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SENATOR REED SMOOT AND CONDITIONS IN UTAH.

I am no believer in the doctrine of the fall of man. Man has not fallen. He has risen and will rise. In the process of evolution he has so far progressed that he is able to stand erect and look upward, but his feet are still upon the earth, and so while he sees the heights he ascends them only with slow and toilsome effort. But he does ascend. And so, in measuring the progress of any man, the question is not so much upon what height does he stand as it is, how far has he climbed? I would apply the same test to a community.

I do not say that conditions are perfect in Utah; they are not perfect anywhere; but I do say that conditions to-day are immeasurably better than they have ever been before, and that, in my judgment, they will be better to-morrow than they are to-day.

It is time that the voice of calumny should be silent. It is time that the tongue of slander should cease. Let us have the truth about Utah by all means, but in God's name let it be the truth; and when any man says that the people of the State are not loyal, that they are not patriotic, that any of them teach their children to disrespect the flag, he utters a falsehood as cruel and as foul and as foundationless as any ever concocted by the father of lies himself.

SPEECH

OF

HON. GEORGE SUTHERLAND,

OF UTAH,

IN THE

SENATE OF THE UNITED STATES,

Tuesday, January 22, 1907.

WASHINGTON.
1907.

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SPEECH
OF
HON. GEORGE SUTHERLAND.

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

Mr. SUTHERLAND said:

Mr. PRESIDENT: The resolution just laid before the Senate declaring that my colleague is not entitled to his seat is a matter of such profound concern not only to him personally, but to the people of the State which I have the honor in part to represent as well, that I enter upon the discussion of it with a feeling of more than passing interest. I have no desire to unnecessarily occupy the time of the Senate, and I shall be as brief as the gravity of the issue and the wide range which the investigation itself has taken will permit.

In my own State the people are by no means united in their opinion respecting the merits of this controversy. There are extremists upon both sides holding widely divergent views. Neither side is necessarily wanting in honesty or in sincerity. Fanaticism may be entirely consistent with the love of truth and the desire for justice, although I have never discovered that it is any aid to the ascertainment of the one or the administration of the other. The fanatic in Utah, as elsewhere, does not look at the facts through his natural eyes. He uses a telescope—which is another name for his prejudices.

When he views the shortcomings of his neighbors he looks through the big end of the instrument, and when he looks at his own shortcomings he reverses the operation. The result is that to the eyes of the anti-Mormon extremist the evils of which he complains are, perhaps quite unconsciously to himself, exaggerated and magnified, and sometimes distorted, while to the eyes

of the pro-Mormon extremist these same evils are minimized or not revealed at all. In what I shall have to say I do not expect and I shall not attempt to satisfy either of these extreme classes. I shall undertake to discuss the various questions involved with candor and state the facts and vindicate the truth according to my understanding.

I am not here, Mr. President, to justify wrongdoing in my own State, any more than I am here to justify wrongdoing in any other State. Whoever may be thus employed must bear his own responsibility. On the other hand, I shall not condemn simply because somebody else condemns, except where I believe condemnation to be justly due.

I do not understand it is the duty of this Senate in this investigation to ascertain whether Brigham Young was a model citizen or the reverse, or whether the keys of the Gospel are in the possession of the Utah branch of the church or the Josephite branch of the church, nor to ascertain whether the creed or the doctrines of the Mormon Church are in accordance with the twentieth-century standards of theology. While all of those questions may be interesting, they do not seem to me to be pertinent. Neither do I understand that we are here to try the Mormon Church or the Mormon leaders or lawbreakers generally or lawbreakers specially in the State of Utah or elsewhere, except in so far as those matters may reflect legitimate light upon the question which we are here to try and determine, namely, Is Senator REED SMOOR entitled to retain his seat in this Senate?

So far as that question is concerned, it has always seemed to me that the issue was clear-cut and simple. If Senator SMOOR is a lawbreaker, either as principal or accessory; if he owes or recognizes allegiance to any power paramount to the allegiance which he owes to his flag and country; if by reason of his conduct he is so morally unfit that his continued presence in this Senate will bring shame and reproach upon it, he ought not to retain his seat. If he is not a lawbreaker, either in his own person or as aider or abettor of others; if he places his love of country, his devotion to his Government, his duty as a Senator of the United States above every other consideration;

if he is not morally unfit, he ought not to be deprived of his seat in obedience to any feeling of prejudice within or popular demand from without this Chamber. His case ought to be determined upon broad considerations. Technicalities should not be invoked nor hair-splitting distinctions indulged either in favor of his retention or his expulsion.

In one sense the power of this Senate to deal with the accused Senator is plenary. It may be exercised arbitrarily. In a legal sense, the Senate is not accountable to any other authority or tribunal for its action. Right or wrong, wise or unwise, just or unjust, its decision becomes the unappealable law of the case. But, in another sense, and in a higher and a better and a juster sense, its action is restricted by those considerations of fundamental justice which find an abiding place in the conscience of every just man.

The distinguished Senator from Idaho [Mr. DUBOIS], in his speech the other day, called the attention of the Senate to the fact that a very large number of petitions had been presented by the good women of this country, and it seemed to be in the mind of that Senator that these petitions should be regarded as of controlling force.

I do not intend to express any opinion upon the question as to whether petitions addressed to this Senate, suggesting or demanding that a particular judgment should be rendered in a case involving the right of a Senator to his seat, are as much out of place as would be similar petitions addressed to a court of justice engaged in a purely judicial inquiry. Perhaps something could be said upon either side of that proposition.

The Constitution of the United States provides that Congress shall make no law abridging the right of the people to petition the Government for a redress of grievances. The language is peculiar. It does not confer a new right, but recognizes a pre-existing right, with which Congress is forbidden to interfere. Whether the framers of the Constitution had in mind a case like this, which is at least quasi judicial in character, which has to do with the privileges of the Senate, which does not involve any question of legislation or of governmental policy, is at least questionable. However that may be, the privilege, if

not the right, of petition has been freely exercised by the people in this case; and, whatever may be the proprieties of the matter, one thing seems certain—that Senators can not permit themselves to be swayed in the slightest degree from a just determination of this case upon the merits by petitions, however numerous or by whomsoever signed.

The fathers of the Constitution intended that this great Senate should be a conservative force, a deliberative body, that should neither blindly follow nor impatiently reject the demands of the multitude. I can conceive of cases—cases involving questions of legislation, questions of political or governmental policy—where the demands of the people should not only be heeded, but should be obeyed. But I respectfully submit that this is a case where the right of one individual is more sacred than the mere demand of all the people.

Mr. President, I yield to no man in my respect for that great body of Christian and patriotic women who have brought to us these vast petitions praying for Senator Smoot's expulsion. As to their good faith, as to their desire that only justice should be done, I make no question, and I have no doubt but the responsibility of the decision of this case is with us and not with them. Whether they are familiar with the facts, we know not; whether they have read the mass of testimony taken before the Committee on Privileges and Elections, we know not; whether they are seeking to hold the Senator from Utah accountable only for his own acts, or to punish him vicariously for the sins of others, for which he is not responsible and with which he does not sympathize, we know not. But this much we do know, that whether the prayer of these petitions be based upon an actual knowledge and a calm review of the facts, or upon a misconception of the facts, each of us must render his judgment after a passionless consideration of the evidence and a judicial determination of the truth, else in the high court of his own conscience he stands forsworn.

Mr. President, this investigation has been in progress before the Committee on Privileges and Elections for a period exceeding two years. It has been conducted with great care, great deliberation, and great diligence. The results are to be found

in four large volumes of closely printed matter, aggregating some 8,000 pages. I think it is fair to assume that whatever ~~could be said~~ either for or against the position of the Senator from Utah must be found somewhere in that record. To travel outside into the domain of idle gossip or mere rumor, to invoke sensational and perhaps unfounded articles contained in newspapers, magazines, or books would seem to be not only unnecessary, but unfair.

I repeat, Mr. President, and emphasize—because it is an important fact—that this investigation has been in progress before this committee for a period exceeding two years. Eminent counsel have appeared upon both sides of the controversy. Large sums of money have been expended in the search for and the production of evidence. Something more than 100 witnesses personally appeared before the committee and gave testimony under oath.

The books and the publications of the Mormon Church, the sermons and the declarations of the Mormon leaders, the statements of friends and opponents—sometimes authentic and sometimes not—from the foundation of the church, more than seventy years ago, to the present time, have been produced and are to be found in these pages. Everything, however trivial; everything, however unimportant; everything that could reflect the slightest light, and very much that by no possibility could reflect any light at all, upon the question with which we have to deal has been searched out and produced and spread upon the pages of this record. I submit that if justification can not be found somewhere in these pages for the expulsion of the Senator from Utah, it is fair to presume, conclusively presume, that no such justification exists.

Mr. President, it would tend to a better understanding of this case, as it does to every case, if we were able first of all to accurately determine and precisely define the issues which we are called upon to adjudicate, but this no one can do except in a more or less tentative fashion. Some of the charges originally made were so vague; others have become so clouded and uncertain and indefinite by being first asserted, afterwards withdrawn, and then partially reinstated, that no man can

read this record and determine from it precisely what are the grounds relied upon by those representing the protestants. Two protests have been presented to the Senate and have been considered by the Committee on Privileges and Elections—the first a general protest signed by nineteen citizens of Salt Lake, the second a special protest signed by one John L. Leilich alone. The first or general protest contains this significant statement:

We charge him—

Menting Senator SMOOR—

with no offense cognizable by law.

That statement means, if it means anything, that it is not pretended that Senator SMOOR has ever violated the law against polygamy or any other law; it means, if it means anything, that he has not aided or abetted any other person in the violation of the law against polygamy or any other law; it means, finally, if it means anything, that he has not engaged in any conspiracy with others for the violation of the law against polygamy or any other law, because, I do not need to say to the Senate, that to engage in such a conspiracy would be an offense cognizable by the law of every State in the Union.

Mr. President, I emphasize that last phase of this matter because it has been asserted here with more or less earnestness that the proof establishes that Senator SMOOR has engaged in some such conspiracy. The gentleman who prepared this general protest was a witness before the committee. It appears from the testimony that he prepared the protest after very careful study and thorough consideration of all the facts. I happen to know that gentleman—Mr. Critchlow—very well indeed. I have known him intimately. He has been my warm personal friend for a great many years. I know him to be a lawyer of exceptional ability and of ripe and accurate judgment upon a proposition of law.

Another of the signers of the protest is Mr. P. L. Williams, also a resident of the State, who has lived there for the past thirty or more years. Mr. Williams is also a lawyer whom I know well. I was a law partner of his for many years, and I know that in ability as a lawyer he stands second to no man in the West.

This protest is also signed by other lawyers of ability and standing at the bar of that State.

When these lawyers put into that protest the language which I have quoted—"We charge him with no offense cognizable by law"—they were not indulging in some idle or meaningless phrase. They were stating deliberately precisely what they meant to state. I shall have occasion as I go along to show that they are entirely correct in that statement; but for the present I content myself by saying that I will place the judgment of these lawyers, with full and accurate knowledge of the facts, against the judgment of anybody who asserts to the contrary, that Senator SMOOR has violated any law himself, that he has aided or abetted any other person in the violation of law, or that he has engaged in any conspiracy for the violation or subversion of the law.

One of the signers of this original protest is John L. Leilich, who also signed the special protest. It appears from the evidence that Mr. Leilich signed this original protest after having read it over and thoroughly considered it. He therefore asserted, as did the other petitioners, that Senator SMOOR was not guilty of any offense cognizable by law. Then Mr. Leilich, with unexplained and unexplainable inconsistency, immediately turns about and makes his special protest, in which he alleges in specific and detailed terms that Senator SMOOR is a polygamist and therefore has made himself amenable to the laws of the State of Utah. That charge in Mr. Leilich's protest is in this language, and I desire to read it to the Senate:

Thirteenth. That the said REEP SMOOR is a polygamist, and that since the admission of Utah into the union of States he, although then and there having a legal wife, married a plural wife in the State of Utah in violation of the laws and compacts heretofore described, and since such plural or polygamous marriage, the said REEP SMOOR has lived and cohabited with both his legal wife and his plural wife in the State of Utah and elsewhere, as occasion offered, and that the only record of such plural marriage is the secret record made and kept by the authorities of the Church of Jesus Christ of Latter-Day Saints, which secret record is in the exclusive custody and control of the first presidency and the quorum of the twelve apostles of the said church, of which the said REEP SMOOR is one, and is beyond the control or power of the protestants.

Protestants in the plural.

Evidently Mr. Leilich expected in the beginning that somebody

else was going to sign this protest with him. It appears that he was unable in the whole State of Utah to find anybody who would agree with his statement.

Your protestants respectfully ask that the Senate of the United States or its appropriate committee compel the first presidency and the quorum of the twelve apostles and the said REUB SMOOR to produce such secret record for the consideration of the Senate. Your protestants say that they are advised by counsel that it is inexpedient at this time to give further particulars concerning such plural marriage and its results or the place it was solemnized or the maiden name of the plural wife.

And there, Mr. President, so far as this investigation before the committee or before the Senate is concerned, this matter with reference to the charge of polygamy rested, except that from time to time during the progress of the investigation before the committee this charge of Mr. Leitch was repudiated by the counsel for the protestants, Mr. Taylor, and by members of the committee, as, for instance, the Senator from Idaho [Mr. Dubois] and by other members of the committee. For example, Mr. Taylor, in making his opening statement to the committee, made use of this expression:

I merely say, respecting the charge made in the supplemental protest, that I do not know, and therefore can not say to the committee, that proof will be made sustaining the charge of what is called "the Leitch protest," to the effect that Mr. Smoor is a polygamist.

And again, upon at least three separate and distinct occasions Mr. Taylor repeated that he did not stand, nor did the protestants whom he represented, stand for that charge.

In the course of the proceedings before the committee this occurred after a colloquy between the Senator from Indiana [Mr. Beveridge] and the Senator from Idaho [Mr. Dubois]. The Senator from Idaho stated:

Senator Dubois. No; I do not include the Senator from Vermont, who thought that we were trying Mr. Smoor upon the charge of his being a polygamist, or of his having taken an oath as an apostle which was incompatible with his oath as a Senator. That charge was not preferred by the committee of nineteen from Salt Lake City, Utah. That charge was preferred by an individual named Leitch, and was repudiated instantly by telegram from the protestants—the nineteen—and no one ever appeared here, and it was stated in the first meeting, in answer to a direct question, that no one was present to press those charges.

One of the witnesses who was called before the committee was Doctor Buckley, a gentleman who is known by reputation prob-

ably to every member of the Senate. Doctor Buckley testified that he had gone to Salt Lake while this investigation was in progress. He was asked, I think by the Senator from Ohio [Mr. Foraker], to state if he had any personal knowledge with regard to Senator Smoor, and Doctor Buckley answered:

No. While I was there I asked all sorts of people, Mormons and others, whom I met how Senator Smoor 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?

And again, further on, Doctor Buckley proceeded:

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. Smoor?" 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. Smoor. 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.

Mr. DILLINGHAM. Doctor Buckley is the editor of the Christian Advocate.

Mr. SUTHERLAND. I am reminded by the Senator from Vermont that Doctor Buckley is editor of the Christian Advocate.

Mr. DILLINGHAM. The New York Christian Advocate.

Mr. SUTHERLAND. He went there upon this special errand and to make this inquiry among others, and was therefore engaged in this very investigation. This was the result of his inquiries.

Mr. President, this record is full of similar statements. I am not going to take the time of the Senate to read any of them or to call further attention to them. Of course, there is to-day in the United States no well-informed person who believes or contends that Senator Smoor is a polygamist, but this charge, originally made by Mr. Leitch, has been repeated and reiterated by irresponsible persons and irresponsible newspapers from one end of this country to the other, until it has gained wide circulation and has been given general credence throughout the country.

A lie travels fast; the truth crawls slowly; and so, while it is true that this charge of Mr. Lellich was instantly repudiated by the other signers of this protest, and while it is true that Mr. Tayler, representing the protestants, repudiated it before the committee, and while there is not a syllable of testimony before the committee that even raises a suspicion that Mr. Smoot is a polygamist, while there is an abundance of testimony to the precise contrary, still this charge of polygamy is even to this day believed by a very large number of people in the United States.

As late as March 13, 1906, less than a year ago, the New York World contained in its columns an article upon this subject, and I call attention to that simply as illustrative. Practically the same article appeared or the same pretended facts were stated in scores of papers throughout the country. I am not going to read the article entire. It covers nearly a whole column in length. It asserts, upon the statement of one Rev. N. E. Clemenson, a presbyterian minister, residing in the State of Utah, that Senator Smoot is a polygamist, and goes on to give the details and undertakes to give the names of his wives. It says that one of the wives has borne him a son, and gives the name of that son. It declares that these wives have been spirited out of the State, and goes into sensational details with reference to that, all of which is utterly false, of course. Let me read the headlines:

Reveals names of polygamous wives of Smoot. Rev. N. E. Clemenson, of Logan, Utah, tells the confession made to him by wife No. 2, who was Rose Hamilton, of Milwaukee, of her marriage and her flight from a United States marshal. Spirited away at time of Senate inquiry.

Fled from State to State when investigation was on foot to unseat the Senator—had borne a son to her Mormon husband—wife No. 3 was one Lottie Greenwood.

Under those sensational headlines the New York World proceeds to give in detail the story I have stated, upon the authority of this man Clemenson.

Clemenson was evidently not content with stating this in the New York World, because he proceeded to make a business of going up and down the country delivering lectures upon this subject, declaring in those lectures substantially the same pre-

tended facts that are stated in the New York World article. For example, I find in the Troy (N. Y.) Times, dated April 5, 1906, the account of a meeting which was addressed by the Rev. Dr. Newton E. Clemenson, pastor of the Presbyterian Church at Logan, Utah. The lecture was delivered in a church to a congregation of men and women, and in the course of his lecture, as appears by this account, he again made these statements. I have in my possession a number of other clippings, where he has made similar statements in other parts of the country. The papers were full of it. It has been reprinted over and over again from one end of the country to the other.

Now, of course, this question as to Senator Smoot's being a polygamist is no longer of any consequence here in this inquiry, but to my mind it reflects a world of light upon the attitude of these good women and these good men who have brought to us these great petitions. Of course there is no way of accurately determining the fact, but I venture to say that if the truth could be known, a very large majority of the women who have signed these petitions have done so in the firm belief, induced by slanderous and libelous statements such as these, that Senator Smoot is a polygamist, having anywhere from two to a dozen wives.

I have had occasion myself during the last few weeks—and other Senators have told me that they have had similar occasion—to deny stories of this kind. People have said to me, "Senator Smoot ought to be expelled." I have asked, "Why?" They have said, "Because he is a polygamist." I have answered them, "You are entirely mistaken. Senator Smoot is not a polygamist. I know him intimately. I know his family. I know his neighbors. I think I know all about it; and I know as well as I know anything concerning another that he is not a polygamist." Then these people have said to me, "Then what in the world is all the row about?"

To show how fixed this opinion is in the minds of the people, I call attention to an editorial contained in the Wheeling (W. Va.) Intelligencer of date January 12, 1907, after the Senator from Illinois [Mr. HOPKINS] had delivered his speech upon this question. It would be supposed that the editor of that

paper—because he speaks of the speech of the Senator from Illinois—would have had before him that speech. But he proceeds editorially to deliver himself as follows under the caption, "The Smoot Case:"

Mr. HOPKINS, of Illinois, is the first Senator to raise his voice in favor of Smoot. According to HOPKINS, Smoot is an apostle of a high grade of Mormonism that abominates polygamy. The evidence is that Smoot himself has been guilty of plural marriage. It seems to the *Intelligencer* that this is the only point at issue. With Mr. Smoot's religious views and practices, so long as those views and practices are not in violation of the law, the United States Senate has no interest. Does he or does he not practice polygamy? That is the question. The evidence submitted thus far indicates that he is a practitioner of polygamy and a lawbreaker. As such he should not hold his seat in the Senate.

And, Mr. President, this paper is called the *Intelligencer*. It seems to me the name is slightly overdrawn.

Another charge which is made by Mr. Leitch and not contained in the general protest, and therefore discredited *prima facie*, is that Senator Smoot, as an apostle or otherwise, has taken an oath inconsistent with his obligations as a Senator of the United States.

Mr. BURROWS. Mr. President—

The VICE-PRESIDENT. Does the Senator from Utah yield to the Senator from Michigan?

Mr. SUTHERLAND. Certainly.

Mr. BURROWS. I think in justice to the committee, in view of what the Senator has quoted from the public press, it ought to be publicly stated in this connection that the committee in its report fully exonerated the senior Senator from Utah from the charge of polygamy, and if the Senator will allow me I will read from page 7 of the report:

As regards the charge that Mr. Smoot has a plural wife, this fact, if proved, is conceded by Mr. Smoot and his counsel to be sufficient to disqualify him from holding a seat in the Senate. But this accusation seems to have been made by Mr. Leitch unduly and on his own responsibility, and without any sufficient evidence in support of the same. This charge ~~was not made in the main protest~~, and counsel for the protestants at the outset of the investigation very frankly admitted that they had no proof to offer in support of this allegation.

The public ought to have known that if they had read the report. And if the Senator from Utah will pardon me a moment further, in the remarks which I had the honor of making on this case, at page 4, I stated:

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

I wanted to state this in order that it should be known that the charge that the senior Senator from Utah (Mr. Smoot) is a polygamist has been absolutely repudiated by the committee and also in the remarks I had the honor of making.

Mr. SCOTT. Will the Senator from Utah, before he resumes his remarks, allow me to say a word?

The VICE-PRESIDENT. Does the Senator from Utah yield to the Senator from West Virginia?

Mr. SUTHERLAND. I do.

Mr. SCOTT. The Senator in his remarks referred to an editorial in a paper in my home city. I hope the Senator has a recent editorial in which the editor quoted the language just now read by the Senator from Michigan (Mr. Burrows) and in which he corrects the editorial which the junior Senator from Utah has just read.

Mr. SUTHERLAND. I will say to the Senator from West Virginia that I have not that article, but my attention has been called to it. I have been told that there is such an editorial. Of course, the difficulty with matters of that kind is that ordinarily a thousand people read the original charge because there is something bad about a man in it, and perhaps only one reads the correction. That is the great difficulty with that sort of business.

I am very glad that the Senator from Michigan has made the statement he has. He is entirely correct about it. The committee did exonerate Senator Smoot of this charge and the Senator from Michigan in his speech did the same. I am not complaining about the committee. I thought I had made myself clearly understood about that. I am speaking of this matter with reference to the attitude of the public, with reference to the attitude of these petitioners upon this subject. I do not accuse any member of the committee of desiring to do anything un-

fair. Such men as the Rev. Mr. Clemenson, of Logan, Utah, are the people who are responsible. Mr. Clemenson, who is referred to in these various articles and who, by making the charge that the Senator from Utah has violated the seventh commandment, himself so shamelessly disregards the ninth commandment, is a resident of the State of Utah, where he has lived, as I understand, practically all his life.

It is to be presumed that he knows what every well-informed person in the State knows, namely, that Senator Smoot is not even suspected of being a polygamist. The Reverend Buckley, to whose testimony I called attention, has stated that, although he inquired of scores of people in Salt Lake, he failed to find a single one who believed that Senator Smoot was a polygamist or had otherwise lived with any woman other than his wife.

Mr. President, it may seem a harsh thing to say, but I believe it to be a just thing to say, that when Mr. Clemenson made this charge he deliberately stated what he knew to be false, or at least what he had no reason to believe was true. There are no words sufficiently severe with which to characterize that kind of a man. Any man, and particularly any man who wears the cloth of the profession of God, who would deliberately make a false statement of that character about another, and especially when that other was engaged in a contest before the Senate and before the country for the preservation of his good name, deserves to be cast out of decent society and pilloried with the contempt of honest men for all time to come.

But, Mr. President, I had begun to discuss the question of this inconsistent oath, and, as I have said, that charge is made by Mr. Lellie alone. So far as that allegation is concerned, it is not made by anybody else. To my mind it is a significant fact that this charge is not contained in the general protest. Most of the men who signed the general protest are residents of Utah who have lived there for upward of a quarter of a century. At the time this protest was made and for many years prior thereto, there were in the State of Utah hundreds, if not thousands, of persons who had prior to that time been adherents of the Mormon Church, but who had severed their connection with or had been excommunicated from the church.

Those people, or at least a very large number of them, have gone through the endowment-house ceremonies, where it is said this oath is taken. If such an oath as that is administered in those ceremonies, these men and women have taken it and they know it. With these hundreds and thousands of men and women living in the State of Utah—informed about this matter, having severed their connection with the church and therefore not having any undue friendship for the church—it would be a remarkable thing if this fact had not been spoken about by them so often as to become notorious in the State—a matter of common knowledge—and it would be still more remarkable if some of the signers of this protest should not have heard of that and have made some allegations concerning it, at least upon information and belief. So it is significant that the general protest upon which Senator Smoot has thus far been tried does not contain this charge at all, either upon information and belief or otherwise.

Now, this charge, like the others, was repudiated in the committee by the counsel for the protestants as many as three or four different times. As I recall it, it was stated before the committee that the other signers of the protest had repudiated this charge by telegraph.

The Senator from Idaho [Mr. Dubois] during the course of the examination, speaking both with respect to the charge of Mr. Smoot being a polygamist and the charge of his having taken an inconsistent oath, said:

Mr. Chairman, I want to bear my testimony as to what occurred. Both of those contentions were set aside entirely. It was not contended that they should be attempted to be proven by the attorneys representing the protestants. Those two questions being entirely eliminated, the counsel for the protestants announced what he would attempt to prove, which is set forth in the proceedings of the committee, and on that the hearing was ordered. It was not ordered at all either upon the charge that Mr. Smoot was a polygamist or that he had taken an oath incompatible with his oath as a Senator.

That charge having been repudiated by the counsel for the protestants, it having been repudiated by the protestants themselves, it being conceded that there was no such issue before the committee, the Senate will probably be curious to know how the question has arisen. It came about in this way: When Mr.

Lyman, an apostle of the church, was upon the stand he said something with reference to the endowment-house ceremonies. The Senator from Michigan [Mr. Burrows], chairman of the committee, then asked him if he would not state to the committee the endowment-house ceremonies. Mr. Lyman answered that he could not do so, and said further along—some witness did, and I think it was Mr. Lyman—that they were of a sacred and secret character and that he did not care to discuss them. But Mr. Lyman did state:

I remember that I agreed to be an upright and moral man, pure in my life. I agreed to refrain from sexual commerce with any woman except my wife or wives as were given to me in the priesthood. The law of purity I subscribed to willingly, of my own choice, and to be true and good to all men. I took no oath nor obligation against any person or any country or government or kingdom or anything of that kind. I remember that distinctly.

Farther along, when another witness was upon the stand, the chairman of the committee again asked the question, and similar replies were made. Some other witnesses were also examined with reference to it, always, as I remember, by the chairman of the committee and never by the counsel for the protestants.

Now, after that had occurred three witnesses were brought from Salt Lake to testify upon this subject. Those three witnesses were Mr. Wallis, Mr. Lundstrom, and Mrs. Elliott. Mr. J. H. Wallis testified that he had gone through these ceremonies, and he gave upon the first occasion when he was called to the stand this version of the oath:

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.

Now, after having had a night to sleep on the subject, he came back the next morning and said he was mistaken in the version he had given, and he then proceeded to give this version of 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.

Mr. WORMISTON. Was there anything in that obligation about inhabitants?

Mr. WALLIS. Nothing about inhabitants. I found I was wrong about that.

So he states when he first comes upon the stand that the oath was to ask vengeance upon the nations of the earth or the inhabitants of the earth, and he did not know which, and the next morning it was upon "this nation."

The next witness who was called was Mr. Lundstrom. His version of the oath is as follows:

"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.

Mrs. Elliott gave this version of the oath:

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.

Now, as to these three witnesses, and taking them up in their order, first as to Mr. Wallis: Witnesses were brought from Salt Lake and testified before the committee—and although more than a year elapsed before the case was finally closed the testimony remained absolutely uncontradicted—that they knew Mr. Wallis, that he lived in Salt Lake, that they knew his reputation in that community for truth and veracity, and that it was bad. Other witnesses testified that he was a drunkard; that he had been convicted before the police court for drunkenness. Another witness testified that he was of unsound mind, and that he had claimed personally that he had communication with the devil.

The next witness, Mr. Lundstrom, was also shown to be a person unworthy of belief. Witnesses, also absolutely uncontradicted, of good repute and standing in the community, testified that they knew his reputation for truth and veracity, and that it was bad.

Mrs. Annie Elliott, after giving her version of the oath, said she had never made this statement to any other person; that when she stated it upon the stand it was the first time she had made any statement regarding it, and she said that if Mr. Taylor, the counsel, was examining her from a memorandum, she had not the least idea where he had obtained it.

Mrs. Elliott also testified that she was then living with her second husband. She was asked what had become of her first husband. She replied that he was dead. Upon cross-examina-

tion she gave the date of his death as being October, 1897. The Senate will be interested and somewhat surprised to know that later on in that investigation this husband who was declared to be dead himself appeared before the committee in the flesh and gave the committee to understand that the statements regarding his death made by his wife were considerably exaggerated.

That is the character of the testimony which is brought here to show that this oath is taken. I am not going to stop to read to the Senate the testimony to the contrary. A large number of witnesses were called, among them four or five who had formerly been members of the church and who had severed their connection with the church, and each of them testified that no such oath was taken at all. They had gone through these ceremonies; they had taken whatever obligations were taken by anybody; and they swore positively that no such obligation was taken at all.

Mr. HOPKINS. Mr. President—

The VICE-PRESIDENT. Does the Senator from Utah yield to the Senator from Illinois?

Mr. SUTHERLAND. Certainly.

Mr. HOPKINS. I desire to call the attention of the Senator to the fact, as I now remember it from the testimony, that the first husband of Mrs. Elliott testified that he had been in constant communication with the children of Mrs. Elliott, who were living with her. So she could not have been misled as to the fact that he was alive.

Mr. SUTHERLAND. The Senator from Illinois is entirely correct about that. She did testify that the children had been in communication with the father, so that she knew absolutely that what she was stating was not the fact.

Now, as I said, four or five of these witnesses—I do not recall just how many—were at the time they testified not members of the church. Of course they had to be members of the church at the time they went through the endowment-house ceremonies.

Thus the case was when it was rested upon both sides and submitted to the final determination of the committee, on January 27, 1905. It was supposed by everybody to be closed,

but to the astonishment of at least some people it was reopened more than a year later, namely, on February 6, 1906. This was after all the arguments had been made and after the whole case had been submitted to the committee. The case was reopened and four witnesses were produced to testify with reference to this oath. Those four witnesses were Prof. Walter M. Wolfe, William J. Thomas, John P. Hologren, and Henry W. Lawrence.

Professor Wolfe gave his version of the oath as follows:

Mr. Wolfe. The law of vengeance is this: "You and each of you do covenant and promise that you will pray, and never cease to pray, Almighty God to avenge the blood of the prophets upon this nation, and that you will teach the same to your children and your children's children unto the third and fourth generations."

Mrs. Elliott said it was to teach it to their children and their children's children, but Professor Wolfe adds unto the third and fourth generations. It was shown that Professor Wolfe had joined the Mormon Church ten or twelve years before he testified; that immediately after joining the church he had gone through the endowment house ceremonies; and he testified that although he believed the very first time he took this obligation that the seeds of treason were planted in it, he yet testified that he took it eleven times again, the last time within a year or two before he appeared before the committee. He continued to be a member of the church until three weeks before he appeared upon the stand, at which time he was excommunicated for drunkenness. He lost his professorship in one of the colleges and was excommunicated from the church.

I have not the testimony of Mr. Thomas here, but Mr. Thomas testified that some such oath was administered. There was a cross-examination of Mr. Thomas that is somewhat interesting. On pages 71 and 72 of the fourth volume he was examined and some questions were asked him by the Senator from Pennsylvania [Mr. Knox].

John P. Hologren, the third witness, in his version did not use the word "nation" at all.

Henry W. Lawrence was a member of the church away back in the sixties, and left the church about that time and, by the way, he is a man of excellent repute in Salt Lake City; I know

him well, and am glad to testify to it here. Mr. Lawrence testified that he had not only taken these obligations himself, but that he had been one of those who administered the ceremony; that he had administered the oaths or the obligations, whatever they were which were given, hundreds of times, and Mr. Lawrence swore positively that the word "nation" was not mentioned at all in the oath.

Mr. DILLINGHAM. He is not a Mormon now?

Mr. SUTHERLAND. He is not a Mormon now. As I said, he left the church away back in the sixties. He swore there was no such word named at all in the oath.

So we have the testimony of five witnesses who say the word "nation" is used, and of those five witnesses, four of them are shown to be utterly unworthy of belief—drunkards and of unsound mind—and one of them says that he has communications with His Satanic Majesty.

Mr. FORAKER. And one is a perjurer.

Mr. SUTHERLAND. Yes; and one whose perjury is shown by her own testimony.

Mr. President, that there is some sort of an archaic obligation taken in these ceremonies I have no doubt. I do not know just what it is. But that there is any obligation that is hostile to this Government in any sense whatever there is not a shred of testimony worthy of belief in this record to establish.

It is probably explained by the testimony of Mr. Lawrence. Mr. Lawrence says that in the ceremony two verses of the New Testament are read. I thought I had them here, but I find I have not. One of them is in Revelations and reads:

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?

Probably the whole thing arose from that. Some such obligation, founded upon that verse of Scripture, may be administered.

Now, Mr. President, that disposes of the two charges of polygamy and of having taken an inconsistent oath, and it seems to me it is shown beyond question—

Mr. CULBERSON. Mr. President—

The VICE-PRESIDENT. Does the Senator from Utah yield to the Senator from Texas?

Mr. SUTHERLAND. I do.

Mr. CULBERSON. Some of us regard the proposition which the Senator from Utah is now discussing as exceedingly important. I have not had the pleasure, on account of having been called out of the Chamber, to hear all the Senator has said. I should like to ask him what the testimony of Senator Smoot was upon that subject, as to the oath.

Mr. SUTHERLAND. I am very glad, indeed, that the Senator has called my attention to that matter. I had overlooked it. Senator Smoot denied in positive terms that any such oath was taken. If the Senator is curious to look at his testimony, he will find it in the third volume, at pages 184 and 185 of the record. There the Senator from Texas will find that Senator Smoot positively denied that any such obligation as that was taken or any obligation that imported in any way hostility to the Government.

Mr. BURROWS. Mr. President—

The VICE-PRESIDENT. Does the Senator from Utah yield to the Senator from Michigan?

Mr. SUTHERLAND. I do.

Mr. BURROWS. Ought not the Senator to state in this connection that the Senator from Utah absolutely refused to disclose what the oath was?

Mr. SUTHERLAND. Mr. President, I have not the slightest objection to stating in this connection that that is correct. The Senator from Utah declined to state what these obligations were, and so did other witnesses; and they declined to state it upon precisely the same theory that a member of the Masonic order or any other secret society would decline if called to testify about the ceremonies of his order. Unless he were compelled, he would absolutely decline to state what were in those ceremonies. He would be perfectly willing to state what was not in them. Any Mason would be willing to state that there is nothing in the Masonic ceremonies or ritual that in any way imports hostility to the Government, but if he were asked to state in detail what those ceremonies were, in all probability he would decline to

state them. Upon precisely the same ground Senator Smoot and these other witnesses who are still members of the church declined to state them.

Mr. GALLINGER. A Mason would absolutely decline to state them.

Mr. SUTHERLAND. A Mason, as the Senator from New Hampshire says, would absolutely decline to state them.

Mr. HOPKINS. I desire to call to the attention of the Senator now addressing the Senate the fact that the witnesses who declined to give the oaths did state that they were of a religious character and that there was nothing in them that was hostile to the Government in any form.

Mr. SUTHERLAND. Yes; that is quite correct. I think I have substantially stated it.

Now, Mr. President, it seems to me that this charge of polygamy and this charge of having taken an inconsistent oath are both absolutely unfounded in fact. That brings us back to this general protest, which contains, as I have already said, the significant statement, "We charge him with no offense cognizable by law." What, then, are the offenses not cognizable by law which are deemed to be sufficiently grave to justify the Senate in depriving a Senator of his seat?

I think everyone who will read this record will discover that it evidences a good deal of confusion of mind on the part of those representing the protestants as to the precise nature or extent of these offenses. It must be manifest that any offense which would warrant the Senate in declaring that a duly elected, duly accredited, and constitutionally qualified Senator was not entitled to retain his seat must be of the gravest possible character, and such as to evidence beyond all cavil that he was utterly unfit to sit here.

This Senate is not a voluntary association from which members may be expelled because we do not like them, or because other people, however numerous, do not like them. Membership in this body is a matter not of grace, but of right, and whoever challenges the right takes upon himself the burden of establishing beyond all reasonable question the justice of his challenge.

It seems to me that the offenses not cognizable by law may be discussed under two propositions: First, that polygamy and polygamous cohabitation are still practiced by some members of the Mormon Church, of which church Senator Smoot is an apostle; second, that this church claims the right and exercises the authority of dictating to its members in political and temporal affairs.

I shall first discuss the question of polygamy, and it will probably tend to a better understanding of that subject if I shall begin by stating some facts and pointing out some distinctions well enough understood in Utah, but which are often lost sight of elsewhere.

Until 1862, although polygamy had been openly practiced in the Territory for twelve or fourteen years before and had been openly proclaimed by the president of the church ten years before, there was no law, either Federal or Territorial, upon the subject. So far as penal consequences were concerned, polygamy in Utah was just as lawful as monogamy, because while it may be true, as some have contended and about which I do not express any opinion myself, that bigamy or polygamy was a crime at common law, there are no common-law crimes against the United States, and from the Mexican treaty of Guadalupe Hidalgo in 1848 until the admission of the State in 1896 the Territory of Utah was under the sole and exclusive jurisdiction of the Government of the United States.

In 1862 a law was passed defining and providing for the punishment of the crime of bigamy. It will thus be seen that for a period of at least ten years Congress and the Government acquiesced in this practice with positive and official knowledge of the fact. In 1850 Capt. Howard Stansbury, having been directed by the Government to do so, went to Utah for the purpose of making a survey and reconnaissance of that then little-known section. He spent something like a year among the Mormon people, making a rather close study of their social and religious institutions. Early in 1852 he made a report, in the course of which he called the attention of the Government to the fact that polygamy was being openly practiced in that Territory.

In 1852 the president of the church, in a great public meeting

held in the Salt Lake tabernacle, openly proclaimed to the world that polygamy was a doctrine and a practice of the church. Yet, not only did the Government fail to do anything in the way of suppressing that practice, but Brigham Young was actually appointed governor and reappointed governor of that Territory by the President of the United States once before and once after he had made this public proclamation.

The law was passed in 1862, but it remained practically a dead letter upon the statute books. Substantially nothing was done in the way of enforcing it. Personally I have always regarded that as being a distinct misfortune, because I believe that had the Government at once and vigorously enforced the law and supplemented it by such legislation as might have been found necessary we would not be here to-day discussing this question. Polygamy would long since have ceased to be anything but an unpleasant memory.

There was never a prosecution at all under the law until fourteen years after it was passed. In 1876 a prosecution was instituted against one George Reynolds. Mr. Reynolds himself furnished the testimony necessary to bring about his own conviction, contenting himself by defending upon the sole ground that the law was invalid and unconstitutional, as being an interference with his mode of religious worship. He was convicted, and he appealed to the Supreme Court of the United States. That tribunal very promptly held that his position was untenable and that the law was valid and constitutional—a holding which it is a little difficult to understand how anybody could have expected would be otherwise. There were probably one or two other prosecutions under the law.

In 1882 Congress passed the so-called "Edmunds law," which, in addition to reenacting the provisions of the law of 1862 on the subject of polygamy, defined and provided for the punishment of the crime of polygamous cohabitation. By section 6 of that act the President was authorized to grant amnesty to offenders under the law upon such terms and conditions as he might see fit to prescribe. By section 7 of the act, children born of these polygamous marriages—and Congress was careful to say in the legislation "Mormon marriages or marriages per-

formed according to the ceremonies of the Mormon sect"—prior to the passage of the law and for some definite period afterwards were legitimated.

In 1884, about two years after the passage of the Edmunds law, prosecutions under it began in earnest, and so vigorously was it enforced—more than 2,000 persons in Utah being convicted and sent to prison—and so strong became the pressure, not only from without, but from within the church, that in the comparatively short space of six years the church issued its famous manifesto forbidding polygamy for the future, which manifesto was subsequently ratified by the Mormon people in conference assembled.

In 1891, following this manifesto, the pro-church or so-called "people's party" was disbanded and political parties were organized throughout the State upon national political lines.

In 1896 the Territory was admitted on a footing of equality with the other States of the Union. By the enabling act, which was adopted by Congress in 1894, it was provided that the constitution of the new State by an irrevocable ordinance should provide "that there shall be perfect toleration of religious sentiment; that no inhabitant of the said State shall ever be molested in person or in property on account of his or her mode of religious worship, provided that polygamous or plural marriages are forever prohibited." This provision of the enabling act, to my mind, is significant in two respects.

In the first place, it will be observed that the prohibition of polygamous or plural marriages is in the form of a proviso to the paragraph or section which guarantees perfect toleration of religious sentiment and noninterference with the mode of religious worship. The office of a proviso is perfectly well understood and settled. It has the effect to carve out of the main provision to which it is a proviso an exception which but for the proviso might be held to be included within the terms of the paragraph or section to which it is attached. Ordinarily a proviso is to be strictly construed. Ordinarily it is to be construed with strict reference to the subject-matter of the paragraph to which it is attached.

Congress knew when this enabling act was adopted, as the

country knew, that the Mormon people, who would constitute the majority of the inhabitants of the new State, had for many years insisted and stubbornly contended that polygamy was a part of their religious faith, and that any interference with the practice of polygamy was an interference with their mode of religious worship.

Congress desired to guarantee, or rather to permit the people of the State to guarantee to themselves, by their fundamental law, perfect toleration of religious sentiment and noninterference with the mode of religious worship; but Congress also desired that that guaranty should never be construed so as to include polygamous marriages in the future. It was therefore as though Congress had said: "You may theorize as you please; you may believe as you please; you may assert such opinions as you please upon the subject of polygamy; but you shall not practice it."

I speak of this because it has been said that some of the Mormon people, some of the leaders, still believe and still assert a belief in polygamy. Whatever we may have to say about the good taste or the propriety or the wrongfulness of that kind of a belief or that kind of an assertion (and I have no positive opinions about that as anybody here), they are within their rights in believing it and in asserting the belief, if they choose to do so. The only thing this enabling act or this compact made between the Government of the United States and the State inhibits is the practice of polygamy.

And so no man can be punished and no man can be deprived of a right because he may believe or because he may assert a belief, or the people or some of the people with whom he may be associated may believe or assert a belief in the abstract rightfulness of polygamy. He can only be held responsible for what he *does* or at most for what *they* do in that respect.

In another respect this language is significant. It is "provided that polygamous or plural marriages"—not polygamous cohabitation—"are forever prohibited." When that language was adopted by Congress, Congress knew, as the people of the State knew, and as the people of the country who had paid any

attention to the subject knew, that there was a difference between polygamy and polygamous cohabitation.

A man committed the crime of polygamy when, having a wife living and undivorced, he went through the ceremony of marriage with another woman. He committed the crime of unlawful cohabitation or polygamous cohabitation when, having previously married two or more wives, he continued to live with them in the habit and repute of marriage.

At the time the enabling act was adopted there were more than 2,000 polygamous households in the State of Utah, 2,000 men whose status as polygamists had already been fixed and established. Congress must have known that under a law simply prohibiting polygamy every one of those men might have returned to living with his wives, and not a single one of them could be punished. Under a constitutional provision simply declaring that polygamous marriages should be prohibited not one of those men could be interfered with. It required something else in addition. But understanding that, Congress deliberately omitted from this provision any requirement whatever upon the subject of polygamous cohabitation, contenting itself with putting into the enabling act a requirement simply that polygamy or polygamous marriages should be prohibited.

So if the legislature of the State of Utah, immediately after the State came in, had seen fit to pass a law legalizing every one of these existing polygamous marriages, I do not well see how it could have been charged that in doing so they were violating the compact made between the United States and the Territory of Utah, whatever might have been said as to the wrongfulness, and I think a great deal might well have been said against the rightfulness of that kind of legislation. It is sufficient, however, to say that the legislature of Utah never attempted to do that, but, on the contrary, not only adopted the previous provision of the law with reference to polygamy, but also incorporated in the statutes of Utah, where it remains to this day, a provision prohibiting polygamous cohabitation and kindred offenses as well.

Mr. President, in this rather brief review that I have given of this situation it will be seen that Congress in dealing with

this question has dealt with it in its social rather than in its criminal aspect. The object of Congress seems to have been to get rid of the institution of polygamy rather than to punish individuals who were guilty of the practice. In other words, the desire was not so much to punish the sinner as it was to eradicate the sin. This is borne out by a variety of considerations. I will not stop to mention more than a few of them.

In the first place, the penalties of the Edmunds law are visited upon the husband only. The plural wife is not made guilty of any offense whatever.

In the second place, children that were born of these polygamous marriages, these "Mormon marriages," prior to the passage of the law and for a definite period thereafter are legitimated.

In the third place, the President is authorized to grant amnesty to offenders against this particular law on such terms and conditions as he may prescribe, and in granting amnesty either to individuals or to classes the condition which he did prescribe was that they should refrain from violating the law in the future.

In the fourth place, in the administration of the law in the courts, whenever a man was brought before a Judge for sentence it was the invariable custom and practice to inquire of him whether he would promise to obey the law in the future. If he gave the promise, he was permitted to go invariably without any punishment at all. If he declined to give the promise, almost invariably the full penalty of the law, both as to fine and imprisonment, was visited upon him.

Mr. President, this was also the feeling of the people of that State. The thing which we demanded—and I say "we" because I was one of them from the time I was old enough to have any opinion on the subject at all—the thing which we demanded was that the institution of polygamy, the system of polygamy, should be abandoned, and the punishment of the offender was of secondary importance. It was adopted, I might say, rather as a means to the end of getting rid of the system than as the end itself.

And so when the church issued this manifesto forbidding polygamy in the future and the people ratified the manifesto, and it was believed by the Gentile people in that State that it was issued in good faith and that future plural marriages would no longer occur, there was a pretty general disposition to overlook a good many things in the conduct of those who were already in this relation.

It is a pretty difficult thing for people to understand—there are a great many people in this world who are unable to understand—how any pure-minded person can conscientiously believe in the doctrine of polygamy. It is contrary to their teaching and training, as it is to mine. It is contrary to their fixed, to their instinctive feelings and opinions, as it is to mine. And yet there is absolutely no doubt that the people who entered into this relationship did so believing in its rightfulness, and not only that, but believing that it was ordained by the Almighty Himself. They were as sincere in their belief in its rightfulness as I was sincere in my belief in its wrongfulness.

Mr. President, an erroneous religious idea is the most difficult thing in the world to combat. It submits to no rule of logic. It fits into no syllogistic form. It is major and minor premise and conclusion rolled into one dogmatic declaration—"thus saith the Lord."

Civilization from the beginning of history has been covered with the crazy patchwork of the unreasoning foibles of theology. A thousand years ago Peter the Hermit set all Europe in a blaze of religious fervor with the demand that the Holy Sepulchre should be wrested from infidel hands. The mad crusades which followed resulted in immeasurable suffering and in the loss of hundreds of thousands of lives, Christian as well as infidel. Carrying aloft the banner of the cross of that Christ whose very birth signalized "peace on earth, good will toward men," and whose imperative command was "love your enemies," the Christian armies of the crusades threw themselves with savage and bloody fury upon the Moslem world in response to an appeal to their religious passions.

Almost within the memory of our grandparents old England and New England were lashed into a superstitious frenzy over

witchcraft. The belief filled a century with gloom and horror. The story of its cruelties makes a dark and sinister chapter in the otherwise magnificent history of Massachusetts. If some poor woman, borne down by poverty, filled by a sense of injustice, walked the path of life apart; if some child, undersized, crippled, deformed, exhibited unusual precocity of mind, at once the finger of public suspicion was pointed and the horrifying cry of witchcraft was raised.

As late as 1768, less than one hundred and forty years ago, within the memory of some men living at the time the Mormon Church was organized, John Wesley solemnly declared that the giving up of the belief in witchcraft was in effect the giving up of the Bible. From that time, Mr. President, when the King of Moab, besieged by the armies of Israel, offered his eldest son, that should have reigned in his stead, as a burnt offering upon the walls of the city—from that far day when the Hindoo mother, stifling the earliest as well as the holiest and strongest passion of the human heart, consigned to the sacred waters of the Ganges the loved child of her body in obedience to a religious delusion—to this hour of enlightenment and civilization, the melancholy fact runs through all history that nothing has been too absurd, nothing too cruel, to be believed and taught and done in the name of religion. And even in our own day, at the very noon time of sane and rational thought, a score of illogical religious fads have their thousands of fatuous adherents.

So I say, Mr. President, that you can not reason with a false religious belief any more than you can argue with a case of typhoid fever. It simply runs its course and mental health returns, not when the intellect has been convinced by the appeal of reason, but when by the process of time and by the slow attrition of opposing thought the intellect has so far changed that the false belief no longer appeals to it. So the fact that polygamy has been opposed to practically the unanimous thought of the American people—has been opposed to the almost unanimous thought of the Christian world—is no argument whatever that the people who practiced it and taught it did not believe sincerely in its rightfulness.

Mr. President, polygamy having been abandoned by this man-

fest, and there being in the State of Utah this large number of polygamous households, these men whose status had already been fixed, the question at once arose what was the wise thing to do about it, and the feeling which was entertained by the Gentiles generally, while they did not approve, while they would have infinitely preferred that it should have been otherwise, nevertheless the feeling was that, all things considered, the wisest and best thing was to see as little of it as possible, to let those people live out their lives, and thus get through with it. This is practically the unanimous testimony in this record. For example, I call attention to the testimony of two witnesses on the part of the protestants. Mr. Critchlow, who prepared this protest and who was the principal witness against Senator SMOOT in the hearings upon that subject, testified as follows:

Mr. VAN COTT. Mr. Critchlow, is it not the fact that the general feeling in Utah, among non-Mormons—leaving the Mormons out of view—has been that if all plural marriages had ceased since the manifesto, those relations of unlawful cohabitation they were practically willing to close their eyes to?

Mr. CRITCHLOW. I think so, except in cases where they were really absolutely offensive, or where they occurred in such a manner as to be really examples to the people. Amongst the higher officials, and even with them, I think it would be fair to say that people were inclined to minimize these things as much as possible for the peace of the State and the community and for its upbuilding, and to remove the reproach of it before the country.

Mr. VAN COTT. Now, as to John Henry Smith, the fact that a child was born to one of his plural wives during the time of the constitutional convention, non-Mormons, as a general rule, were disposed to overlook if they felt satisfied that there were no more plural marriages?

Mr. CRITCHLOW. Yes, sir; I think so, and felt that the thing would work itself out in the future.

Mr. VAN COTT. Now, the other matter that you spoke of—this offensive flaunting. I wish you would give to the committee a little more in detail what you understand by that, and I call your attention now to the language used by the Supreme Court of the United States where it has quoted that particular phrase.

Mr. CRITCHLOW. What would be offensive to one person of course might not be to another. If a man had a polygamous wife and family right by my door side, and his children associated with mine, and he visited a half or a third of his time there and a half or a third of his time somewhere else, and it was placed there under my face, it might be offensive to me, while to you or to somebody else, living in another part of the town, it might not be offensive.

Again, where a man takes two sisters under the same roof, that might be offensive to the whole community. Then again, it might be entirely innocent and unoffensive to a great class of people who do not care anything about those things.

Again, I may say, where a man has a polygamous wife in a community and brings other polygamous wives there and makes a sort of a colony of it, then it becomes offensive even to a whole community. That sort of thing becomes offensive, in a greater or lesser extent, dependent entirely upon the sensibilities of the people immediately affected.

Mr. VAN COTT. But where the polygamists have had their wives living in separate houses, and have simply kept up the old relations without an offensive flaunting before the public of the relations, it has been practically passed over, has it not?

Mr. CRITCHLOW. Yes, sir; as a matter of fact it has been. A man—

Mr. VAN COTT. Is not this the fact also, that you did not deem yourself as being lowered in the community in any way when you went on the stump with John Henry Smith?

Mr. CRITCHLOW. I certainly did not, or I should not have gone.

Mr. VAN COTT. No; I mean that was the general feeling with the non-Mormons?

Mr. CRITCHLOW. Yes, sir; I think so.

Mr. VAN COTT. And in the questions I have put to you, you understand that I do not mean to say that you belittled yourself or that you lowered yourself in any way by doing those things. You did not consider it so?

Mr. CRITCHLOW. I did not.

Then Mr. Critchlow goes on and says:

Mr. CRITCHLOW. I think that in all probability, as near as I can get at my state of mind at that 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. 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, sir; I think so.

Mr. VAN COTT. That was the general feeling?

Mr. CRITCHLOW. Yes, sir; I think so.

Senator OVERMAN. When was that?

Mr. CRITCHLOW. During the time of the manifesto, in September, 1890, on down to very recent times; pretty nearly up to date, or practically up to date. Perhaps even now, if I was going to say what was the general inclination—

Senator OVERMAN. The general inclination in Utah is not to prosecute Mr. Smith?

Mr. CRITCHLOW. The general inclination in Utah is not to prosecute Mr. Smith.

Senator BEVERIDGE. Then what more have you to say on that point as showing the great popular indignation?

Mr. CRITCHLOW. There is no inclination on the part of the non-Mormons, and I suppose the Senator refers to non-Mormons, rather than to Mormons—there is no sentiment there in Utah, no great amount of sentiment there in Utah, that would favor putting Joseph F. Smith in the attitude of being persecuted for his religion.

Mr. VAN COTT. You speak of the general disinclination to prosecute Mr. Smith at the present time. That is true generally of polygamists who were such before the manifesto, is it not?

Mr. CRITCHLOW. Yes, sir; it is so.

I have extracts from the testimony of some twelve or fifteen other witnesses, perhaps thirty, who all testified about it. These extracts are from the testimony of Gentile witnesses, all substantially testifying to the same thing with reference to this matter. I will ask, Mr. President, to incorporate those extracts in my remarks, without stopping to read them now.

The VICE-PRESIDENT. Without objection, permission is granted.

The extracts referred to are as follows:

Judge O. W. Powers, a Gentile Democrat, and one of the principal witnesses against Senator Smoot, testified as follows:

The CHAIRMAN. Will you state why it is that those who live in polygamous cohabitation to-day are not prosecuted?

Mr. POWERS. I will do so as well as I can, and I simply state here the views, as I know them, of what are termed the "old guard" of the Liberal party, Republicans and Democrats, who fought the church party in the days when it was a power. Those men have felt, and still feel, that if the church will only stop new plural marriages and will allow this matter to die out and pass away, they will not interfere with them. First of all, of course, we want peace in Utah. We would like to be like the rest of the country. We want to make of it a State like the States of the rest of the Union. We want the Mormon people to be like the rest of the American people; but we realize that there is a condition there which the people of the East do not—and, I presume, can not—understand. You can not make people who have been brought up under our system of government and our system of marriage believe that folks can sincerely and honestly believe that it is right to have more than one wife, and yet those people believe it. They are a God-fearing people, and it has been a part of their faith and their life.

Now, to the eastern people their manner of living is looked upon as immoral. Of course it is, viewed from their standpoint. Viewed from the standpoint of a Mormon it is not. The Mormon wives are as sincere in their belief in polygamy as the Mormon men, and they have no more hesitation in declaring that they are one of several wives of a man than a good woman in the East has in declaring that she is the single wife of a man. There is that condition. There are those people—

Senator HOPKINS. Do you mean to say that a Mormon woman will as readily become a plural wife as she would a first wife?

Again, I may say, where a man has a polygamous wife in a community and brings other polygamous wives there and makes a sort of a colony of it, then it becomes offensive even to a whole community. That sort of thing becomes offensive, in a greater or lesser extent, dependent entirely upon the sensibilities of the people immediately affected.

Mr. VAN COTT. But where the polygamists have had their wives living in separate houses, and have simply kept up the old relations without an offensive flaunting before the public of the relations, it has been practically passed over, has it not?

Mr. CRITCHLOW. Yes, sir; as a matter of fact it has been. A man—

Mr. VAN COTT. Is not this the fact also, that you did not deem yourself as being lowered in the community in any way when you went out the stump with John Henry Smith?

Mr. CRITCHLOW. I certainly did not, or I should not have gone.

Mr. VAN COTT. No; I mean that was the general feeling with the non-Mormons?

Mr. CRITCHLOW. Yes, sir; I think so.

Mr. VAN COTT. And in the questions I have put to you, you understand that I do not mean to say that you belittled yourself or that you lowered yourself in any way by doing those things. You did not consider it so?

Mr. CRITCHLOW. I did not.

Then Mr. Critchlow goes on and says:

Mr. CRITCHLOW. I think that in all probability, as near as I can get at my state of mind at that 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.

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Senator HOPKINS. Do you mean to say that a Mormon woman will as readily become a plural wife as she would a first wife?

Mr. POWERS. Those who are sincere in the Mormon faith—who are good Mormons, so called. I think would just as readily become plural wives (that has been my experience) as they would become the first wife. That condition exists. There is a question for statesmen to solve. We have not known what was best to do. It has been discussed, and 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 here to you, I will say to you the people have acquiesced in the condition that exists.

Mr. VAN COTT. You mean the Gentiles?

Mr. POWERS. Yes; the Gentiles.

The CHAIRMAN. Have you any knowledge of the extent to which polygamious cohabitation exists in the State to-day?

Mr. POWERS. I have tried not to know about it. When it has come under my immediate observation I have known about it. I do not know to what extent it exists. I want to see it pass away.

The CHAIRMAN. Does it exist outside of the city of Salt Lake?

Mr. POWERS. Oh, without doubt.

The CHAIRMAN. Have you any idea as to the extent?

Mr. POWERS. No; I could not give an idea as to the extent, because, as I tell you, I have honestly tried not to know about it.

Mr. McConnell, formerly governor of the State of Idaho, testified that the foregoing extracts from the testimony of Mr. Critchlow and Judge Powers also expressed the state of feeling in Idaho.

Mr. Holzheimer, also a Gentile resident of the State of Idaho, testified as follows:

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. Martin, another Gentile resident of Idaho, testified:

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. Brady, another Gentile resident of Idaho, testified:

Mr. VAN COTT. 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.

The following witnesses among a very large number of the Gentile residents of the State of Utah gave the following testimony. Mr. J. W. N. Whitecotton said:

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 maybe, 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 suzerainty of the law. Nothing else must appear. He can not take into account the surrounding circumstances and the atmosphere in which he lives.

Mr. Hyrum E. Booth testified:

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 polygamious 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 polygamious 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 polygamious 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 rently 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. TAYLOR. 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 divorce 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.

Judge William M. McCarty, who was a United States district attorney in Utah and prosecuted many of these cases and who is now chief justice of the supreme court of the State of Utah, testified:

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 these 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. 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. Glen Miller, former United States marshal, testified as follows:

Mr. VAN COTT. Now, in your knowledge of the State and in traveling over the State and everything of that kind, I wish you would state what the sentiment is among the Mormons in regard to new polygamous marriages; that is, since the manifesto.

Mr. MILLER. The general impression has been, both among the Mormons and Gentiles, that there have been no polygamous marriages sanctioned by the church.

Mr. VAN COTT. I wish to know particularly the sentiment in regard to whether it is in favor of polygamy or against it.

Mr. MILLER. Decidedly against it.

Mr. VAN COTT. What is your opinion as to whether a sentiment of that kind existed against polygamy in the Mormon Church before the manifesto?

Mr. MILLER. Yes, sir; it did. I know that.

Mr. VAN COTT. And also as to whether the church could restore the practice of polygamy if it should so attempt.

Mr. MILLER. I do not believe it would be possible to ever restore polygamy in the State of Utah.

Mr. VAN COTT. Do you know by repute of men living in unlawful cohabitation?

Mr. MILLER. I do.

Mr. VAN COTT. What is the sentiment of Gentiles in regard to complaining or informing in regard to such matters?

Mr. MILLER. Well, there has been a sentiment against that, as there has been against any informing against any of the infractions of law generally. They felt that it was only a question of time that the practice would die out through the death of those who practiced

it, and the removal of that generation. It was getting less and less all the time.

Mr. SUTHERLAND. Considering this testimony, Mr. President, it must be seen that this situation, which confronted us out in Utah after the manifesto was issued, was one which bristled with difficulties, was one which must be approached from the standpoint of practical statesmanship rather than from the standpoint of the religious reformer. Those men and women who entered into these marriages were not inspired by lust. They were good men; they were pure women. Any man who has lived in the State of Utah, who has mingled with them in their daily life, who has sat at their firesides, and who has talked with them must admit that this is a fact.

Mr. President, that is the crux of this whole situation. Any man who attempts to judge of the existing conditions without that fact before him will inevitably not judge with justice. If it had been the ordinary case of meretricious living, there would have been no difficulty in dealing with it; but it was not. It was a case where these people had entered into these relations believing the relations were just as pure as the relations existing between a man and his one wife. In the ordinary affairs of life they are good citizens, law-abiding citizens, self-respecting members of the community, and we felt, when the church issued that manifesto forbidding the practice for the future, that the time had come when we could afford to bear with the situation with some degree of patience until it finally worked itself out; in other words, we felt that we could afford to cover this remaining remnant of a passing generation with the mantle of charity (which covers a multitude of sins) until, in the course of a few years, they should be covered with the everlasting mantle of the grave. So much for the old cases of polygamy.

But it has been claimed that since the manifesto there have been instances of polygamous marriages. Of course I have not the means of knowing how many such cases there may have been, but I would not be honest with myself nor candid with the Senate if I did not say that, in my judgment, there have been some cases of that character. So far as those cases are

concerned, no word of justification or excuse or toleration can, in my judgment, be uttered by any honest man either in this country or out of it.

Mr. McCUMBER. Were those marriages in this country or out of it?

Mr. SUTHERLAND. I will discuss the question of where those marriages took place in a moment. Of course, as I say, I do not know how many such cases there may have been, but the testimony is to the effect that they have been somewhat limited. The Senator from Illinois [Mr. HOPKINS] called attention to the testimony the other day, and I have a reference to the same, that there has not been to exceed twenty cases since the manifesto was issued in 1890 in Utah; and it appears that in those cases, so far as anything appears on the subject at all, the marriages were celebrated somewhere else—in Mexico, in Canada, or somewhere out of the jurisdiction of the United States.

One Charles Mostyn Owen, who has seemed to be a sort of master of ceremonies in this whole investigation, who for many years has been conducting an investigation into this subject, and who tells the committee that he has visited personally from time to time practically every Mormon settlement in Utah and most of the settlements in Idaho and Wyoming, that he has agents practically in every settlement in those three States, gives us a list of eleven men whom he thinks have entered into polygamy since the manifesto. I think later in his testimony he gives one or two others, and there is some testimony which indicates that there are some additional ones, which brings the total number up to about, as I say, twenty. In this list of twenty there are the names of five apostles. Those apostles are Mr. Tensdale, Mr. Abraham H. Cannon, Mr. Merrill, Mr. Taylor, and Mr. Cowley.

As to Mr. Tensdale, the testimony shows that he married his wife under such circumstances as would render the marriage absolutely void. It was afterwards declared by a court of competent jurisdiction by a decree to be void. So that it seems to me, when we come to consider the entire record, his case should be laid out of consideration.

With reference to Apostle Merrill, the charge was made against him while he was lying upon what afterwards proved to be his deathbed, but before he died he made an affidavit, which was sworn to, in which he positively denied this charge and said it was utterly false, and that he had not married any wife at all since the manifesto. I believe what Mr. Merrill said about that. The testimony to the contrary was only in the nature of hearsay and rumor.

With reference to Abraham H. Cannon—Abraham H. Cannon was an apostle and married a plural wife in 1896. He died within thirty days after that marriage—I think it was twenty days. His legal wife was a witness before the committee, and she said that upon his deathbed he asked her forgiveness, and that, in her judgment—he was a conscientious man, she said—the fact that he had violated the law and violated the mandate of the church preyed upon his mind so that it worried him into his grave. What would have happened to Mr. Cannon if he had lived, of course, we do not know. He died, as I say, within a comparatively short period.

That leaves two of the apostles; and with reference to those two, if we were to consider the testimony in this record alone, I think no judge would probably hold it was sufficient to warrant a verdict of conviction by a jury. Still I have absolutely no doubt in my own mind that both those apostles have taken plural wives since the manifesto, and I think there are no words in the English language that are sufficiently severe with which to condemn their conduct.

It appears, however, that when the attention of Senator Smoot was called to the testimony before the Senate committee, he preferred charges against those apostles to the first presidency of the church and demanded an investigation. An investigation was had, and it resulted in the removal of those two men from their offices, and they are to-day fugitives from justice in a foreign jurisdiction.

As to the character of these cases, Judge Powers, one of the witnesses for the protestants, testified that they were sporadic in character. I will not stop to read the testimony, but I will incorporate it in my remarks.

The VICE-PRESIDENT. In the absence of objection, permission is granted.

The matter referred to is as follows:

Senator McCOMAS. Have there been many polygamous marriages lately? Of course polygamous marriages are forbidden, and it is difficult to ascertain whether there have been.

Mr. POWERS. If there are any polygamous marriages at the present time, my opinion is they are sporadic cases.

Judge McCarty, a Gentile and chief justice of the supreme bench of the State, testified to substantially the same thing, that there were only about a dozen or so of such cases. He further testified that it was his opinion that when the manifesto came there would be fanatics in the church whom no law and no church rule could keep from engaging in this kind of offense, and he expected there would be an occasional case of this character. Judge McCarty testified that the people who had violated the law in that respect were fugitives from justice.

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 [decrease], 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.

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. SUTHERLAND. Mr. President, as I say, the apostles who were guilty of this thing were removed from their offices in the church, and they are to-day fugitives from justice beyond the jurisdiction of the United States. When that action of the church was taken the Salt Lake Herald, a Gentile newspaper published at Salt Lake, which has always been opposed to the practice of polygamy, had the following editorial upon the subject:

A STEP FORWARD.

One of the most notable of the Mormon Church conferences concluded its session on Sunday with the resignation of two apostles and the appointment of three new members of the quorum. Most significant of the conference acts was the retirement of Apostles Cowley and Taylor, who have been conspicuous in the public eye by their evasion of the summons to testify before the Smoot committee of the Senate. Their retirement is significant because it is accepted as an evidence that the church authorities were dissatisfied with their failure to appear before the committee as well as with their disobedience of the manifesto of President Woodruff which forbade church members to take plural wives or perform plural marriages.

While no detailed explanation of the abdication is made, these are the reasons generally accepted as the basis of the official announcement that Cowley and Taylor were "out of harmony" with their quorum. Although the critics of the church will not concede any good motive in the action of the authorities, there is no doubt but that the discipline of the two recalcitrant apostles will be taken by the country generally as an evidence of good faith and a desire to enforce the laws of the church against further polygamous marriages. Whether their retirement was meant to influence the decision in the case of Senator Smoot, as his opponents affect to believe, or whether it was a matter of church discipline alone, it must produce a favorable impression throughout the country as well as here in Utah, where the public is familiar with the circumstances leading up to the climax.

That the action is approved by members and nonmembers of the church here goes without saying. Messrs. Cowley and Taylor were charged with what amounted to flagrant defiance of civil and church laws since the manifesto. They were wanted as witnesses before the Senate, but chose to evade service and thus defy the Federal authorities. That they have been disciplined ought to be sufficient proof that the church means to compel observance of the manifesto and compel respect for legal authority so far as lies in its power.

There are doubtless those who will be dissatisfied with any action the church may take short of absolute submission to the men who have sought to control it politically for their own ends; but the general public, which is interested only in the settlement of the contentions that have torn the State into factions, will recognize in this change a long step in advance, one calculated to win friends for the church and curb those high officials who have betrayed it by refusal to recognize the blinding force of the law, ecclesiastical as well as civil.

Mr. President, every one of these men who has taken a plural wife since the manifesto, in addition to being a violator of the law, is an enemy of his own people, who has done them a more grievous wrong than any open and avowed opponent could possibly do, because he has set them in a false light before the country and compelled every one of them, in the eyes of a large portion of the American people, to share the shame of his lawlessness. Such a man has not only broken the law of the land and the law of the church, but he has broken his own pledges, if not expressly, at least impliedly, and none the less solemnly given to the nation. As I say, there can be no word of toleration uttered for that kind of an individual. If I had my way, every one of them would be in jail serving out the extreme penalty of the law; and, Mr. President, in my deliberate judgment, that is the feeling and the sentiment of the vast majority of the Mormon people themselves. The Mormon people are opposed to polygamy being restored. The Mormon people themselves are opposed to these violations of law. I have a number of extracts from the testimony upon that subject, and, with the permission of the Senate, I will incorporate them in my remarks without stopping to read them.

THE VICE-PRESIDENT. In the absence of objection, permission is granted.

The extracts referred to are as follows:

Mr. Booth, already referred to, testified as follows:

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. J. C. Lynch, a resident of Salt Lake City, also a Gentile, testified:

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. A. A. Noon, a Gentile resident of Provo, said:

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. John P. Meakin, a Gentile, testified:

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, reestablishing 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. Cole, a Gentile, testified:

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.

Judge James A. Miner, former supreme court judge and a Gentile, testified:

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.

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.

Elias A. Smith, bank cashier and business man, testified:

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.

Maj. Richard W. Young, a Mormon, and prominent in social and business circles, testified as follows:

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. Charles De Moisy, a Gentile and a former resident of Provo, Utah, testified:

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. John W. Hughes, a newspaper man of wide experience in Utah, also a Gentile, testified as follows:

Mr. HUGHES. The Mormon people generally are as much against new polygamous marriages as the Gentiles, I believe, as a rule, especially the younger Mormons that I meet. I meet a good many of the younger Mormons, and they are absolutely against it. They would not tolerate it.

Mrs. W. H. Jones, a resident of Salt Lake City, testified:

Mrs. JONES. I have talked to a great many. I have traveled over the State a great deal with my husband in his business and in our outings, and I have talked with a great many, especially of the younger Mormons, on that subject. They have been very much opposed to it. In fact, some of them have said to me that they would like to be called on a jury.

The CHAIRMAN. Like to be what?

Mrs. JONES. Called on a jury, to convict a man who might be arrested for going into polygamy since the manifesto.

Mr. Frank R. Stephens, a Gentile lawyer and former city attorney of Salt Lake City, testified:

Mr. STEPHENS. So far as plural marriages, additional marriages, are concerned, the sentiment is unanimously against them, both Mormon and Gentile.

The general feeling is that no punishment could be too severe to be visited either upon the solemnizing officer or the contracting parties, and it is very much more pronounced in the matter of additional marriages than it is upon unlawful cohabitation.

The reason is obvious. Unlawful cohabitation will cease when these men die, if there are no more plural marriages; but if there are more plural marriages the institution will be continuous and the situation intolerable.

Mr. VAN COTT. Is that the sentiment among the Mormons themselves in regard to it?

Mr. STEPHENS. It is. I have never heard anything but words of condemnation for one who would solemnize a plural marriage, or for a contracting party. It is regarded as the grossest breach of good faith.

Mr. WORTHINGTON. You mean since the manifesto?

Mr. STEPHENS. Since the manifesto.

Senator FORAKER. What is your judgment as to plural marriages? I understand you to have expressed one, but I want you to express it again.

Mr. STEPHENS. As to whether there will be more?

Senator FORAKER. Yes.

Mr. STEPHENS. I think they would be just as rare as bigamy among people generally. Oh, I would not say quite as rare as that; very rare. It would be only in the case of an utter fanatic, who would perhaps impose upon the officiating officer in order to get a plural wife.

Senator FORAKER. But there will be no trouble to prosecute in such cases?

Mr. STEPHENS. Not the slightest.

Senator FORAKER. In cases of that kind?

Mr. STEPHENS. No. If I were district attorney, I would be willing to submit a case of that kind to a jury of Mormons.

Senator FORAKER. To a jury of Mormons?

Mr. STEPHENS. I would, so far as that is concerned. I feel the sentiment is so general—that the contracting of new plural marriages is so generally execrated both by Mormons and Gentiles.

Mr. Martin, previously quoted, testified:

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.

On this subject Mr. Whitecotton testified as follows:

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.

All of those quoted above are Gentiles except Mr. Smith and Major Young, and all are reliable and trustworthy persons of long residence in the State.

Mr. SUTHERLAND. So much for polygamy and polygamous cohabitation. There have been two complaints which have been most strenuously urged by the opponents of the Mormon Church—polygamy and church interference in political affairs. I have already discussed the former, and I shall now direct the attention of the Senate to the remaining one of these propositions. That these complaints were well founded in the past I have no doubt; but the Senate is interested in knowing what the conditions are now, and we are only concerned with past conditions to the extent that they may reflect light upon the present.

When the Mormon pioneers, in 1847, went to Utah their movement possessed all the characteristics of a religious exodus. They met suffering and hardships and dangers at the hands of savage men and savage nature with a courage born of religious exaltation. The story of their pathetic march into the wilderness and of their early sufferings and hardships has few parallels in the history of pioneer struggles.

To them Brigham Young was more than the leader of their expedition. He was the new Moses pointed out by the finger of God to lead them through many perils to the promised land. With serene confidence in his God-given ability to conduct them in safety they followed him into the unknown with song and prayer.

In the beginning it is probable that they did not feel the need of a civil government at all. They were of one faith. Their religion was their main consideration. Everything else was of subordinate importance. When they established a civil government their religious leaders became the civil officers. As time went on the rule of the church became more and more pronounced. The disposition of the leaders to advise, counsel, and direct, and that of the people to accept direction, counsel, and advice in all things, grew stronger and stronger as time went on. In these days the government in Utah was a virtual theocracy. There was a practical union of church and state. In this document that I have called attention to before by Captain Stansbury, at page 131, there is a somewhat graphic description of this situation, which I desire to read:

While, however, there are all the exterior evidences of a government strictly temporal, it can not be concealed that it is so intimately blended with the spiritual administration of the church that it would be impossible to separate the one from the other. The first civil governor under the constitution of the new State, elected by the people, was the president of the church, Brigham Young; the lieutenant-governor was his first ecclesiastical counselor, and the secretary of state his second counselor, these three individuals forming together the "presidency" of the church. The bishops of the several wards who, by virtue of their office in the church, had exercised not only a spiritual but a temporal authority over the several districts assigned to their charge, were appointed, under the civil organization, to be justices of the peace, and were supported in the discharge of their duties not only by the civil power, but by the whole spiritual authority of the church also. This intimate connection of church and state seems to pervade everything that is done. The supreme power in both being lodged in the hands of the same individuals, it is difficult to separate their two official characters and to determine whether, in one instance, they act as spiritual or merely temporal officers.

And so he proceeds. I will incorporate the rest of it, if the Senate please, without reading further.

The VICE-PRESIDENT. Without objection, permission is granted.

The matter referred to is as follows:

In the organization of the civil government nothing could be more natural than that, the whole people being of one faith, they should choose for functionaries to carry it into execution those to whom they had been in the habit of deferring as their inspired guides and by whom they had been led from a land of persecution into this far-off wilderness, which, under their lead, was already beginning to blossom like the rose. Hence came the insensible blending of the two authorities, the principal functionaries of the one holding the same relative positions under the other. Thus, the bishop, in case of a dispute between two members of the church, would interpose his spiritual authority as bishop for its adjustment, while in differences between those not subject to the spiritual jurisdiction and who could not be made amenable to church discipline, he would act in the magisterial capacity conferred upon him by the constitution and civil laws of the State. Thus the control of the affairs of the colony remained in the same hands, whether under church or State organization, and these hands were, in a double capacity, those into which the constituents had, whether as citizens or as church members, themselves chosen to confide it. (From Stansbury's Expedition to the Valley of the Great Salt Lake, 1852, p. 132.)

Mr. SUTHERLAND. The Government of the United States itself gave unconscious credit to the situation by appointing and reappointing as governor of the Territory the spiritual head of the church, Brigham Young himself. In 1870 the Gentiles who had gathered in that Territory, though very few in number, organized what was called the "Liberal party." It had for its object the overthrow of polygamy and church interference in governmental matters. The Mormon people in opposition had a party called the "People's party." These two parties were purely prochurch and antichurch in character. In the Liberal party there were no Mormons; in the People's party there were no Gentiles. The fight which ensued and which lasted for the next twenty years was of the bitterest possible description. In 1891 the "People's party," so called, was disbanded, and the Democratic and Republican parties were organized throughout the Territory. Prior to that time, however, beginning probably as early as 1883, there became manifest a growing restlessness and dissatisfaction on the part of the younger men in the church, and some of the older ones as well, with reference to this condition of affairs. There began to be demands that the church should give up polygamy, and that a system of politics should be inaugurated in the

State in harmony with that which existed in other communities.

As illustrative of this, in 1888 a number of young men of the church organized a Democratic party, which was called in derision the "Sage Brush Democracy," but which name they afterwards adopted in earnest themselves. This party nominated a candidate for Delegate in Congress and conducted a campaign against both of the old parties. In 1890 there occurred another instance. I happened to be living in the town of Provo, where Senator Smoot then resided and now resides. I was nominated as the candidate for mayor of the Liberal party. A number of the younger men in the church revolted against the People's Party and supported my candidacy. Among the leaders in that revolt was Senator Reed Smoot himself.

Since 1891 it has been charged, and there is some testimony in the record tending to show, that there has been interference on the part of some of the high officials of the church in political matters. I am not going to review the instances which are referred to, because, in the first place, I have not the time, and, in the second place, in view of the general statement which I shall make, it does not seem to me important to do so. Many of the instances which are mentioned by these witnesses are based wholly upon rumor and hearsay, which is always an unsafe kind of testimony. Some of them are absolutely disproven; but there still remain some cases, and, in my judgment, there have been some instances since the division on national party lines where high officials of the Mormon Church have interfered in political matters.

But the great and important fact to me—and it seems to me it ought to be also to the Senate—is that while there have been occasional instances of this kind there has been a steady improvement in that direction; and my deliberate judgment is that since 1900 there has been no instance of that kind in the State of Utah at all. I do not mean to say that some president of a stake or some bishop in some outlying locality may not have done something; but, so far as the leaders of the church are concerned, since 1900 there has been, to my mind, no well-authenticated case of interference.

Some reference has been made to the city election of 1903, when Mr. Knox, candidate on the Republican ticket, was defeated, and it was claimed that that was due to the interference of the church. The testimony is overwhelming, to the effect that it was not due to that at all. It was charged that Mr. Knox was nominated in the convention by improper and corrupt methods. It was insisted that delegates in the convention had been purchased, and there was a general revolt against those kinds of methods. I do not think that Mr. Knox himself was charged with having been a party to those transactions; but those charges were made, and there was a very bitter feeling in the Republican party with reference to them, and Mormons and Gentiles alike revolted and voted against Mr. Knox's candidacy.

Judge Charles S. Zane, who was one of the judges all through the prosecution of these polygamy cases, and who certainly can not be charged with being in any manner under the control of the Mormon Church, was one of the men who fought Mr. Knox's candidacy, and did it openly. O. J. Salisbury, a Gentile and national committeeman, was another. There were scores of prominent Gentiles who did the same. So I might go on with these other instances in the testimony as to the facts. But I will incorporate some extracts from four or five witnesses to the effect that since the present head of the church has been president he has not only kept out of politics himself, but he has kept the church out of politics; and my observation as to what has been going on in that State during the last five or six years—and it has been a somewhat close observation—leads me to believe that that is true. Since that president has been at the head of the church the church and the president of the church have been kept out of politics.

There has been an advance in other respects. Mr. President, I will ask to incorporate in my remarks, without reading, some extracts from the testimony of Judge Powers, Judge McCarty, Mr. Cole, Mr. Candland, and Mr. Stephens with reference to this advance, and also some extracts with reference to President Smith having kept out of politics.

The VICE-PRESIDENT. In the absence of objection, permission is granted.

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The VICE-PRESIDENT. In the absence of objection, permission is granted.

The testimony referred to is as follows:

Judge Powers testified:

Mr. POWERS. Well, there has been progress made that to me is, in view of the conditions that existed prior to that time, somewhat surprising as well as satisfactory. For instance, along about 1892 and prior to that time, and after that, but not to so great an extent, it was not an unusual thing; in fact, it was expected by those living in Utah that at the religious meetings held on Sunday nights preceding the election there would be political talks, and an indication given by the tenor of those talks as to how the people should vote. Now, we do not have those Sunday night talks just prior to the election. Of course we still have an editorial in the *Deseret Evening News* on the Saturday preceding the elections, generally, that we look for, but we do not have those talks. The people have progressed politically. They have progressed socially. The bitterness that was so intense between Mormons and Gentiles that it is hard to describe it, has in a great measure passed away, although it exists, unfortunately, to some extent yet. Take it socially. Prior to 1892 I do not know that any Mormons were members of the Alta Club, the leading social club of that city. At the present time there are Mormon members of that club, and as I say there has been an advance.

Mr. VAN COTT. What have you to say, in your judgment, as to the honesty and sincerity of the Mormon men and women?

Mr. POWERS. I believe the Mormon men and women are as honest and as sincere--I am speaking of the great mass of the people now--as any other people on earth.

Judge McCarty testified:

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 candidity, 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 DUMAIS. 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 DUMAIS. 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.

Mr. Samuel N. Cole, Gentile, of Corinne, Utah, testified as follows:

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 any 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. Caudland, Mormon, of Mount Pleasant, Utah, testified:

Mr. VAN COTT. Calling your attention now to politics, what is your opinion as to the independence of the Mormon people in voting?

Mr. CAUDLAND. I know that they are independent, judging others from myself.

Mr. VAN COTT. Well, from your observation?

Mr. CAUDLAND. 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. CAUDLAND. In some instances, yes.

Mr. VAN COTT. Will you give a few of them, please?

Mr. CAUDLAND. 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. CAUDLAND. 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. CAUDLAND. In 1895, I think—I am not quite positive as to that year; it was a city election—Mr. Andrew Nelson, 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. CAUDLAND. 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. CAUDLAND. In 1902 Mr. Owen, a Mormon holding no particular office, was elected over Mr. Petersen Mattison, of the stake presidency, for justice of the peace. In 1903 Mr. Bowman, a Gentile, was nominated for mayor over Mr. Mattison, 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. Stephens testified:

Mr. STEPHENS. I would say that there are various kinds of church influence. There is, first, the influence which any man has. I would say "influence" without saying "church." There is, first, the influence that any man has who is respected in the community and whose judgment is respected by those who know him; and when it comes to a church, if he is a member of a church, undoubtedly he would have an additional influence among the members of that church by reason of being a member; and that would be true in the Mormon Church, and, perhaps, to some extent a little greater than in the other churches. I would call that, perhaps, legitimate church influence. That is the natural influence which follows from a man's standing in the community. If, however, a question came up which involved the interest of the Mormon Church, I would say, for instance, take the election of 1900, when the question of protection was quite prominent, and the Mormon Church is interested in the sugar business—

I think if the leaders of the church would go out and say "We feel that our interest is in having the protective tariff continued," it would have great weight; and I would compare it, I think, to the influence of a manufacturer who would say to his workmen, "I can not dictate to you how you shall vote, but I think our interests lie this way;" and I think it would have its influence.

I think there are probably 25 per cent of the Mormon voters who could be swung one way or the other, and possibly might be, where there was something vital that came up.

Mr. VAN COTT. You think that 75 per cent are beyond any kind of influence at all?

Mr. STEPHENS. No; I would not say that they were beyond any kind of influence at all. I do not think any man is beyond any kind of influence.

Mr. VAN COTT. You mean—

Mr. STEPHENS. I would say this: I believe the great majority of the members of the Mormon Church are opposed to church domination in politics and want it to be a thing of the past. They are very much opposed to it, and resent it, I think.

Mr. VAN COTT. And—

Mr. STEPHENS. Excuse me.

Mr. VAN COTT. Proceed. I thought you had finished.

Mr. STEPHENS. I was going to say, I think if the first presidency should openly advocate or dictate to the people how they should vote it would be resented and sat down upon. I think, as I said, that their influence would have weight in matters which affect the church or its interests.

Mr. VAN COTT. Now, referring to the practical side of voting, what have you noticed in regard to Mormon voters being independent in politics?

Mr. STEPHENS. You mean with reference to voting for a Gentile?

Mr. VAN COTT. Yes.

Mr. STEPHENS. Where a Mormon was on the ticket?

Mr. VAN COTT. Yes.

Mr. STEPHENS. A case simply of two men—a Mormon on one side and a Gentile on the other?

Mr. VAN COTT. Yes.

Mr. STEPHENS. In cases of that kind they are loyal to the ticket. I think at the time when Judge Morse was a candidate for city attorney against me that was quite apparent. He and I analyzed the vote together with that idea in view. I think a Mormon votes for a Gentile, where there is nothing else to influence him, just as readily as he would vote for a Mormon, and possibly in some cases more readily than a Gentile would vote for a Mormon.

Mr. VAN COTT. You have expressed yourself along the line from the time you went to Utah up to the present, in a general way. What is your opinion now, after the experiment of fourteen years, as to the result that has been attained up to this time in the solution of the difficulties that have existed in Utah?

Mr. STEPHENS. I think the progress has been very satisfactory.

Mr. WORTHINGTON. I should like to ask a question or two.

Mr. STEPHENS. Just a moment, Colonel Worthington, on the matter of church influence.

I do not want to be understood as saying that there have not been some notable instances of what I would term "church influence," but

I will say they are deprecated, and we very strongly disapprove of anyone seeking it, whether it be a Mormon or Gentile.

Mr. VAN COTT. What is the feeling of the Mormon people themselves on that point?

Mr. STEPHENS. I think they resent it fully as strongly as do the Gentiles. It was promised them that they should be independent in politics when the manifesto was issued, and when we divided upon party lines, and I think that having tried their wings they do not want them clipped.

Mr. Arthur Pratt, a Gentile, testified:

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.

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.

Mr. H. M. Dougall, Gentile, of Springville, Utah, testifies as follows:

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. W. P. O'Meara, a Gentile, testified:

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. Hughes testified:

Mr. VAN COTT. Do you know Joseph F. Smith or do you know of him? Mr. HUGHES. I know him by sight, and have known him for years. I never spoke to Mr. Smith.

Mr. VAN COTT. What is the sentiment among Gentiles as to whether he is sincere in keeping the church out of politics?

Mr. HUGHES. The sentiment is that he is exceedingly sincere and very honest in that regard, and in all regards, in fact. They think he is a fanatic in religion, but very honest, and that he is determined to keep the church out of politics, and has done so since he has been president. That is a strong feeling among the Gentiles.

Mr. Stephens testified:

Senator OVERMAN. Will you tell me, Mr. Stephens, why it was that the church interfered in behalf of Kearns when he was elected and why they were not for him this time? Was there any reason?

Mr. STEPHENS. I can not say why President Snow, if he was for him, was for him; but at the present time there is a different president. President Smith is generally understood to be unfavorable to the church mixing in political affairs.

Mr. SUTHERLAND. Now, in another respect the progress has been exceedingly satisfactory. In the constitutional convention which assembled in 1895, out of a total membership of

107, there were 30 polygamists. In the first State legislature, out of a total membership of 63, there were 6 polygamists. In 1829 there were 5 polygamists in the legislature. In 1903 there were 3 polygamists, and in 1905, two years ago, there was only 1 polygamist, and in the present legislature, according to the information I have, which I think is reliable, although I do not absolutely vouch for it, there is no polygamist at all.

The same progress is manifest in the church. It is true, as the Senator from Michigan [Mr. Brewster] said the other day, that when Senator Smoot was elected a member of the apostolate a majority of the apostles were polygamists. In 1896, out of the 15 who constitute the governing heads of the church—the presidency and the twelve apostles—there were only 3 monogamists. In 1900 a majority of them were polygamists, while to-day out of the 15 members there are only 5 polygamists, while 10 are monogamists.

The same radical change is to be seen in the subordinate officers of the church. Out of something over 800 subordinate officials of the church, presidents of stakes and bishops, there were two years ago, when the testimony was given, only 53 polygamists. There are to-day probably, according to my information, not to exceed about thirty-five.

Mr. President, the Mormon Church, like every other church and every other thing in the universe, is subject to the law of evolution. I am glad to believe that in some way I do not understand there is at the very heart of things some mighty power which silently and surely, if slowly, works for the exaltation and uplifting of all mankind. I am not religious in the ordinary acceptance of the term; I have no patience with mere forms or mere creeds or mere ceremonies; but I do believe with all the strength of my soul that "there is a power in the universe, not ourselves, which makes for righteousness." I am an optimist in all things. I do not believe that the world is growing worse. I feel sure it is getting better all the time.

I am no believer in the doctrine of the fall of man. Man has not fallen. He has risen and will rise. In the process of evolution he has so far progressed that he is able to stand erect and

look upward, but his feet are still upon the earth, and so while he sees the heights he ascends them only with slow and toilsome effort. But he does ascend.

In that great masterpiece of imaginative writing, *Les Misérables*, the immortal Victor Hugo, with marvelous and consummate skill, has traced for us the gradual uplifting of his principal character from a condition of sordid poverty and sin and misery and crime and vileness to a position of honor and trust and confidence and power for good and purity of life, and thence to his final apotheosis in an act of sublime self-sacrifice which challenges the profoundest admiration of our souls. To my mind the most magnificent figure in all the literature of fiction is that of Jean Valjean, not because he finally stood upon the heights, but because with infinite toil and struggle he came upward from the abyss. And so, in measuring the progress of any man, as it seems to me, the question is not so much upon what height does he stand as it is, How far has he climbed? I would apply the same test to a community.

I do not say that conditions are perfect in Utah; they are not perfect anywhere; but I do say that conditions to-day are immeasurably better than they have ever been before, and that, in my judgment, they will be better to-morrow than they are to-day. I do not claim that there are no evils among the people. Some remnants of the old objectionable conditions still exist. But I do claim that those evils are fewer in number and less in extent by far to-day than they have ever been before, and, in my judgment, it will be but a short time until they are eradicated altogether.

A community, Mr. President, like an individual, does not overcome its bad habits without a struggle. Indeed, the struggle is more difficult because the number of individuals who are concerned, with their varying degrees of self-restraint and desire for reform and strength of purpose, renders the problem more complex. As with an individual, so with a community. There are the occasional lapses, the goings forward and the slippings back, the fallings down and the risings up, and, thank God, the same ultimate triumph if the resolution be sound at the core.

Mr. President—

*I hold it truth, with him who sings
To one clear harp in divers tones,
That men may rise on stepping-stones
Of their dead selves to higher things.*

Upon stepping stones of its old self Utah has risen and will rise. We must not forget that the conditions of which the American people justly complained were nearly fifty years growing the wrong way; they have been only fifteen years growing the right way, but the great and important and splendid fact is that they have been growing the right way. And I say to you, Mr. President, and to the Senate, and to the country, with what I believe to be the words of soberness and truth, that the people of that State are ridding themselves of these objectionable conditions just as rapidly and just as effectually as any far-sighted man, knowing the circumstances, could reasonably have expected they would, and that we are to-day far beyond the slightest danger of any successful reactionary movement.

And let me say further—

Mr. DUBOIS. Mr. President—

The VICE-PRESIDENT. Does the Senator from Utah yield to the Senator from Idaho?

Mr. SUTHERLAND. Yes.

Mr. DUBOIS. Will it disturb the Senator if I ask him a question?

Mr. SUTHERLAND. I hope the Senator will make it as short as possible. I am very tired and am anxious to get through.

Mr. DUBOIS. The Senator said that the People's Party and the Liberal party disbanded, and that the members of those parties joined the Republican and Democratic parties, which condition continued for a number of years. But is it not true that recently the Gentiles have been uniting again in Utah? In Salt Lake City, where the Senator lives, there is an American party, and I understand 80 per cent of that party is composed of Republicans. That party has been organized, as I understand and as is understood out there, to protest against the domination of the Mormon Church in political affairs, to bring about a separation of church and state.

I would be glad if the Senator would explain what his idea is in regard to the organization of this American partisan party and of the tendency of the Gentiles in Utah to revert to the old Liberal party. Is there any justification for it?

Mr. SUTHERLAND. The American party was organized after my predecessor in the Senate, who came here, in my deliberate judgment, partly as the result of the assistance given him by the then president of the Mormon Church—that is one of the instances of church interference that I have in mind—that party was organized after this, and after that ex-Senator had endeavored to get the help of the Mormon Church again and it had been refused. There are Senators within the sound of my voice who know, or have every reason to believe, that what I say about it is true.

Mr. DUBOIS. Mr. President—

Mr. SUTHERLAND. I hope the Senator will not interrupt me. Let me answer his question.

Mr. DUBOIS. I beg pardon.

Mr. SUTHERLAND. When the ex-Senator, my predecessor—and I should not have spoken of this but for the question of the Senator from Idaho—when that ex-Senator desired to come back to the Senate, according to the statements which are made in Utah, and which I have no reason to doubt, he went to the present head of the church and sought his aid, and that president told him that he was not in politics, that the church was not in politics, and that neither of them would be dragged into politics by him. The head and front of the American party in Utah is ex-Senator Thomas Kearns, and the Salt Lake Tribune and the Salt Lake Telegram are his personal organs.

Mr. DUBOIS. Mr. President—

The VICE-PRESIDENT. Does the Senator from Utah yield further to the Senator from Idaho?

Mr. SUTHERLAND. I will yield for a question only.

Mr. DUBOIS. Very well.

Mr. SUTHERLAND. I want to get through.

Mr. DUBOIS. I should like to ask the Senator if the most splendid Gentiles in Salt Lake do not belong to this party and if it is not the dominant party in Salt Lake?

Mr. SUTHERLAND. That some of the most splendid Gentiles in Salt Lake do belong to that party I think is true. There are a great many Gentiles who have carried along their bitterness from the old days and who have always been waiting for an opportunity—they are unreconstructed and never will be reconstructed—to slap the Mormon Church, and they have taken advantage of this situation. They are good men, among the best citizens we have there. The rank and file of the American party are good people, but I say the leadership, the people responsible for the American party, are this man whom I have mentioned and his lieutenants.

Mr. DUBOIS. To whom—

Mr. SUTHERLAND. I do not care to yield further.

The VICE-PRESIDENT. The Senator from Utah declines to yield further.

Mr. SUTHERLAND. I wish to finish what I have to say on this matter.

The other branch of the question which the Senator asked me was whether they were not the dominant party. They are not the dominant party. At the last election there were in the neighborhood of 35,000 Gentile votes cast—

Mr. DUBOIS. I said in Salt Lake City.

Mr. SUTHERLAND. I say in Utah. I am not speaking of Salt Lake. I speak of Utah. The Gentiles in other parts of the State are just as good as the Gentiles in Salt Lake. Out of 35,000 Gentile votes cast in the State of Utah, the American party cast 11,000. The American party did not elect a single candidate in Salt Lake County at the last election. Two years ago there was a division between Democrats and Republicans—this was the third party—and it slipped in between and elected a city ticket. But at the last county election which we held there it did not elect a single man upon its ticket. The American party is growing less and less all the time. At the last school election, which was held in Salt Lake City within the last two or three months, it did not elect, although it had candidates in every precinct, a single candidate to the board of education. The American party is not the dominant party either in Salt Lake County or in the State of Utah.

Mr. President, let me resume where I left off. I want to say further that any man who asserts—and I care not who he may be—that there is any feeling of hostility on the part of the people or any of the people of the State of Utah toward this Government either speaks with inexcusable ignorance or he misstates the facts.

When the war broke out with Spain, and the call for volunteers was made, Utah was among the first of all the States to respond. Mormons and Gentiles alike freely offered their services to their country. Mormons and Gentiles together marched away to the music of the same drum tap, with the same love and reverence for the flag, which floated impartially above them both and found equal loyalty beneath its folds. The Utah batteries—commanded by Maj. Richard W. Young, himself a Mormon, a grandson of Brigham Young, a graduate of West Point, and as brave and loyal and splendid a gentleman as ever wore the uniform of a soldier—won for themselves in the Philippines a name of heroic and imperishable glory. Mormon and Gentile fought side by side in the swamps and the rice fields, and gave up their lives and lay with their silent white faces upturned to the pitiless sun of Luzon with the same patriotic devotion to the cause of their country. Not a man of them—Mormon or Gentile—but honored and glorified the uniform he wore.

In the terrible flood and cyclone which occurred in the Society Islands within a year the young Mormon missionaries stationed in those islands, at the risk of their lives, helped save the property of the Government, the archives and records of the Government. I have here a copy of a letter written by the consul in those islands to President Smith, and published in a newspaper in Salt Lake, in which he speaks of that incident. He says:

DEAR SIR: It gives me great pleasure to inform you that during the cyclone and high water at Papeete, Tahiti, February 8, the Mormon elders rendered conspicuous service at the American consulate, at the risk of their lives, to rescue the archives. The elders were Messrs. Hall, Peck, Clawson, Pierson, Tibbets, Miner, Wilkinson, Noall, and Hufferaker. Mrs. Hall and Mrs. Wilkinson also were kind and hospitable to myself and my relatives during three days while we were their guests.

The elders have produced a splendid example of loyalty to the interests of their country abroad. I have reported their bravery and successful service to the Department of State.

I congratulate you upon such noble representatives in this insular community.

Respectfully, yours,

WM. F. DOTY,
Consul.

In the report to the War Department he states:

In the work of rescue conspicuous service was rendered, at the risk of life, by the following American Mormon missionaries—

And then he names the same ones named in the letter to the president of the church.

Mr. President, it is time that the voice of calumny should be silent. It is time that the tongue of slander should cease. Let us have the truth about Utah by all means, but in God's name let it be the truth; and when any man says that the people of the State are not loyal, that they are not patriotic, that they have any feeling of hostility toward this Government, that life or property is unsafe in any part of the State, that any of them teach their children to disrespect the flag, he utters a falsehood as cruel and as foul and as foundationless as any ever concocted by the father of lies himself.

Mr. President, just a word or two personal to Senator Smoot. It is shown by the testimony that not only is Senator Smoot not a polygamist, but it is also shown that he has been opposed to the practice of polygamy since he was a young man. There is testimony in this record to that effect, and there is no testimony from any witness that I recall to the contrary.

I wish very briefly to call attention to one or two extracts, taking first the testimony of Judge James A. Miner, a Gentile, who was a judge on the bench, appointed by Mr. Harrison, from Michigan, and who went there as early as 1880. At page 831 of the second volume Mr. Miner says:

Mr. VAN COTT. Do you know anything about the reputation he bore—

Referring to Senator Smoot—

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 1880, 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. Whitecotton, a Gentile lawyer, who lives at Provo, testified upon the same subject. After he had explained that one of Senator Smoot's heresies was that he belonged to the Republican party and believed in protection, he was asked this question:

Senator FORAKER. What are some of the other heresies he had?

Mr. WHITECOTTON. 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. WHITECOTTON. He was a heretic on that, too.

Mr. VAN COTT. He was opposed to polygamy?

Mr. WHITECOTTON. 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.

I call attention to the testimony of Mrs. Coulter to the same effect, on page 173 of volume 3, without stopping to read it.

I also have here a piece of testimony that is peculiarly and strongly corroborative of the testimony of these witnesses. In 1892 there was a hearing before the Senate Committee on Territories with reference to whether or not a bill for the local government of the Territory of Utah should be passed. Among the witnesses who appeared before that committee was Judge John W. Judd. Judge Judd was a Gentile, a Democrat, who had been appointed by President Cleveland back in 1885 to go to Utah as judge, and he remained there for a great many years. As I say, this was in 1892, fourteen years ago. As the Senator from Vermont [Mr. DILLINGHAM] suggests, a very large number of these cases came before him, and he probably personally sentenced to imprisonment hundreds of persons convicted of polygamous cohabitation.

Judge Judd, in the course of his testimony given fourteen years ago, when Mr. Smoot was a young man, said:

Now the facts. The Mormon people, when they settled that country out there, settled it with an attempt to plant upon American soil a civilization of three thousand years ago. Their system of priesthood, for I have studied their theology, and their system from their own standpoint, reading their own literature, was undertaken to be patterned after that of the ancient Jewish priesthood, and included in it, like the latter, the polygamic relation. When they undertook this thing, of course, in the estimation of the civilization of America and of its laws—the first one being passed, however, in 1862—it became a criminal institution. No one recognized that more thoroughly than did Brigham Young, the leader of the Mormon people, and the Mormon people themselves.

Now, omitting some:

I began then to talk to the younger men and the younger women, and to see if I could discover whether there was back of that an absolute sentiment in favor of polygamy. I had been told, and the estimates demonstrated beyond doubt that there was probably not over 2½ or 3 per cent of the male population in polygamy. The settlement of Utah was forty or forty-five years old, and many of the men and women born there were grandfathers or grandmothers. I could not understand how it was that those people were consenting to such continual attacks, to such deprivations, and to such odium in the estimation of their fellow-citizens in the United States in this condition of things. And, gentlemen, I discovered as clearly a marked line between those who favored polygamy and those who did not as the banks of the Mississippi River.

The younger people would come to me in my room in private and talk to me about it. I could give names and incidents of Mormons high in life, some of whom the chairman of this committee is acquainted with, who came to me and urged me, saying, "Judge, for God's sake, break this thing up. We have had enough trouble. We have had all we can possibly stand of it. We have had one right after another taken from us. We have been put in an awkward attitude before our fellow-citizens of the United States, and for God's sake break it up." Others said to me, notably Reed Smoot, son of the president of a state, and the Republican candidate for mayor, and himself the product of a polygamous marriage, "Judge, we can not stand this thing, and we will not stand it; it must be settled."

Judge Judd is quite correct about that. When polygamy was given up by the church, it was owing to a demand coming from within the church quite as much as it was to a demand coming from without, and among the men who stood in favor of that sort of thing, in favor of compelling the church to conform its practices to the law, none stood more firmly than did Senator Reed Smoot.

Reduced to the last analysis, then, we have a man here who has never violated any law so far as we know; whose conduct

in every respect is above reproach; who has been opposed to the practice of polygamy ever since he was a boy, and yet whose expulsion from the Senate is demanded upon the ground that he shall not be permitted from this exalted place to make war upon the American home. Such a demand to me seems hysteria pure and simple.

Mr. President, there are many things that ought to be discussed in this connection—many things that I intended originally to discuss—but I have already taken too much of the time of the Senate. I have spoken to my own weariness and no doubt to the weariness of the Senate as well. Just a word more and I am through.

Mr. President, it is asserted by this original protest in the most positive terms that Senator Smoot is not charged with any offense cognizable by law. In all the things which constitute the decencies and moralities of life he stands here, as he stands everywhere he is known, beyond criticism and above reproach. Day after day and month after month for nearly four years he has met the shafts of ridicule, falsehood, and slander that have been directed against him, and he has faced them all with serene and patient courage. However much he may have chafed inwardly, he has borne himself outwardly with rare composure and self-restraint. He believes that the day of his vindication is at hand. But if it shall be otherwise, if the verdict of this great jury shall be against him, if the long struggle shall end not in vindication, sweeter than the honey of paradise, but in a pitiful defeat more bitter than death itself to an honorable man, he will, in my judgment, step from this august Chamber with anguish unspeakable in his heart, but with no stain upon his soul, because no man's soul can be stained save by himself.