lake City.

Mr. VAN COTT. How long have you resided there?

Mr. LANGTON. Since 1881.

Mr. VAN COTT. Are you a member of the Mormon Church, Mr. Langton?

Mr. LANGTON. Yes, sir.

Mr. VAN COTT. How long have you been such?

Mr. LANGTON. Since 1878.

Mr. VAN COTT. Are you acquainted with J. H. Wallis, sr.?

Mr. LANGTON. Yes, sir.

Mr. VAN COTT. How long have you known him?

Mr. TAYLER. This is another one.

Mr. LANGTON. For about twelve years.

Mr. VAN COTT. Does he live in Salt Lake City?

Mr. LANGTON. Yes, sir.

Mr. VAN COTT. How long have you known him?

Mr. LANGTON. I have just answered that question.

Mr. VAN COTT. Was he ever in your employ?

Mr. LANGTON. No, sir.

Mr. VAN COTT. Did you at one time have a fire in your store in Salt Lake City?

Mr. LANGTON. Yes, sir.

Mr. VAN COTT. Did Mr. Wallis ever come to you about the matter?

Mr. LANGTON. Yes, sir.

Mr. VAN COTT. What did he say to you?

Mr. TAYLER. I object to this.

Mr. WORTHINGTON. Mr. Wallis was asked about this.

Mr. TAYLER. Suppose he was. Does that have anything to do with the subject of the inquiry?

The CHAIRMAN. What do you propose to show?

Mr. WORTHINGTON. You may remember, Mr. Chairman, that when Mr. Wallis was here I was cross-examining him, with a telegram in my hand, as to whether or not he had not made a charge against a man with a view of extorting money from him; if he had not made a false charge against a man of having burned down his own store. He denied having anything to do with it. We propose to show that was a falsehood; that after this gentleman had been unfortunate enough to have his place burned down, Wallis went to him and stated to him if he would pay him \$5,000 he would not disclose the fact

that he had burned down his store purposely; that if he did not he would go and complain to the authorities, as I recollect, and that the witness immediately took action about that which resulted in Wallis coming and acknowledging that the whole thing was a lie; that he undertook to get out of it by saying he had a vision or something of that kind. I do not remember, Mr. Van Cott, just what it was.

This is one of three witnesses who have been brought here to satisfy this committee and satisfy the country that the Mormon who takes his covenants takes an obligation which is inconsistent with his loyalty to his country. One of them is this Mrs. Elliott, who has just been shown to have told this remarkable story about her husband, who is not living, but who is not dead, according to Mr. Tayler. Another, Mr. Lundstrom, is shown to have been a person whom nobody who knows him would believe on oath. The third one is the man about whom we are asking these questions. You will all remember the old man who sat there and went to sleep day after day for some days after he testified. It is very important that we should know something about the character of these people. This man Wallis was asked about this particular question. No objection was made to his testifying about it.

Mr. TAYLER. No. Never is a witness impeached by reference to some special act it may be said he has performed. His reputation is always in evidence and may be testified about.

Mr. WORTHINGTON. Are you appealing to a rule of evidence?

Mr. TAYLER. Yes.

Mr. WORTHINGTON. Here?

Mr. TAYLER. Yes.

Mr. WORTHINGTON. There is not a rule of evidence in the books, as we all know, that has not had its throat cut and its bowels taken out here, upon the ground that this is an investigation; and my distinguished friend, the Senator who sits across the table, told us the last time the objection was made, that we got away from the subject of Senator Smoot, that we were very liberal here, that everything was allowed to go in, and that when no other reason was given for it Senators were allowed to ask questions out of mere curiosity; and I hope my friend will permit it to go in, if for no other reason than to know what the true story is about this matter. Part of it has gone in, and I hope he will let the rest of it go in.

We propose to prove a story about this witness which, if believed, will render it unnecessary to say anything more about him.

Mr. TAYLER. You can bring stories about any witness.

The CHAIRMAN. Did you call this matter to the attention of the Witness Wallis?

Mr. WORTHINGTON. We did.

Mr. TAYLER. No; there was not a candid inquiry made of the witness. The witness was asked whether he had some trouble, but not as to whether he had himself committed some grave offense against the law.

Mr. WORTHINGTON. He was asked whether he had not made the charge against a man of having set fire to his own store. That is what he was asked. I will give the reference to it in a moment. I distinctly remember that when I was asking him about it Senator

McComas suggested that I give him more definite details about it, and I informed him that those were all the details we then had. At that time we had a vague telegram.

I read from the testimony of Wallis, on page 177 of Volume II:

"Mr. WORTHINGTON. Have you ever been arrested at any time?"

"Mr. WALLIS. Been what?"

"Mr. WORTHINGTON. Been arrested."

"Mr. WALLIS. No, sir; not to my memory."

"Mr. WORTHINGTON. Do you think you might have forgotten that?"

"Mr. WALLIS. Hardly."

"Mr. WORTHINGTON. I wanted to know. Have you had any difficulty out there with reference to a charge of having set fire to your shop or some building?"

"Mr. WALLIS. No, sir; never."

"Mr. WORTHINGTON. Have you had any difficulty of that kind growing out of a charge that you made against somebody else out there of setting his own place on fire?"

"Mr. WALLIS. There was a store set on fire in close proximity to me, about the distance of from here to the wall [indicating]. I made no charge."

"Mr. WORTHINGTON. You made no charge?"

"Mr. WALLIS. None at all. My building escaped the fire, and so I took no notice of it."

"Mr. WORTHINGTON. Did you not charge a man with having set fire to it?"

"Mr. WALLIS. No, sir; I did not."

Mr. TAYLER. "A man."

Mr. VAN COTT. That is the part we are interrogating this witness about.

Mr. TAYLER. That was not directed to a conversation that the witness had with some man whom he was seeking to blackmail. That is a public charge.

Mr. WORTHINGTON. He did make the charge to this man of having set fire to his store. I think, Mr. Chairman, in view of the liberality which has been exhibited here, we ought not to be excluded by any such technicality as that to which Brother Tayler is referring.

You will perceive the difficulty under which we labored in making inquiries here at such a distance. Here was Mr. Wallis. We knew nothing about him. He was put on the stand and we telegraphed asking for information, and we got a meager telegram upon which we based those questions. If it was necessary we could have Mr. Wallis subpoenaed and brought back here, and ask him a question and go more into details about it, but there is no use in our making that delay.

Mr. TAYLER. That does not cure the internal defect of undertaking to prove the commission of some particular crime. That is never competent.

Mr. WORTHINGTON. It is never competent ordinarily to prove that a man has committed an offense by saying that people on the street say he did. That is about the only testimony you have got in this case.

Mr. TAYLER. That is another thing that we will argue.

The CHAIRMAN. This witness is not a party at all to these proceedings. He is an ordinary witness. The Chair does not think it

is competent for him to come here and testify that a certain man committed a crime of which he is cognizant. Of course testimony to impeach the general character of the witness, Wallis, is all right, but I doubt very much whether this is competent.

Mr. WORTHINGTON. The record will show that one piece of evidence is incompetent then. I think that is the first one, Mr. Chairman.

The CHAIRMAN. Possibly this witness knows his general character for truth and veracity.

Mr. VAN COTT. Do you know the general reputation of Mr. J. H. Wallis, sr., for truth in the community in which he lives?

Mr. LANGTON. Yes, sir.

Mr. VAN COTT. Is it good or bad?

Mr. LANGTON. Very bad.

Mr. VAN COTT. From that general reputation, would you believe him under oath?

Mr. LANGTON. No, sir.

Mr. VAN COTT. Take the witness.

Mr. TAYLER. Are you a polygamist?

Mr. LANGTON. No, sir.

Mr. TAYLER. Were you ever?

Mr. LANGTON. Yes, sir.

Mr. TAYLER. How long?

Mr. LANGTON. Some four years ago.

Mr. TAYLER. How many wives had you?

Mr. LANGTON. Two.

Mr. TAYLER. That is all.

The CHAIRMAN. Who is your next witness?

Mr. VAN COTT. Mr. Chairman, that is all the testimony we have for to-day. We subpoenaed quite a number of witnesses for the 18th, to-morrow. We thought we were bringing our witnesses so as to distribute them and not have a large number here at once. That is all we have to-day.

The CHAIRMAN. They will be here to-morrow?

Mr. VAN COTT. Yes; we will have testimony to go on to-morrow.

Mr. WORTHINGTON. We will go on to-morrow.

The CHAIRMAN. The committee will stand adjourned until to-morrow morning at 10 o'clock.

The committee (at 4 o'clock and 40 minutes p. m.) adjourned until Wednesday, January 18, 1905, at 10 o'clock a. m.

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