

# CELESTIAL MARRIAGE AND ACTS OF CONGRESS



A series of six articles

by  
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A reprint of the original 1885 publication

# **PREFACE**

The following series of six articles by B. H. Roberts was originally published in 1885 in the Contributor, Volume 6, beginning on pages 50, 107, 134, 168, 205, and 252. This valuable and interesting collection has been reprinted here, with only minor corrections, i.e., grammar and punctuation. We have also given each of the six parts a sub-title for the convenience of the reader, as each one discusses a different aspect of celestial (or plural) marriage.

--The Publisher

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## **Part I**

# Celestial Plural Marriage Is Eternal

With the Latter-day Saints marriage is a religious duty. Every man not disqualified by nature should obey the righteous law given by heaven's Eternal King--"Be fruitful, multiply and replenish the earth and subdue it." This is just as binding upon man as the command--"Repent every one of you, and be baptized in the name of Jesus Christ for the remission of sins." We can make no distinction between the commands of God--all are equally binding upon His people, for He that said "repent," said also "be fruitful"--and man shall not live by bread alone, but by every word that proceeds from the mouth of God! We take it for granted that all our readers understand the commandment, "Be fruitful, multiply and replenish the earth and subdue it," is to be obeyed within the marriage relation; so we need not stop to prove that which is already conceded.

On the subject of marriage the Latter-day Saints entertain views that are different to those held by any other people. While other people marry for time only, and their marriage ceremonies end by the person officiating saying; "I now pronounce you man and wife, until death do you part"--the Latter-day Saints are united in marriage, not for time only, not until death does them part, but for this life, and all eternity. And this holy contract, this sacred covenant is sealed, not only on the earth, but in the heaven also, by that power which Jesus conferred upon His servant Peter, saying unto him: "Whatsoever thou shalt bind on the earth, shall be bound in heaven, and whatsoever thou shalt loose on earth, shall be loosed in heaven." (Matt., xvi, 19.) An awful and universal apostasy took place in the first three centuries of the Christian era, and this authority to bind on earth and in heaven was taken from among men; but in this age which the scriptures point to as the glorious "dispensation of the fullness of times," which God has declared to be "The times of restoration of all things," that authority has been again committed to man; and the mutual covenants made by the Saints at the marriage altar, are sealed by

that authority, and their vows being made for all eternity, as well as for this life--when they shall come in the resurrection, they will have claims upon each other--their contract has not expired like those contracts have which were made until death separated the parties; consequently they can continue their family associations, which will be endeared by a thousand recollections of mutual tenderness and affection given and received while journeying through this life--this life, where fear forever overshadows hope, where smiles of joy have to struggle up through tears, and where merry laughter is often stifled with the sigh of misery.

Marriage, then, with the Saints, is not a transient relationship to end with death; but these holy associations entered into here are to blossom and bear fruit in the never ending eternities. The family organization to which we owe so much for what little purity and refinement there is in the world, is not to be dissolved and pass away as a night's vision, but will remain and form a part of that unspeakable bliss which those shall partake of who are worthy.

We know many good people are shocked when we speak of the relationship of husband and wife continuing in heaven. But why? Is the association unholy? To say that it is would be to charge God with being the author of that which is impure. But it is not unholy, for if there is anything in this world that ennobles a man, develops all that is best in him, refines, purifies, and makes him more godlike, it is the love and confidence bestowed upon him by a virtuous, noble wife; and the influence of a pure honorable husband is not less productive of good in woman; and--"While room is found in infinite space; while there are particles of unorganized element in nature's storehouse; while the trees of Paradise yield their fruits, or the Fountain of Life its river; while the bosoms of the Gods glow with affection; while eternal charity endures, or eternity itself rolls its successive ages, the heavens will multiply, and new worlds and more people be added to the kingdom of the Fathers."

These views are at variance with the shadowy notions men have of heaven and eternity, but assurances of their truth have been given to the Saints through the revelations of the Lord. The refining influences of the family circle are to continue, and we have no reason to fear that the institution which has contributed so much to our refinement here will ever prove a means of corruption in the life to come.

The chief objectionable feature to the marriage system of the Saints, however, is the plurality of wives. Against this principle modern civilization professes to revolt and clamors for its suppression. The pulpit, the press, the demagogue, presidential candidate, and even Congress are contracting their brows in threatening anger at the Saints, who have the temerity to cling to this principle as a part of their religion in spite of all the wrath of their enemies. The Supreme Court may very complacently tell them this principle is not a part of their religion, but the Saints refuse to believe the court; and still insist that it is a part of their religion, and no insignificant part either; for the Lord has revealed it unto them, and tells them they will be under condemnation if they do not obey it. (See Doctrine and Covenants, Section 132.) Congress, however, declares polygamy a crime and has enacted laws to punish those who practice it.

The theory of those opposed to plurality of wives is that it is a species of sexual immorality--a scheme devised to minister to man's baser passions, and claiming it to be a principle of religion is only an effort to place an evil beyond the reach of law--hence they desire it obliterated, lest it should corrupt the body politic and religious--destroy the family, and undermine the prosperity of the state. Before we examine the incorrectness of this position, we wish to show the difference between polygamy as commonly practiced, and the principle of plurality as believed in and practiced by the Latter-day Saints.

The theory of marriage in the Christian nations of Europe and America is monogamic--one man and one wife; the fidelity to

the theory, however, is very questionable, as among the European nobility morganatic marriages, in which, during the marriage ceremony, the left hand is given instead of the right, are frequently contracted; the issue of these unions cannot share the title nor estate of the father, neither can the morganatic wife succeed to them; but a dowry and title is usually granted her. It must be remembered that these morganatic associations are entered into by those who already have one wife. Then there is the very extensive practice of keeping mistresses, so largely indulged in by the wealthy classes both in Europe and America; to say nothing of the numberless sporadic cases of marital infidelity, coupled with the legal system of successive polygamy--the divorcing of one wife for frivolous causes, then marrying another, and so on ad infinitum--so shamefully practiced in many of the states, New England taking the lead with two thousand cases per annum. These considerations will enable people ordinarily informed of the social condition of modern civilization to see through the flimsy veil with which hypocrisy seeks to cover its social infamy, and demonstrates that the vaunted theory of monogamy, and the virtuous practice of it are as far apart as the east is from the west. There is another species of bigamy occasionally practiced: A married man becomes infatuated with some woman other than his wife. Perhaps she is noble and virtuous, and he well knows the abominable arts of seduction will not bring the desired object within his reach. Equally fruitless would be any attempt to secure his victim aside from what she believed to be an honorable marriage. Studiously he keeps hidden his first marriage, pays his addresses to his intended victim; and she, unconscious of her ruin, accepts the proffered plight of love. They are married. Soon after the dreadful truth is dragged to light--the man she married was already another woman's husband--who can describe her emotions! Shame, anger, despair--each struggling for the mastery! The awful sense of being betrayed by one she loved, and who she fondly hoped loved her, overwhelms the heart, nature is unable to sustain the shock, and the victim of the common bigamist sinks to despair, and life becomes a miserable existence. The results of this villain's double dealing are as mischievous to the first wife as to the second, their sorrows are akin; the hearts of

both are grievously wounded, and refuse to be comforted. They hoped for happiness, but behold misery; they hoped for comfort, but behold distress; where they trusted, they were betrayed, and all the affections are turned to gall. Instead of respecting, they despise; instead of trusting, they suspect; instead of loving, they hate; no star of promise appears in their horizon--all their hopes are wrecked, and gloomy despair settles over them for life. Such are the evils attending bigamy as known to the world; but the principle of plurality of wives as practiced among the Saints of Utah, is no more like the bigamy of the world than the glorious light of the king of day, is like the pestiferous darkness that enshrouds the benighted regions of the damned.

Among the Saints of Utah, plurality is well known to be a part of their religion; and when a young couple is united in marriage, the young lady understands that if her husband lives his religion-- does his duty--he will take other wives, who will enjoy equal rights with herself. When a man takes a second wife, no concealment is made of the former marriage; the lady he approaches on the subject knows that he has a family already. Furthermore, his first wife is not ignorant of his intentions; to the contrary, she is consulted in the matter and gives her consent to the arrangement. No one then is deceived; no one's rights are interfered with; the second or third wife is just as honorable as the first--whatever distinction the laws of the land may make, be it said to the honor of the Latter-day Saints, who believe in the divinity of plurality--they make none; neither is there any distinction between the children of the second or third wife, and the children of the first. There was little need of Congress attaching to the Edmund's Bill a clause making the issue of plural marriages legitimate up to January 1883. To all intents and purposes among the Saints, they were so before; and those born after the date fixed by Congress will be regarded in the same way.

The foregoing statements concerning the bigamy of the world, and plurality of wives as believed and practiced by the Latter-day Saints, show conclusively there is nothing in common



between them. None of the evils enumerated as following common bigamy can possibly attend celestial marriage--a term we shall use hereafter in contradistinction to the bigamy of the world because in it no deception whatever is employed. It is acknowledged by the community where it is practiced as a part of their religion, and is considered not only as honorable, but, under proper circumstances, is regarded as a duty. The second wife was acquainted with the circumstances under which she married her husband; the first wife is not deserted, neither is she betrayed, but consents to the marriage of her husband to other women, it being as much a part of her religion as of his. The children all receive the name of the father, and are esteemed as gifts from the Lord. Under these circumstances then there can arise no bitterness of feeling, no hatred to mar the peace of the family circle. Confidence in the husband is not lost, and the wives having the consciousness that they have not been betrayed; with the assurance that they have the esteem and affection of their husband, that their children are honored, coupled with a firm conviction that they are conforming to the will of heaven--celestial marriage is stripped of all the horrors in which the diseased brain of modern Christianity has seen proper to clothe it, and exalted as far above common bigamy as honorable marriage is above loathsome prostitution.

We are now ready to prove that celestial marriage is a principle of religion with the Latter-day Saints. Let it be remembered that the enemies of the Saints insist that celestial marriage is only an institution invented for the sole purpose of ministering to the lustful desires of men, that claiming it to be a part of their religion is only a cloak to cover their sins. But pause a moment let us reflect upon the situation. To marry one wife and rear up a family incurs great responsibility; to rear two families doubles the responsibilities, and as you increase the family, you multiply the anxiety. Yet those opposed to celestial marriage will persist in saying the Saints thus increase their cares merely for sexual gratification. Poor innocent souls! Do they suppose for a moment the Saints are ignorant of the fact that hundreds of thousands of men in this immoral nation are daily gratifying their

passions outside the marriage relation, thus avoiding the extra care and anxiety attached to rearing more than one family? Do our moralists think the inhabitants of Utah are ignorant of the fact that the towns, villages and cities of modern Christendom are thronged by harlots whose smiles are bought by married and single men? The Saints are aware that they could do likewise, and their conduct would only provoke a smile; those who are their enemies now would excuse it, and say they had merely indulged one of the amiable weaknesses of mankind.

In addition to the increase of care and anxiety incurred by those who practice celestial marriage, by recent laws enacted by Congress, they are disfranchised, disqualified for holding any office in the Territory or under the United States, are shut out from the honorable pursuits for places of honor, profit, trust, or emolument within the gift of their fellow citizens. They are also liable to arrest and on conviction could be fined \$500 and thrown into prison for five years. Besides all this, there is public sentiment they have to brave, and the reproaches of canting hypocrites they have to endure, whose morals when compared with the morals of the Saints would be like comparing for clearness the muddy, turbulent Missouri river, with their own clear, sparkling mountain streams that steal from under banks of drifted snow, whose very whiteness is emblematic of purity.

Is it possible that men will endure all the inconveniences mentioned in the foregoing solely for the purpose of sexual gratification, when they could avoid all these serious risks and more freely indulge their amorous appetites by following the example of many, very many, of their would be reformers? Who, while professedly horrified at the idea of a man marrying more wives than one, respecting them as wives, and rearing their children in honor, are frequently the paramours of harlots, the revilers in bagnios, and the seducers of innocent, trusting, loving maidens, and who point their slanderous finger of scorn at celestial marriage, and cry "unclean! unclean!"--thinking by the uproar to detract attention from their own moral depravity. But this old trick

of crying "stop thief" while the stolen chattles are on the crier's back, will not serve their purpose, for we have the assurance of Holy Writ, that there is nothing secret but what shall be uncovered; and when the secrets of these men are made known, they will be despised by all people. But rather than share in their iniquity, the Saints had better endure the sneers of hypocrites, the malice of priests, the scorn of the people, the slander of the press, the oppression of Congress, the insolence of the judge, the tyranny of the laws, and the withering, bitter, blighting hatred of the whole world, than wallow with them in their corruption, or surrender even a shadow of a principle that God has revealed to them by His prophets.

The fact that the Saints sacrifice so much for celestial marriage, run the risk of fines and chains, take upon themselves all the extra cares and anxiety which attaches to it, increasing the hatred of bigots, and the oppression of government, is an evidence to the thoughtful that they cling to their principle from other motives than amorous gratification. As nothing but a deep and sincere belief that they are doing the will of heaven will induce men to adhere to a principle banned by law, condemned by popular sentiment, and which is so fruitful of care, anxiety, and even of fines and imprisonments.

## Part II

# Plural Marriage Supported in the Old Testament

Moreover, celestial marriage was established among the Saints by revelation (see Doctrine and Covenants, Sec. 132). They did not practice polygamy and then pretend to receive a revelation to cover up their supposed iniquity. The revelation came from the Lord through Joseph Smith, but the Elders were loth to obey it, because it came in contact with all their prejudices and traditions; but having unbounded faith in the revelation, and believing they would be under great condemnation if they did not comply with its requirements, they set aside their prejudices, disregarded the scoffs of the world, and obeyed what they believed to be, and what they still believe to be, the voice of God, trusting in Him to sustain them and deliver them from any peril that might threaten them in consequence of their obedience to His law.

The faith of the Saints in the revelation commanding them to practice celestial marriage was strengthened by reading in the scripture how the Lord blessed and approved the actions of those who practiced plural marriage in past ages. They read of faithful Abraham taking Hagar, the handmaid of his wife Sarah, to wife; and when trouble arose in the family and Hagar departed from her husband's household, an angel of the Lord met her and commanded her to return (Genesis xvi, 9), which, if plural marriage were sinful, the angel would not have done, but would rather have encouraged her in her flight from that which was evil. Nowhere do we find the Lord reproving Abraham for taking Hagar to wife; on the contrary, when the Lord appeared unto him some time after the birth of Ishmael, He promised him a son by his wife Sarah, through whom all the seed of Abraham was to be blessed. And when Abraham prayed for the welfare of Ishmael the Lord promised to bless him also, saying: "And as for Ishmael, I have

heard thee; Behold, I have blessed him, and will make him fruitful, and will multiply him exceedingly twelve princes shall he beget, and I will make him a great nation." (Genesis xvii, 20.)

Subsequently, when about to destroy Sodom and Gomorrah, the Lord again visits Abraham, renews the promise that Sarah shall yet have a son, calls Abraham His friend, and reveals unto him His intentions of destroying the cities of the plain. And then Abraham successfully pleads for the righteous within the cities. In all this there appears no displeasure towards Abraham for marrying more wives than one.

The history of Jacob furnishes still more striking proofs of God's approval of polygamy. The story of his marrying the two daughters of Laban is too well known to need repeating here. But when Rachel realized her barrenness, she gave her handmaid, Bilhah, to be her husband's wife, and she bore Jacob a son. "And Rachel said, 'God hath judged me, and hath heard my voice, and hath given me a son.'" (Genesis xxx, 6.) Then, when Leah saw that she had left off bearing children, she took Zilpah, her maid, and gave her to Jacob to wife; and the sacred writer adds: "And God hearkened unto Leah, and she conceived and bear unto Jacob a fifth son. And Leah said: God hath given me my hire, because I have given my maiden to my husband." (Genesis xxx, 17, 18.)

Again: "And God remembered Rachel, and God hearkened unto her, and opened her womb, and she conceived and bear a son; and said: God hath taken away my reproach." (Genesis xxx, 22, 23.) If plurality of wives were wrong in the sight of God, would he bless in so remarkable a manner those who practiced it? Would he hear the prayers of those polygamous wives, and answer them with blessings--take away the reproach of the barren Rachel, the second wife of Jacob, and make her fruitful, and give more children unto Leah as her "hire" for giving her husband another wife when he already had three? We think not.

If a plurality of wives, I mean, of course, as practiced by Abraham, Jacob, and the prophets, is a sin at all, it must be classed

as adultery--it can be classed as no other. In Galatians, v, 19-21, we read: "Now the works of the flesh are manifest, which are these: adultery, fornication, uncleanness, \* \* \* and such like, of the which I tell you before, as I have also told you in times past, that they which do such things shall not inherit the kingdom of God." The adulterer, then, cannot inherit the kingdom of God; but we find the following coming from the lips of Jesus concerning Abraham, Jacob and the prophets: "There shall be weeping and gnashing of teeth when ye shall see Abraham, Isaac and Jacob and all the prophets in the kingdom of God, and you yourselves thrust out." (Luke xiii, 28.)

Again: "And I say unto you, that many shall come from the east and west and shall sit down with Abraham, Isaac and Jacob in the kingdom of heaven." (Matthew viii, 11.) We are driven to the conclusion by this testimony that polygamy is not adultery, for were it so considered, then Abraham, Jacob and the prophets who practiced it would not be allowed an inheritance in the kingdom of heaven; and if polygamy is not adultery then it cannot be classed as a sin at all.

David, the king of Israel, and a "man whose heart," we are informed, "was perfect before the Lord," had a plurality of wives. His first wife was the daughter of Saul; but while fleeing as a fugitive before the king of Israel, he married Abigail, the widow of Nabal, and also Ahinoam, of Jezrell, "and they were both of them his wives." (I Samuel xxv, 42, 43.) Yet notwithstanding David practiced a principle which the Christians of today denounce as evil, we are taught by the scripture that "David did that which was right in the eyes of the Lord and turned not aside from anything that He commanded him all the days of his life, save only in the matter of Uriah the Hittite." (I Kings xv, 5.)

If David did that which was right in the eyes of the Lord all the days of his life, except in the matter of Uriah's wife, he must have done that which was right in the eyes of the Lord when he

took Abigail and Ahinoam to be his wives; hence a plurality of wives, as David practiced it, must be right in the sight of God.

David's great sin in the case of Uriah's wife also throws some light on the subject in hand. The circumstance is well known--David committed adultery with Bathsheba, the wife of Uriah, and then had her husband placed in the front of the battle where he was murdered. For this accursed crime the Lord sent Nathan, the prophet, to reprove David. In the course of that reproof Nathan said: "Thus saith the Lord God of Israel, I anointed thee king over Israel, and I delivered thee out of the hand of Saul; and I gave unto thee thy master's house, and thy master's wives into thy bosom, and gave thee the house of Israel and of Judah; and if that had been too little, I would moreover have given unto thee such and such things." (ii Samuel xii, 7, 8)

From this we learn that the Lord not only gave David the kingdom of Israel and Judah, but also delivered him out of the hands of Saul, and gave unto him his master's wives into his bosom, and intimates that if this was not enough, he would have given unto him more wives. If polygamy were sinful, was it not wrong for the Lord to give unto David the widows of Saul into his bosom when he already had several wives? If for a man to have a plurality of wives is sinful, then in this instance at least the Lord was a party to the wrong. And the Christians of to-day who, in the face of the truth just pointed out, still insist on the sinfulness of polygamy--virtually accuse God of being a party to the evil.

After the death of her husband, Bathsheba became the wife of David; but the child which was the fruits of David's adulterous connection with the woman was smitten by the Lord with death; and all David's fasting and praying was of no avail to save it. (II Samuel xii.) After Bathsheba became the polygamous wife of David, however, she bore unto him another son they called his name Solomon, "and the Lord loved him." (ii Samuel xii, 24.)

When King David waxed old and usurpers were laying their plans to secure the throne of Israel to themselves, instead of Nathan the prophet coming with a severe reproof from the Lord, we find him uniting with Zadock the priest in an effort to place this polygamous child Solomon on the throne of his father David, and they were successful; Solomon became king. (i Kings i, ii.)

The Lord appears to sanction his appointment also, for no sooner is Solomon made king than the Lord appears to him and promises to grant whatever he might desire. And when Solomon prayed for wisdom, the Lord promised to bestow it upon him in rich abundance, together with long life, honor and great riches. (I Kings iii.) Solomon was also chosen to build a temple to the Lord (I Kings v, 5), and when it was dedicated, the glory of God filled the house in attestation of Divine acceptance. (I Kings viii, 10,11.) The Lord also appeared unto Solomon and gave him an assurance that the temple was accepted. (I Kings ix, 1-3.)

What a contrast between the child begotten in adultery and the one born in polygamy! The one is smitten of the Lord with death in his infancy; the other is "loved of the Lord," exalted to the throne of his father David, chosen to build a temple to God, who gives most positive and public proofs of His acceptance of it, and also reveals himself unto him, warning and encouraging him. Surely in all this the Lord God has stamped adultery with unmistakable marks of His displeasure, while, on the other hand, He has set his seal of approval on polygamy.

Neither is the case of Solomon the only instance where God acknowledges and blesses the children born in polygamy. When Jacob, just previous to his death, blessed his children, he bestowed as great blessings upon the children of his polygamous wives as upon the children of Leah, nay, the blessing of Joseph the son of Rachel, is greater than that pronounced upon any one of the rest. (See Genesis xlix, 22-26; also, Deuteronomy xxxiii, 13-18.) Moreover, when Reuben, Jacob's oldest son, by transgression lost his birthright, instead of the birthright falling to Simeon, the next



oldest son, we are informed that it was given unto the sons of Joseph. (I Chronicles v, 1, 2.)

We learn from the description given of the New Jerusalem that there will be twelve gates in the wall surrounding the city, and on these gates will be written the names of the twelve sons of Jacob, born of his four wives. We have already quoted the words of Jesus, showing that polygamists Abraham, Isaac, Jacob, and the prophets will be in the kingdom of God, and will doubtless have their abode in this New Jerusalem, so, that it appears that if our modern friends, who so bitterly oppose the practice of the Saints in having, a plurality of wives, ever go to heaven, gain an admittance into the "heavenly city," it will be by passing through a gate upon which is written the name of a polygamous child, only to be ushered into the presence of such notorious polygamists as Abraham, Jacob and many of the old prophets. It appears to the writer that modern Christians must either learn to tolerate polygamy or give up forever the glorious hope of resting in Abraham's bosom--a hope which has ever given a silvery lining to the clouds, which hang about the deathbed of the dying Christian. But the indignant unbeliever in the rightfulness of a plurality of wives, rather than associate with polygamists, may prefer to pluck off his crown, lay aside the golden harp of many strings, give up the pleasure of walking the gold-paved streets of the city whose "builder and maker is God," and take up their abode outside where the whoremonger, the liar and hypocrite dwells, and where there is weeping and gnashing of teeth? Surely he must either do this or make up his mind to honor those who believe in and practice plurality of wives--more properly called celestial marriage.

Right here it might be as well to mention the fact that, according to the genealogies given by Matthew and Luke, so far as the earthly parentage of Jesus is concerned, He came of a polygamous lineage, some of His progenitors being polygamous children, and many of them also practiced that form of marriage. Surely some other line of descent would have been chosen for the Son of God if polygamy were sinful.

In the laws given to ancient Israel--and God was their law-giver--we find several, which more than foreshadow the permission to practice plurality of wives. Here is one in Exodus xxi: 7-12, which regulates the practice by forbidding the husband to diminish the food of the first wife, her raiment, or her duty of marriage when he takes him another wife: "If he take him another wife, her food (i.e., of the first wife), her raiment, and her duty of marriage, shall he not diminish."

Again we find a law regulating inheritances in families: "If a man have two wives, one beloved and another hated, and they have borne him children, both the beloved and the hated; and if thy first-born son be hers that was hated: then it shall be, when he maketh his sons to inherit that which he hath, that he may not make the son of the beloved first-born before the son of the hated, which is indeed the first-born: but he shall acknowledge the son of the hated for the firstborn, by giving him a double portion of all that he hath; for he is the beginning of his strength: the right of the first-born is his." (Deut. xxi:15-17.)

It may be claimed that this law relates to cases of a man having two wives in succession, and that is true; but it also relates to the case of a man having two wives simultaneously; and this idea is more forcible when we remember that Israel was a polygamous nation; and this is where the force comes in as an argument concerning plural marriage: both women are regarded as wives. Their rights and the rights of their children are considered equal; and if the second wife, even though she be hated, should bear the first son, that son must not be defrauded of his birthright; he must inherit a double portion of his father's possessions. This construction is not strained; it is natural and proves that God intended to provide for the rights of the polygamous wife, as well as to protect the first wife in hers. This careful legislation gives us another instance of God's approval of polygamy.

We quote another law: "If brethren dwell together, and one of them die, and have no child, the wife of the dead shall not marry without unto a stranger: her husband's brother shall go in unto her, and take her unto him to wife, and perform the duty of an husband's brother unto her, and it shall be that the first-born which she beareth shall succeed in the name of the brother, which is dead, that his name be not put out of Israel." (Deut. xxv: 5, 6.) How eminently unjust this law would be if God regarded polygamy as sinful, and prohibited its practice! Under such circumstances a young man would be liable to have forced upon him his brother's wife, and would be debarred from making any choice of a wife for himself. And there is no provision in the law which exempted a man who already had a wife from taking his deceased brother's wife--it is as binding on those already married as upon the single, and would occasionally enforce the practice of polygamy. Those who refused to comply with the requirements of this law were disgraced before all Israel by the wife of the deceased brother, before all the Elders, loosing the latchet of his shoes, and spitting in his face, and forever after "his name shall be called in Israel, The house of him that hath his shoe loosed." (Deut. xxv: 9, 10.)

Is it possible that God was such an imperfect legislator that He enacted laws for His people, which, if obeyed would enforce upon them the practice of that which was sinful, that which would destroy the purity of the family, and undermine the prosperity of the state? Yet such must be our conclusions if we adopt the opinions of the modern religionist, moralist, and statesman who persist in saying that a plurality of wives, even though practiced under divine direction, and hedged about with all the restraining influences of religion, will result in these calamities to society. Need we comment on this presumption in poor, weak, short-sighted man, or exclaim how consummate is that egotism that will call in question the wisdom of the great Jehovah's laws?

The following is a summary of reasons we have for believing that God approves of a plurality of wives as practiced by

the ancient patriarchs and many of the leaders and prophets of Israel:

First.--When a polygamous wife deserted the family of which she was a member, the Lord sent an angel to bid her return to that family, and promised to make her seed a great nation.

Second.--The Lord heard and answered the prayers of polygamous wives, blessing their connection with their husbands by granting them children; and, in the case of Rachel, the second wife of Jacob, performing what men call a "miracle"--making the barren fruitful--in attestation of His approval of her polygamous marriage with Jacob.

Third.--The men who practiced plural marriage by no means forfeited the peculiar blessings promised to them before they were polygamists; on the contrary, the promises were renewed to them, and greater blessings added--God continuing their friend and revealing Himself and His purposes to them.

Fourth.-- God Himself gave unto David a plurality of wives, thus becoming a party to the evil, if polygamy be sinful.

Fifth.--God owned and blessed the issue of polygamous marriages--making a marked contrast between them and illegitimate children.

Sixth.--So far as the earthly parentage of Jesus is concerned, He came of a polygamous lineage, which certainly would not have occurred had polygamy been unlawful and the issue spurious.

Seventh.--The Lord gave unto ancient Israel a number of laws under which polygamy was not only permitted, but in some instances made obligatory.

## Part III

# Plural Marriage Not Condemned in the New Testament

It may be said that all our arguments in defense of plural marriage are drawn from the Old Testament, and that Jesus Christ introduced a new dispensation in which polygamy was abolished and monogamy set up in its stead; and that the Saints cannot justify the practice of polygamy by quoting the writings of Moses and the Prophets in its support. This is the answer made by some of our opponents to the arguments set forth in the foregoing articles, and it is supposed that this rather peculiar assumption demolishes the force of all we have said. Let not the world, however, mistake the position the Latter-day Saints have taken upon this question.

It is not because the Lord approved of the polygamy of Abraham, David, and many other judges, leaders, and kings of Israel that the Saints believe in and practice celestial marriage now. It is not because the Lord gave King David his plurality of wives that the Saints take theirs. It is not because God owned and blessed the issue of polygamists, or that He gave to ancient Israel laws which, if obeyed, would enforce the practice of polygamy, that the Saints in Utah practice a plurality of wives. But it is because God, in this age in which we live--to accomplish His own wise purposes--gave, on the twelfth of July, 1843, a revelation to the Church of Jesus Christ of Latter-day Saints, through the Prophet Joseph Smith, commanding them, on pain of coming under condemnation before Him, to practice this principle of plural marriage. (See Doc. & Cov., sec. 132.) Our references to past events, as recorded in Holy Writ, are merely to prove that God at one time did sustain men in practicing polygamy by bestowing peculiar blessings and promises upon them; and, as proven in the preceding number, did, in various ways, set his seal of approval to

this institution; and let it be borne in mind that God is the same yesterday, today and forever.

Paul tells us, "For whatsoever things were written aforetime were written for our learning;" and from that which was "written aforetime," we have proven that plurality of wives as practiced by the ancient patriarchs and prophets was righteous in the eyes of God--must be so, for He has given indisputable evidence of His approval of it, and that which He approved must be holy:"Thou [God] art of purer eyes than to behold evil, and canst not look upon iniquity." (Hab. i, 13.) Having seen that polygamy was right, proper, and virtuous in the days of the ancient saints and prophets, through what mysterious changes have we passed that it now becomes vile, corrupt, licentious, ungodly, and withal threatens the purity of the family and the prosperity of the State? "When God permits a thing," says the learned historian Grotius, "in certain cases, and to certain persons, or in regard to certain nations, it may be inferred that the thing permitted is not evil in its own nature." Accepting this proposition as self evident, we conclude that since God permitted, and even more than permitted, polygamy—therefore polygamy "is not evil in its own nature."

A kind of vague idea exists in modern minds that polygamy is an institution of the carnal law given to Israel under Moses--or rather was permitted under the Mosaic law; but only those assume this who have not thoroughly examined the subject. Polygamy was not introduced when the Mosaic law was given--it was practiced by the righteous patriarchs prior to that time. Moreover Paul says: "And the scripture foreseeing that God would justify the heathen through faith, preached before the Gospel unto Abraham, saying, In them shall all nations be blessed." (Gal., iii:8.)

Again: "For unto us was the Gospel preached as well as unto them (ancient Israel- see preceding verse and chapter), but the word preached did not profit them, not being mixed with faith in them that heard it." (Heb. iv:2.)

From this we learn that the Gospel was preached in the days of Abraham. It was also preached unto Israel whom Moses led out of Egypt. The law of carnal commandments was added to it because of transgression. (Read Gal. iii:8, in connection with verses 19, 23 to 26.)

The question may arise what was this gospel that was preached unto Abraham and ancient Israel? Why, as we understand it, there is but one Gospel, and that is the same in all ages of the world--the scriptures call it "the everlasting Gospel." It is redemption to the human family from the consequences of Adam's transgression, through the suffering, death, blood, and resurrection of Jesus Christ, by which is brought about the resurrection of all men. It is salvation from the consequences of our own individual transgressions through faith in Christ and obedience to Him--this is the Gospel that was preached to Abraham and ancient Israel, and side by side with it was the practice of polygamy, so that we may conclude that polygamy was permitted in a Gospel dispensation as well as under the carnal law.

Neither did Jesus ever abolish polygamy and set up monogamy in its stead; if He did, the writers of the New Testament have been woefully neglectful in recording the important change, for not one word respecting such a thing appears in the New Testament--no, not so much even as a reproof to the many polygamists by whom they must have been continually surrounded. "But," says one, "did not Jesus say, when speaking of a man and his wife, 'they twain shall be one flesh'?" It is true that some of the Jews came to Jesus, [29] and made the inquiry: "Is it lawful for a man to put away his wife for every cause?" In answering this question the Master said: "Have ye not read that He which made them at the beginning made them male and female, and said, For this cause shall a man leave father and mother and shall cleave unto his wife; and they twain shall be one flesh? Wherefore they are no more twain but one flesh. What, therefore, God hath joined together let no man put asunder." (Mat. xix: 3-6.)

It will be observed that the subject of discourse throughout is not, "Is it lawful for a man to take one wife to another, or for a man to take more wives than one?" but "Is it lawful for a man to put away his wife for every cause?" And in answering that question, Jesus sought to impress upon their minds that a man and his wife were one flesh; God had joined them together, and no man was to put them asunder. When the Jews quoted the law of Moses concerning divorce, Jesus told them because of the hardness of their hearts Moses permitted divorce, but from the beginning it was not so, and explained further, that he who put away his wife, save for the cause of fornication, and married another, committed adultery, and whosoever married the divorced wife under the above circumstances committed adultery also; but let it be remembered that putting away one wife for some frivolous cause and then marrying another as the custom of some is today, by no means describes the circumstance of a man marrying two wives at once, or of taking one wife to another; the passage condemns in no doubtful manner the vile custom of divorce for frivolous causes--but polygamy is not alluded to even in the remotest manner. The only comfort this passage in Matthew can afford the opponents of polygamy is, the word "wife," singular, is used instead of wives, plural, and "they twain shall be one flesh" instead of an expression denoting more than twain being one flesh; but this can be of no importance since Jesus was addressing a people among whom both monogamy and polygamy was practiced; therefore the use of these words in the singular number cannot be regarded as significant.

Then, with a great deal of assurance, the following passage is quoted: "A bishop must be blameless, the husband of one wife." (I Tim., iii: 2.) The opponents of polygamy say this means a bishop must have one wife only. Even if this rendering of the passage be allowed, it is not a general law against polygamy. If it were the design of the apostle in this passage to condemn the practice of a plurality of wives, why is it that he did not make the prohibition of the practice general? Why merely say the bishop



shall have only one wife, and leave us to infer that the laymen and higher church officials are at liberty to have more than one wife? Again, this construction of the passage reveals this: It must have been the custom of the Christians in the days of Paul to practice polygamy, or why did he write saying, the bishop must have only one wife, if the Christians did not practice polygamy at all? Surely this construction of the passage proves too much for the opponents of polygamy.

But this is a strained, unnatural rendering of the passage to make it condemn plurality of wives. It means, and means only, that a bishop should be a married man. Else, as presiding in a community, having under his watchcare many who have families, how shall he be able to counsel and instruct them, he being a man without experience in managing a family? This view, moreover, is supported by the context wherein Paul remarks that a bishop must be "one that ruleth well his own house, having his children in subjection with all gravity; for, if a man know not how to rule well his own house, how shall he take care of the church of God?" (v. 4, 5.) This passage, then, like the other just disposed of from Matthew, has no reference to the subject of polygamy.

Is it not strange that modern Christians will so vehemently assert that polygamy is condemned by the New Testament? And when you give all attention, listening to their arguments, you find, to paraphrase a speech from the Merchant of Venice, "They speak an infinite deal of nothing: their reasons are as two grains of wheat in two bushels of chaff; you shall seek all day ere you find them; and when you have them, they are not worth the search;" for one is a discourse on the evils of divorce, instead of polygamy, to which no allusion is made, either directly or indirectly; the other, instead of condemning polygamy, suggests that a bishop should be a married man.

It will not be amiss here to ask: If a plurality of wives is truly and indeed wrong, why is it that no plain, positive condemnation of the practice is to be found in the writings of

Moses, the Prophets, or the Apostles and disciples of Christ? And that no such condemnation exists in the writings of these scripture makers is evident from the fact that the opponents of polygamy in arguing against it quote scripture that does not in the slightest manner allude to the subject.

Let it be remembered, too, that these writers of scripture were under great obligation to proclaim against the iniquity of the people. The Lord said unto Ezekiel: "Son of man, I have made thee a watchman unto the house of Israel; therefore, hear the word at my mouth and give them warning from me: when I say unto the wicked, thou shalt surely die, and thou givest him not warning, the same wicked man shall die in his iniquity, but his blood will I require at thine hand." (Ezek. iii:17, 18.) So Isaiah: "Cry aloud, spare not, lift up thy voice like a trumpet: Show my people. their transgressions, and the house of Jacob their sins." (Isa. lviii:1.)

If plurality of wives is wrong, how very unfaithfully have all the prophets performed the duty imposed upon them, for not one word have they left on record in condemnation of it, and still the practice of polygamy was common in Israel. But there was John, the forerunner of Christ, who was especially sent to preach repentance, surely he will denounce polygamy, for he was a bold, fearless man, bent only on accomplishing the mission whereto he had been appointed, he lacked not courage to inveigh against iniquity that his Master had bid him condemn, no matter how venerable or respectable it had become through custom; but John is silent.

So the Apostles of Christ; they are men after the same stamp as John; and in no ambiguous terms they condemned every species of evil, every kind of illicit commerce between the sexes--but not one word against a plurality of wives. On the contrary, those who practiced this form of marriage are held up as patterns of faith and integrity to the infant church.

It cannot be possible that God who is of purer eyes than we are, would suffer any sin especially of the magnitude that polygamy is esteemed to be--to exist for ages uncensured. In addition, then, to the evidences of God's approval of polygamy already enumerated we may add the evidence of non-condemnation.

From what has been said it will appear that the Latter-day Saints have an abundance of evidence drawn from the scriptures to confirm their faith in the divinity of the revelation received by Joseph Smith commanding the Saints, under proper regulations, to practice plurality of wives. But why was such a commandment given? What is the good to be obtained by renewing this old system of marriage practiced by the Patriarchs? It would doubtless be answer enough to say, God has commanded it; trust Him, for He will require nothing but what will result in good. But there are reasons that will commend plurality of wives as practiced by the Latter-day Saints to those who will listen to them, and weigh them carefully, and who will not allow their minds to become befogged by the driveling sentimentalism so often urged against it, and which is occasionally mistaken for sound argument. It is a doctrine accepted by the Saints and abundantly evidenced by the scriptures, that man's spirit had an existence prior to his natural birth, and that God is the father of those spirits. It will be remembered that the whole Christian world believe in a contention which took place in heaven--that Lucifer rebelled against "heaven's matchless King," and with him drew away one-third of the host of heaven, and they became the devil and his angels. The rest of the spirits who kept their first estate are permitted to come and take bodies on this earth that they might become acquainted with good and evil, and through the experience they gain here be prepared to make greater advancement in the eternities that stretch out before them. We said this doctrine is abundantly evidenced by the scriptures, but we shall not stop to argue the matter here, as it is sufficient for our purpose to merely make the statement.

Before connecting this matter with the reason God had for commanding plurality of wives, it will be necessary to make another statement: that the tendency of the world morally is downward cannot be denied. Especially in regard to the relationship between the sexes. We are aware that some ministers of the Gospel and a few writers boast to the contrary, telling us of the exalted station assigned to women in this age and of the comparative purity of this generation! The facts, however, do not bear out the assumption. And although hypocrisy has increased his cunning, still in vain he seeks to cover up the horrid moral deformity of the times. This is another matter that needs no discussion; with those at all acquainted with the world, either by actual contact with it or through the medium of the press, the statement is self-evident--a prima facie case. It was partially because of sexual corruption, doubtless, that God in the days of Noah destroyed mankind by a flood. For He "saw that the wickedness of man was great in the earth, and that every imagination of the thoughts of his heart was only evil continually." He knew that children born unto such characters would partake of the evil natures of their parents in whose footsteps they would walk, and only grow up to manhood to curse God and increase the wickedness of the race. In justice, then, to those pure spirits that were still to tabernacle in the flesh, God could not permit them to come through such an evil parentage to inherit the weaknesses of their fathers which would drag them down to death and hell--so the floods were sent, and mankind destroyed except righteous Noah and his family.

We have said that the spirits of men exist before they inhabit bodies on the earth, and that God is their father. Paul says, "We have had fathers of our flesh which corrected us and we gave them reverence: Shall we not much rather be in subjection to the Father of Spirits and live?" (Heb. xii: 9.) Many of the most noble of these spirits has God held in reserve to come upon the earth in these last days to accomplish a mighty work. Through what parentage shall they come? Shall the drunkard, or the debauchee beget the bodies their spirits shall inhabit? Shall their mothers be

belles of fashion, who, in order to revel in the amusements of modern society, have rendered themselves incapable of giving birth to a healthy, robust progeny; and who no longer desire, neither are they fit to become mothers? We answer directly, that it is not through such a parentage that those noble spirits will come, because they would be loaded down with the diseases, lusts, and imbecility of their parentage. Therefore, God has given a law to his people, which, if obeyed in righteousness, will afford a better fatherhood and motherhood to those spirits than is now known to the world. We refer, of course, to the law of celestial marriage, revealed to the Latter-day Saints, and it will accomplish all we claim for it.

Having seen that God is the father of the spirits of all men, beyond all questioning He has a parental solicitude for the welfare of His offspring and will be desirous that good men--men perfect in their generations--should become the earthly parents of these spirits that are His children. And for the reason that good men might become the fathers of a numerous posterity, He has revealed this doctrine of plurality of wives. Let it be remembered here that the practice of this principle is confined to the good among the Latter-day Saints. The drunkard, blasphemer, libertine, debauchee, and ungodly sinner cannot go into the temples of God, and enter into these holy associations. The gates are not open to everyone, but to those only who are worthy, and who will lead their sons and daughters in paths of rectitude, and teach them in their youth to prize, above all things else on earth, their chastity and virtue.

We cannot do better, perhaps, than to insert here two or three paragraphs from a lecture delivered by Doctor Romania B. Pratt to the ladies of Salt Lake City. These extracts were published in the Woman's Exponent:

"The duties and requirements of a woman, fulfilling her sphere of motherhood, absolutely demand certain periods of abstinence, which, if not granted her through thoughtful solicitude

for her welfare by her husband or herself assumed, by virtue of the dignity of womanhood, or by the divine right of free agency, the principle of her life and health is encroached upon, and she is forced to perform her ever increasing labors and duties with a decreasing store of vitality."

Upon the observance of this law of nature, so neatly stated in the foregoing, depends the health of the mother and the welfare of the offspring, and plural marriage favors its fulfillment more than monogamy.

The Doctor continues: "There is nothing in the economy or requirements of man's life which require this abstinence beyond the temperate limit of his powers of vitality, and this to me is a proof unanswerable and prima facie on the spheres of manhood and womanhood, of the divinity (and I believe is a necessity for the salvation of the human race) of the truth and divine origin of the principle of plural marriage.

"With this principle--universal but limited, and governed by laws of marriage inhibiting sensuality and selfishness, insuring to the wife the literal fulfillment of that part of the marriage ceremony which provides that she shall be 'nourished and cherished and provided for,' and the children be hygienically and physiologically clothed and fed, and properly educated--the solution of the growing social evil would be found. Every woman would be what every true woman's happiness depends upon--a happy wife and mother, queen over her own increasing posterity, and men, honored patriarchs, which are divine rights of both, given by God as a law unto man on earth and throughout all eternity.

"Were this the order of the world, abortions, foeticides, infanticides, seductions, rapes and divorces would be relics of the barbarous age, while intelligence, light, peace, and goodwill and love would be the motor forces of the world; in short, the Millennium would have come."

## Part IV

### Efforts by Congress to Abolish Plural Marriage

In July 1862, Congress, under the pressure of a popular religious sentiment, enacted a law against the marriage system of the Latter-day Saints. It is true the law is made to punish "bigamy and polygamy in the territories and other places over which the United States have exclusive jurisdiction;" but doubtless making the law applicable in all the territories was only an effort to make it appear that these enactments against polygamy and bigamy were not special legislation. The effort to disguise the intent of the legislator, however, was in vain; the people of Utah understand that it was meant for them in the beginning. President John Taylor in 1869 wrote as follows:

"Now who does not know that the law of 1862 in relation to polygamy was passed on purpose to interfere with our religious faith? This was as plainly and distinctly its object as the proclamation of Herod to kill the young children under two years old, was meant to destroy Jesus; or the law passed by Pharaoh in regard to the destruction of the Hebrew children, was meant to destroy the Israelites. \* \* \* This law (of 1862) in its inception, progress, and passage, was intended to bring us in collision with the United States, that a pretext might be found for our ruin. These are facts that no honest man will controvert. It could not have been more plain, although more honest, if it had said the 'Mormons' shall have no more wives than one. It was a direct attack upon religious faith." (Discussion with Vice President Colfax, page 8.)

Subsequent events, together with more recent enactments on the same subject have proven the correctness of President Taylor's views. The Saints in every possible manner have sought to convince the nation that plural marriage with them was a part of

their religion they practice being based upon a revelation from God and sustained by Holy Writ. As an evidence of their sincerity they point to the extra care involved in rearing two, three or four families as compared with rearing one; they can also refer to the risks they have run of fines and imprisonment in obeying what they esteemed to be one of God's commands to them.

In April 1882, in view of the bill pending before Congress, which the people of Utah regard as threatening their liberties, petitions were sent to Congress by the men, women, and youth of both sexes of our Territory, praying for a commission of honorable gentlemen to be appointed by Congress to investigate the affairs of Utah before the passage of the unfriendly legislation, as in the estimation of the petitioners such enactments as were proposed could only be passed by men ignorant of the true situation of affairs in the Territory. These petitions set forth that Congress was deceived by the malicious and libelous charges made against the Saints by their unscrupulous enemies. Besides denying the infamous charges made against the inhabitants of Utah, each petition contained a clause respecting the subject of polygamy. The men said:

"Whatever of polygamy exists among the `Mormons' rests solely upon their religious convictions."

The women said:

"And moreover, we, your petitioners, hereby testify that we are happy in our homes, and satisfied with our marriage relations, and desire no change. \* \* \* And we most solemnly aver before God and man, that our marital relations are most sacred, that they are divine, enjoining obligations and ties that pertain to time and reach into eternity. Were it not for the sacred and religious character of the institution of plural marriage, we should never have entered upon a principle which is contrary to our early teachings, and in consequence of which our names are cast out as evil by the Christian world."



The following is from the petition sent by the young men:

"We deny that the religious institution of plural marriage as practiced by our parents, and to which many of us owe our existence, debases, pollutes, or in any way degrades those who enter into it. On the contrary, we solemnly affirm, and challenge successful contradiction, that plural marriage is a sacred, religious ordinance and that its practice has given thousands honorable names and peaceful homes, where Christian precepts and virtuous practices have been uniformly inculcated, and the spirit of human liberty and religious freedom fostered, from the cradle to maturity."

This is what the young ladies said:

"The passage of such bills (then pending before Congress--Edmunds' Bill and others) would deprive our fathers, mothers and brothers and ourselves when properly qualified of the rights of franchise, and in fact, of all the rights of American citizens, debarring us of the free exercise of our holy religion, which is dearer to us than life itself; \* \* \* for we have been taught, and conscientiously believe that plural marriage is as much a part of our religion as are faith, repentance, and baptism."

To these petitions were appended more than fifty thousand names.

Congress, however, refused to grant the very just demands of the petitioners, and in the face of all the evidence before them, that with this large body of citizens of Utah plural marriage was a part of their religion, they passed the Edmunds Bill, which increased the severity of the punishment of those who should dare to practice that principle, which fifty thousand people of the Territory of Utah had, in the most solemn manner, declared to be a part of their religion. For one I can only account for this strange conduct of Congress on the score of human weakness. I do

not use irony. I know that in January 1882, the various religious sects of Utah issued a public call for meetings to be held in every state and territory of the Union, to make speeches, pass resolutions, and petition Congress to enact laws against the "Mormons." Religious mass meetings were held in nearly all the large cities of the land, and men who knew nothing of the "Mormons" but what they had heard through the vague and untruthful reports of their enemies, spoke learnedly and with misguided zeal upon a question of which they were profoundly ignorant. And while standing in the very midst of the floods of corruption which threaten to overwhelm the land, and morally bankrupt the nation, they displayed their skill in rhetoric, and exhausted their powers of oratory in denouncing supposed evils that existed in Utah. These unhallowed efforts were not unfruitful. Religious zeal was aroused. Popular prejudices were awakened. A flood of petitions reached Congress, demanding legislation against the "Mormons;" and Congressmen, anxious to win the approval of their constituents, were subservient enough to yield without investigation to the demands of popular clamor.

It was in vain that men, women, and the youth of both sexes of Utah denied the truth of the foul charges made against them. It was in vain that they asked for a commission of upright men to be appointed to investigate the charges made against them by their accusers; even that poor boon was denied them. Was Congress determined not to hear the defense of the accused? Senators and representatives, and, in fact, nearly all officials in this nation are placed in their respective positions by the votes of the people, and, for the most part, men occupying positions of honor, trust and profit are disposed to pander to the wishes of the populace upon whom they depend for a continuance in office. To keep in popular favor they frequently sacrifice principle to interest. Utah has no representation in the Senate, no power in the House, no voice in the Presidential Election, possesses no political influence in the nation, and is altogether powerless to resist the evils forced upon her. Under these circumstances, politicians and demagogues jeopardize no personal interests, when in answer to popular clamor, they invade the liberties of the people of Utah. The

religious bigots among their constituents cried against the Mormons--"Crucify them, crucify them," and the liberties of the people of Utah were sacrificed to satisfy the unjust demands of their relentless persecutors.

Had religious mass meetings been called in Utah to petition our local legislature to adopt some measures deemed necessary for the public weal—had the legislature yielded to the demands of this portion of their constituency, what a pious howl would go up about the Church dominating the State. The gravest apprehensions would be aroused for the safety of our nation. The stupendous fabric of our government, erected by the untiring zeal of patriots and sanctified by their blood and tears, would be esteemed in danger; the partition wall built between church and state would be considered as broken down, and evils innumerable to threaten the liberties of mankind. But as this religious crusade is against the unpopular "Mormons," there was none who "moved the wing, or opened the mouth, or peeped." (Isaiah 10:14)

This last clause should be modified. There were a few of our statesmen who possessed the moral courage to protest against the unjust course of Congress. Senator Vest, of Missouri, said, in the course of the debates on the Edmunds Bill: "I am prepared for the abuse and calumny that will follow any man who dares to oppose any bill here against polygamy; and yet, so help me God, if my official life should terminate tomorrow, I would not give my vote for the principles contained in this measure."

Senator Brown said: "No matter what the popular applause may be on the one hand, or the popular condemnation on the other, I will join in no hue and cry against any sect that requires me to vote for measures in open violation of the fundamental law of the land."

Senator Morgan said: "I am not willing to persecute a "Mormon" at the expense of the Constitution of the United States."

Senator Call, of Florida, opposed the measures.

Senator Pendleton, of Ohio, proclaimed against the unjust measures proposed in the Edmunds Bill.

Senator Lamar, of Mississippi, though feeble in health, and unable to take part in the debates on the bill, yet put himself upon record as opposed to what he considered a "cruel measure."

There were also some members of the House who opposed the passage of the bill, but their voices were lost in the tumultuous clamor for its passage, and it passed. Congress lacked the courage to stand out against the zealous demands of their constituents. Therefore, we said we accounted for the hasty action of that Congress on the score of human weakness.

The passage of the Edmunds Bill was regarded as a great victory by the enemies of the Latter-day Saints; still it has not been altogether unproductive of good to the Saints. The introduction of the bill in Congress produced considerable discussion on the "Mormon" question throughout the land, and although this discussion was, as a general thing, unfriendly to the "Mormons," still it gave an opportunity for fair-minded public men to express their sentiments upon so important a subject; and by their utterances much has been done to present the "Mormon" people in a more favorable light before the masses. "Mormonism" courts discussion. Agitation only brings it into prominence and causes investigation; investigation reveals its sublime truths, displays its native strength, and produces conviction in the honest seeker for truth; while persecution for conscience sake only unites its devotees, and will intensify their zeal.

The nation can afford to pause long enough at least to ask: What shall we accomplish by the passage of this special legislation? Will it result in the suppression of "Mormonism?" Or even in the extinction of that objectionable feature of it called polygamy?

No instance comes to my mind from history where heretics were converted from the error of their ways by oppressive enactments of councils or the proscriptions of tyrants. All history supports this statement of Gibbons:

"The reluctant victim may be dragged to the foot of the altar, but the heart still abhors and disclaims the sacrilegious act of the hand. Religious obstinacy is hardened and exasperated by oppression; and as soon as the persecution subsides, those who have yielded are restored as penitents, and those who resisted are honored as saints and martyrs."

With this historical truth staring them in the face, Congress can scarcely hope to abolish any part of the religion of the Saints in Utah by oppressive legislation. Although the nation has determinedly closed its eyes to the fact that with the large majority of the people of Utah, plural marriage is a part of their religion, testimony which neither Congress nor the nation can ignore, is now laid before them. We refer to the report of the Commissioners appointed to execute certain provisions of the Edmunds law. The report was made to the Secretary of the Interior, December 1884; and speaking of polygamy, said:

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

Referring to the trial of Rudger Clawson, and the impaneling of the jury to try him, they say:

"Each juror was asked: 'Do you believe it right for a man to have more than one living and undivorced wife at the same

time?' Each and every Mormon in the box--a few with hesitation, but nearly all with promptness answered, 'Yes, Sir.' All such men were successfully challenged for cause, this part of the proceedings afforded strong confirmation of the opinion we have expressed, that all orthodox 'Mormons' believe polygamy to be right and that it is an essential part of their creed."

Certainly from this time forth neither the national legislature nor anyone else will say that plural marriage is not a part of the religion of the Saints in Utah; and if it is "an establishment of religion," has Congress any right to make laws respecting it or to prohibit the exercise thereof? (Amendment #1 US Constitution)

The temerity which questions the actions of the Congress of this great nation may be regarded as presumption. More especially may this be the case since the Supreme Court of the United States has declared the law of 1862 enacted against polygamy in the territories, Constitutional. Still, while I have a great respect for Congress--knowing as all do, that it is composed of men of ability and learning; and having a profound regard for the learning, experience, wisdom and patriotism of the Supreme Court--still I cannot help but remember that the men composing these very honorable bodies, legislative and judicial are but men, and are subject to those influences which act upon the minds of men. It is natural for man to love the approval of his fellow man; and--

"Oh, popular applause, what heart of man  
Is proof against thy sweet seducing charms!"  
-William Cowper

Some eighteen centuries and one half ago, the Son of God was arraigned before the judicial tribunal of Pontius Pilate; and although Pilate "found no fault in him" and "would have let him go," the popular voice cried, "crucify him, crucify him," and Pilate, unable to withstand the influence and demands of the multitude, delivered Jesus into their cruel, murderous hands.

Human nature has not changed much since then; and perhaps I shall be pardoned for suggesting that it is just possible that this Congress and the Supreme Court, to satisfy popular clamor, sacrificed the liberties of the people of Utah.

At any rate my reading would teach me not to regard Congress and judicial tribunals with any superstitious reverence. I know that such institutions have been guilty of the most flagrant acts of injustice in the past. "It was a judicial tribunal," says Charles Sumner, "which condemned Socrates to drink the fatal hemlock and which pushed the Savior barefooted over the pavements of Jerusalem, bending beneath his cross. It was a judicial tribunal which, against the testimony and entreaties of her father, surrendered the fair Virginia as a slave; which arrested the teachings of the great apostle of the Gentiles and sent him in bonds from Judea to Rome; which in the name of the old religion adjudged the Saints and fathers of the Christian Church to death, in all its most dreadful forms; and which afterwards, in the name of the new religion, enforced the tortures of the Inquisition, amidst the shrieks and agonies of the victims; while it compelled Galileo to declare, in solemn denial of the great truth he had disclosed, that the earth did not move round the sun. It was a judicial tribunal, the Supreme Court of the United States, which, in 1857, Chief Justice Taney, speaking for the court, decided that Negroes, whether free or slaves, "were not citizens of the United States, nor could they become such by any process known to the Constitution." From the whole tenor of the decision it is plain to be seen that in the estimation of the court, "a Negro had no rights which a white man was bound to respect."

With these historical evidences of the frailty of judicial tribunals before us, we are encouraged to proceed with our inquiries respecting the enactments of Congress against the religion of the Latter-day Saints.

## Part V

### Plural Marriage--a Religious and Constitutional Right

Throughout Europe, a hundred years ago, each nation had its establishment of religion. Persons not belonging to their national establishment of religion were excluded either wholly or in part, from any participation in the public honors, trusts, emoluments, privileges, and immunities of the state. The establishing of national religion has done much to disturb the tranquility of society and brought upon mankind innumerable evils.

To illustrate: Henry VIII, King of England, died in 1547, leaving the crown, by his will, first to his only son, Edward, then to Mary, his daughter by Catharine of Aragon, his first wife, and lastly to Elizabeth, his daughter by his second wife, Anne Boleyn.

Edward was but nine years of age at the time of his accession, and the Duke of Somerset, his uncle, was appointed Protector of the Realm. The Protector, as well as the Archbishop of Canterbury, Cranmer, favored the reformed religion. Somerset had been protector scarcely a year, when he directed Archbishop Cranmer and a committee of divines to compile a Book of Common prayer in the English language. The year following, 1549, Parliament abolished all other forms of worship, and established this in its stead. So zealous were the instigators of this movement to establish the national religion, that they appointed a commission "to examine and search after all heretics and condemners of the Book of Common Prayer." Two persons convicted of holding heretical doctrines were condemned to the flames, and the persecution extended all over England.



In 1553, Mary became queen, and being a zealous Catholic, she resolved to restore the Roman Catholic faith. The statutes passed in the reign of Edward VI, establishing the Protestant Church of England, were repealed, and in 1554, Mary married Philip, the Catholic prince of Spain. It was now the fate of the Protestants to experience a relentless persecution at the hands of incensed Catholics, who had been proscribed and oppressed under the reign of Edward VI. Many were condemned to the flames, and the severe punishments inflicted upon the heretics sicken the heart and bring the blush of shame to the cheek when we see such evidences of "man's inhumanity to man."

At the death of Queen Mary, Elizabeth succeeded to the throne of England. She was a Protestant in faith, and on her accession to the throne, promptly restored the Protestant religion. Her ecclesiastical supremacy was also proclaimed. This was the signal for another religious persecution, though it proved to be less cruel than that experienced in the preceding reign.

Mary, Queen of Scots, disputed Elizabeth's right to the crown of England, and she being a Catholic, was warmly supported by the professors of the Catholic faith, who hoped, through her, to see the Protestant religion suppressed and their own made dominant throughout England. To this end deep plots were laid, looking to the assassination of Queen Elizabeth. The conspiracy failed, and the Scottish queen was beheaded. Thus history goes on, page after page, to record the suffering, the oppression, the cruelty, the murderous plots which grow out of efforts to control the consciences of mankind. The experience of the past warns the legislators and rulers of to-day not to interfere with the sacred rights of conscience. We are responsible for the exercise of those rights to the King of Kings alone; and when earthly potentates invade the domain of conscience, they intrude their unwelcome presence on holy ground, and I rejoice to see men grand enough to refuse obedience to the invader.

Early in the seventeenth century, many people fled from religious persecutions in the European nations, and made America, then a new and undeveloped continent, their place of refuge. Yet some of these sects who fled from intolerance and persecution in the Old World were not willing to tolerate differences of opinion in religious matters. The Protestants refused to grant the Catholics the same rights which they claimed for themselves; the Puritans were not willing that the Baptists and Quakers should settle in their midst, and hence arose religious persecution in the New World. These parties who were driven from the older colonies founded new ones, where more liberty was guaranteed to the settlers, and men began to talk of having the right to worship God according to the dictates of their own consciences. The oppression exercised by the English administration and Parliament towards the American colonies of Great Britain caused the colonies to forget for a time the distinctions which formerly existed in consequence of differences of religious opinions, and unite in defense of their dearest rights. After the victory was won, and the invader of their liberties was forced to acknowledge the independence of the American colonies, the new nation had to deal directly with the question of religious toleration. A variety of sects had established themselves in the different colonies, and when the Constitution was adopted for the purpose of forming a more perfect union, it was seen at once by the American statesmen that it was altogether impracticable to found a national establishment of religion. Which particular sect could they choose to be fostered by the government? Had they chosen one to the disparagement of the others, innumerable evils would have arisen in the state. Wisely, therefore, the statesmen of the young republic concluded to let religion be a matter between each man and his God alone; and put it beyond the power of the nation to interfere in religious matters by inserting in the Constitution the following provision:

"Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

Not only does this clause in the first amendment put it out of the power of Congress to establish a national religion, but it also forbids Congress interfering with the free exercise of religion. The Pagan, the Jew, and the Mohammedan are to be as free from the interference of Congress as are the various Christian sects of religion. Webster, who doubtless will be accepted as an authority in defining words, gives the following definition of religion: "Any system of faith and worship; as the religion of Turks, Hindus or Christians, true and false religion." Accepting this as a correct definition of religion, the first amendment would protect the Turkish and Hindu religion as well as the Christian from Congressional interference. We do not form this conclusion upon the authority of Webster alone. By consulting the writings of those who took a prominent part in drafting and establishing the Constitution, and those more particularly who contended for religious liberty, we learn that it was the intention that all religions should be equally protected.

We insert a few paragraphs from the writings of some of those men who were active in advocating the wise provisions in our Constitution which establish religious liberty.<sup>1</sup>

The following extract is from the works of Thomas Jefferson, Vol. 1, p. 45. It is true these remarks were made respecting the bill establishing religious freedom in Virginia; but

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I take these extracts from a little work published by Hon. George Q. Cannon, entitled, "A Review of the Decision of the Supreme Court of the United States, in the case of Geo. Reynolds vs. The United States." Last, summer I went through the works of Jefferson, making notes of those passages on the subject in hand, but unfortunately those notes have been mislaid, and therefore I make use of those collected by President Cannon, which, for the most part, are identical with those selected by myself--B.H.R.

that bill and the first amendment to the Constitution are one in spirit. Both would place religion beyond the control of human interference, and, therefore, these remarks of Jefferson's serve to show the spirit in which we must regard the Constitution now under investigation:

"The bill establishing religious freedom, the principles of which had, to a certain degree been enacted before, I had drawn, in all the latitude of reason and right. It still met with opposition; but with some mutilation in the preamble, it was finally passed; and a singular proposition proved that its protection of opinion was universal. Where the preamble declares that coercion is a departure from the plan of the holy Author of our religion, an amendment was proposed, by inserting the words 'Jesus Christ,' so that it should read 'a departure from the plan of Jesus Christ the holy author of our religion;' the insertion was rejected by a great majority, in proof that they meant to comprehend within the mantle of its protection the Jew and the Gentile, the Christian and the Mohammedan, the Hindu and infidel of every denomination."

Surely this is a correct idea of religious liberty. Anything short of this would not be just. The following extract from a letter from John Adams, May 16th, 1822, gives us to understand that he, too, considered freedom in religion was to be universal:

"I do not like the late resurrection of Jesuits. They have a general now in Russia, in correspondence with the Jesuits in the United States, who are more numerous than everybody knows. Shall we not have swarms of them here in as many shapes and disguises as ever a king of the Gypsies--Bamfield Morecarew, himself assumed? In the shape of printers, editors, writers, schoolmasters, etc. I have lately read Pascal's letters over again, and four volumes of the history of the Jesuits. If ever any congregation of men could merit eternal perdition on earth and in hell, according to these historians, though like Pascal, true Catholics, it is this company of Loyola. Our system of religious liberty, however, must afford them an asylum." (E. Jeff., 640.)

The italics are mine, but what a broad, noble view is here of "our system of religious liberty!" Though Adams esteemed the Jesuits to be worthy of eternal perdition, still he was willing to acknowledge that "our system of religious liberty afforded them an asylum." Surely this proves that religious freedom was intended by these early statesmen, who established the Constitution, to be universal.

"Happy, thrice happy," said Washington to his army on the occasion of his announcing to it the treaty of peace with Great Britain, "shall they be pronounced who have contributed anything, who shall have performed even the meanest office in erecting this stupendous fabric and empire on the broad basis of independency, who shall have assisted in protecting the rights of human nature and establishing an asylum for the poor and oppressed of all nations and religions."

From this it appears that he who is styled the father of his country, understood that "all religions" were to find an asylum in this nation. But is there to be no limit to religious liberty? Is it to be supposed that Congress is to allow murders to be committed, and then acquit the parties who did the deed because they claimed it to be a part of their religion thus to murder their fellow men? Reckless indeed would he be who would make such a claim as that. Each person should be so limited in exercising his religious belief that he be not allowed to trespass upon the rights or liberties of others. "One man's liberty ends where another man's begins." This we consider is the proper limit of personal and religious freedom. This is the view taken by Madison in his letter to Edward Livingstone. He said, "I observe with much pleasure the view you have taken of the immunity of religion from civil jurisdiction in every case where it does not trespass on private right or public peace." (3, Mad. P. 24). So [with] Jefferson: "The rights of conscience we never submitted, we could not submit. We are answerable for them to our God. The legitimate powers of

government extend to such actions only as are injurious to others." (Query, xvii, p. 16q.)

Our investigation has certainly proven that in the United States religious freedom is to be universal, protecting not only the Christian in the exercise of his faith, but the Hindu, the Pagan, and Mohammedan as well; and that "the powers of government extend to such actions only as are injurious to others." Therefore we may lay it down as a correct principle: that so long as a people in practicing their religion do not interfere with the rights and liberties of other people, they should not be vexed, or maltreated by those who differ from them respecting religion; and not only should the government refrain from persecuting them, by passing oppressive enactments against them, but it also should prevent others from molesting them.

Now, let inquiry be made as to whether the Latter-day Saints have ever trespassed upon the rights of other people or not. Have the Saints ever meddled with, or in any manner molested the Methodists, or Baptists, or Presbyterians, or Catholics? No. Yet all these sects exist in Utah, where the Mormons are the overwhelming majority in population. Furthermore, the members of orthodox societies have been ever active in misrepresenting the Latter-day Saints abroad. With a few honorable exceptions, the sermons and lectures of the sectarian preachers, who sojourn in Utah for a season and periodically go east to raise funds ostensibly for the purpose of regenerating the Mormons, are of a character to mislead and embitter the popular mind against the Saints. Moreover, these same good church members join in with as soulless a set of political tricksters as ever cursed any portion of God's earth, and who have for their avowed object the destruction of the liberties of the Mormons--yet can these parties point to a single instance of their being interrupted in their proceedings, political or religious? No such circumstance can be pointed out.

Does the religion professed by the Saints threaten the destruction of the rights or privileges of anybody? No. I am aware

that it is alleged that the principle of plurality of wives threatens to destroy the purity of the family, and undermine the prosperity of the state; but is the allegation true? Of one thing we are certain, and that is that here in Utah the plurality of wives as practiced by the Saints is not destructive of the purity of the family. It is not just to confound the principle of Celestial marriage with the polygamy of other lands, for they have but little in common. In Utah every woman is free to make her own marriage contract. No coercion is employed--nor indeed, from the situation of affairs, could it be employed, even if there were a disposition to use it. The utmost freedom is enjoyed by all in the matter of marriage, which, as we understand it, is not the case in other countries. There is nothing in the marriage system of the Saints that is dangerous either to the liberties of women or the purity of the family. The association between the husband and the first wife is not destroyed when the husband takes another wife. Among the Saints it creates no scandal. The second wife occupies a position that is just as sacred as that in which the first wife stands. The children of the second wife are regarded as equally honorable with the offspring of the first wife. Each wife enjoys the love, esteem, companionship and confidence of her husband; and under these circumstances wherein is the purity of the family destroyed?

We are not prepared to deny that evils exist in polygamous families. We frankly admit that in some instances men fail to deal justly with their families in the plural order of marriage. But does that prove plural marriage is evil and incompatible with the purity of the family? We think not. In hundreds of thousands of instances men who live in the monogamic order of marriage maltreat, neglect, and abuse their families; but because this is the case, are we to conclude that marriage is a failure and incompatible with the happiness of mankind? Why, no. Such a conclusion would be regarded as absurd. Would it not be equally as absurd to judge polygamy in the manner named?

If the purity of the family is not corrupted by plurality of wives among the people who practice it, is it at all likely that the

purity of the family in other states will be corrupted by their practice? It is the extremest folly for people in the east to become alarmed for the safety of their family organization. The Mormon system of marriage does not menace the purity of their families. But all arguments to the contrary, our enemies insist that our system of marriage is dangerous to the best interests of society and clamor for its suppression. They shut their eyes and refuse to behold the peace, the happiness, the tender regard for each other, which exists in those households where plurality of wives is practiced. In spite of the protests of those living in this order of marriage, our legislators would break up these holy associations and make honorable wives and virtuous mothers outcasts, degrading them to the level of prostitutes and placing upon the innocent brows of their offspring the brand of infamy. If we tell them that these men and women have entered into these associations under the belief that they were doing the will of God--that it was a part of their religion--we are told that if they grant plural marriage to be an establishment of religion and therefore refrain from punishing it as a crime, that every evil doer would set up a plea that whatever crime he committed was a part of his religion, and in consequence of this would claim an immunity from punishment. Judging from their expressed apprehensions, our legislators and judges fear, if they grant plurality of wives to be a part of the religion of the Latter-day Saints, that the Hindus may come to this land and insist upon burning widows upon the funeral pyres of their husbands; or others, perhaps the thugs, will claim the right to commit murders as a part of their religion. But is there no difference between burning women and marrying them? Between the destruction of life and perpetuating it?

The early Christians were falsely accused of murdering an infant in order to have its blood to literally commemorate the sacrament of the Lord's Supper by drinking thereof. Christians of today celebrate the sacrament by partaking of bread and wine. Suppose some over apprehensive legislator should introduce a law abolishing the celebration of the sacrament, and should offer as a reason for the enactment that, if they permitted the celebration of



the sacrament to continue in the churches, some fanatic might possibly insist upon using more literal emblems of the flesh and blood of Christ than bread and wine; and to accomplish this, do that which the early Christians were falsely accused of doing--murder an infant for its blood. What reply would the Christian sects make? They would say: "To murder a child even to get its blood to celebrate the Lord's Supper would be a diabolical crime; but our celebration of the Lord's Supper by partaking of bread and wine is not a crime, injures no one, trespasses upon no one's liberties, and calls to mind the great sacrifice made for us by our Savior. While it is right for our legislators to punish those actions which are injurious to others--even though parties should claim said acts to be a part of their religion--yet they have no right to strike down a sacrament of our faith which is not injurious to others."

This would be the answer. Ours is the same: the Suttee is the destruction of life. Murder is a crime from which man naturally recoils with abhorrence. It requires not the aid of human enactments to convince the mind that murder is a crime. It is *Malum in se*. That is, it is in and of itself a crime. The human enactment does not and cannot make it any more of a crime than it is by nature--the human law only fixes the punishment. It is destructive of the rights of others, and therefore should be suppressed.

This is not the case with the celestial marriage of the Latter-day Saints. That is not *Malum in se*, is not in and of itself a crime, and is only a crime because it has been made so by the enactments of Congress. Plural marriage as practiced by the Saints does not interfere with the rights or liberties of others. Those who claim it as a part of their religion, in practicing it do no injury to others; therefore, it does not come within the scope of the legitimate powers of government, since, according to Jefferson. "The legitimate powers of government extend to those actions only that are injurious to others."

From the foregoing it is evident: first, that Congress should make no law respecting an establishment of religion, either to select a religion for the citizens, or interfere with the free exercise of any existing religion, or any which may arise in the nation; second, that it was the intent of those who labored to establish religious liberty in America to make such liberty universal, not only protecting the Christian in the free exercise of his religion, but the Hindu and the Mohammedan also, and indeed protecting all men of all religions or of no religion; third, that the legitimate powers of government extend to such actions only as are injurious to others; fourth, that those actions which trespass upon the rights of others, or interfere with the liberties of other people should be restrained, even though certain parties claim those actions to be a part of their religion; but, fifth, if in the exercise of any religion the devotees thereof do not trespass upon the rights of others, or invade their liberties, then they should be unmolested in the free exercise of their religion, be it ever so unpopular or even absurd.

In the light of these principles laid down, let us review the subject in hand--plurality of wives. The Latter-day Saints claim plurality of wives to be a part of their religion, and the honorable Commission appointed by the President with the approval of the Senate to administer the Edmunds law, have testified that this principle of marriage is an essential part of the religion of the Saints, as much so as repentance and baptism for the forgiveness of sin. Therefore, since Congress, according to the first amendment, is to make no law prohibiting the free exercise of religion, no law should be made interfering with the free exercise of this principle of the religious faith of the Saints, unless it can be shown that the plural marriage of the Saints is destructive of the rights or liberties of others. As yet no one has been able to prove that the Saints, in practicing their religion, have trespassed upon anyone, or invaded anyone's liberties, and since their actions are not injurious to others, government cannot rightfully interfere with the practice of their religion.

Therefore, with all due respect to the Congress who enacted the law of July 1862, and the Supreme Court of the United States, we conclude that the enactment which defined the plural marriages of the Latter-day Saints to be a crime, and made it punishable by fines and imprisonment was passed in violation to the first amendment to the Constitution.

## Part VI

### The 1882 Edmunds Act

Having briefly examined the enactments of Congress against the religion of the Latter-day Saints as violating the provision of the Constitution inhibiting interference with the free exercise of religion, we now inquire into the more recent enactment of Congress known as the Edmunds Act, which became a law March 22, 1882.

The Edmunds Act is supplementive of the enactment of Congress of 1862. It is a crimes act, amending Section 5352, Revised Statutes, which is a part of the crimes act of the United States. This law defines polygamy to be a man taking to wife more than one woman "simultaneously or on the same day," or who, having a living and undivorced wife, shall marry another. Those guilty of committing this offense may be fined not more than five hundred dollars and be imprisoned in the penitentiary not longer than five years, or be punished by both fine and imprisonment. The law also defines cohabiting with more than one woman, whether in the marriage relation or outside of it, to be a misdemeanor, punishable by a fine of three hundred dollars or imprisonment for six months, in the discretion of the Court. Still farther: The eighth section provides "That no polygamist, bigamist, or any person cohabiting with more than one woman, and no woman cohabiting with any of the persons described aforesaid in this section, in any Territory or other place over which the United States have exclusive jurisdiction, shall be entitled to vote at any election held in any such Territory or other place, or be eligible for election or appointment to, or be entitled to hold any office or place of public trust, honor, or emolument in, under, or for any such Territory or place, or under the United States." By the provisions of this section of the act under consideration, polygamists are punished (1) by being stripped of the right of suffrage; (2) by being made ineligible

for election or appointment to any office or place of trust, honor, or emolument in the Territories or under the United States.

It may be claimed that to deprive persons of the right of suffrage, and disqualifying them to hold office, is not punishment. But those who hold these views should remember that the Edmunds act amends section 5352 of the Revised Statutes of the United States; and that this whole title of the Revised Statutes of which section 5352 is a part, is the crimes act of the United States, and the penalties affixed to a crimes act certainly have for their object the punishment of the violators of that law. To deprive a person of the right of voting is a greater punishment than to deprive him of property, for it is the right preservative of all other rights. To the inhabitants of Utah it is worth more than houses or lands, for the ballot is the only weapon with which they can beat back designing demagogues who seek the control of the Territory with a view to plunder and oppression.

This same section further punishes men supposed to be guilty of polygamy, by depriving them of the right to hold office in the Territory or under the United States. They are not permitted to acquire positions of profit, trust, honor, or emolument; they are excluded from the ranks of honorable associates and positions. And yet we are told this is not punishment! No punishment to have an office of honor or trust or profit taken from one? No punishment to be degraded and disgraced? No punishment to stamp the name with infamy? Whoever says these things are not punishment contradicts the decision of the Supreme Court of the United States. Judge Field of the Supreme Court, in the case of *Cumming vs. The State of Missouri* (see 4 Wall. Reports) held that "The deprivation of any rights, civil or political, previously enjoyed, may be punishment, the circumstances attending and the causes of the deprivation determining this fact. Disqualification from office may be punishment, as in the case of conviction upon impeachment. Disqualification from the pursuits of a lawful avocation or from positions of trust, or from the privilege of appealing in the courts, or acting as an executor, administrator, or guardian, may also, and

often have been, imposed as punishment." The circumstances attending the disfranchisement of the Mormon people determines that the disabilities created by the Edmunds Act were meant for punishment. The qualifications it requires electors and office holders to possess were never before known in any part of the nation. The whole history of the passage of this act confirms one's belief that the part which strips many worthy citizens of the suffrage and the right to hold office was meant for punishment.

Granting the disabilities created by the Edmunds Act to be punishment, we next inquire how is the punishment inflicted. Articles V and VI of the amendments to the Constitution provide that "No person shall be field to answer for a capital or otherwise infamous crime unless on presentment or indictment of a grand jury, \* \* \* nor be deprived of life, liberty, or property without due process of law." "In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, \*\* \* and to be informed the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for their defense."

Such are the rights guaranteed by the Constitution to the citizens of the United States; but in the passage and enforcement of the Edmunds Act, all these bulwarks erected to protect the citizens from injustice have been torn away, and punishment inflicted contrary to all received principles of law and justice. Is the one upon whom this punishment of disqualification for voting and holding office inflicted indicted by a grand jury? Is he confronted by the witnesses against him? Does he have compulsory process for obtaining witnesses in his favor? Does he have the assistance of counsel for his defense? There is but one answer to all these inquiries, and that is in the negative. Let us proceed further: Is the one accused found guilty by an impartial jury of his peers and of the vicinage? No; but an illegal, expurgatory test oath was presented him and if he refused to take it, he was adjudged guilty

and the punishment of disqualification for voting and holding office was applied.

Right here it might not be amiss to refer to the jury system of Utah. By the passage of the Poland Bill in 1874, it was arranged that the grand and petit juries should be made up of half "Mormons" and the other half non-"Mormons." The non-"Mormon" class comprises about twenty-two per cent of the whole population. The enactment of Congress therefore gave twenty-two per cent of the population the same representation in the juries as was allowed the seventy-eight per cent. The injustice of such an act is apparent and requires no argument to point out the unfairness. The enactment of Congress known as the Edmunds Bill, passed in March 1882, in Section 5, provides "That in any prosecution for bigamy, polygamy, or unlawful cohabitation under any statute of the United States, it shall be sufficient cause of challenge, to any person drawn or summoned as a jury man or talesman, \* \* \* that he believe it right for a man to have more than one living and undivorced wife at the same time."

The questions asked by the United States prosecuting attorney supposed to be authorized by this provision of the Edmunds Act, result in excluding from the grand jury, at least, all "Mormons," as it is feared they would not find indictments for polygamy and unlawful cohabitation. Whether this be true or not, it is not necessary to our purpose to discuss here. But by this arrangement the whole criminal proceedings of the Territory are entrusted in the hands of men who represent but twenty-two per cent of the population—the Gentiles or non-"Mormon" class. In 1884, E.S. Goodrich, Esq., published an article in the Chicago Times, headed "Mormonism Unveiled." This gentleman considers the criminal statistics of the Territory for 1882 with the following result, and he obtained his figures from official sources:

"The total number of all arrests for crime and misdemeanors in these localities (the populous districts of the Territory) during 1882, was two thousand one hundred and ninety-

eight, of which the seventy-eight per cent of the `Mormon' population furnished three hundred; and the twenty-two per cent of the non-"Mormons" one thousand eight hundred and ninety-eight. \* \* \* So that the `Mormons,' comprising seventy-eight per cent of the population of the Territory, contributed one-eighth of the arrests made during 1882, and the non-`Mormons,' having only twenty-two per cent, contributed seven-eighths."

Is it not dangerous to the interests of society in Utah to entrust all the criminal investigations to a grand jury chosen from a class of citizens who, while they only represent `twenty-two per cent of the population', yet furnish seven-eighths of the arrests made in the Territory? Is it not quite likely, since these non-"Mormons" are bitterly opposed politically and religiously to the vast majority of the people of Utah, that while malice will prompt them in their "findings" against the "Mormons," "favors" will induce them to find no indictments against members of their own party?

When you come to the petit jury, the situation is not much improved. Under the challenges arranged for in Section 5 of the Edmunds Act, all "Mormons" in prosecutions for polygamy, bigamy, or unlawful cohabitation, are successfully challenged for cause. The theory of trial by jury is that it shall be impartial, but juries before which "Mormons" are tried are not impartial. They are composed of men which are opposed to them both in politics and religion--are their avowed enemies. The innocent "Mormon," as well as the one who may be guilty, goes not to his vindication, but to his conviction, when tried by such a jury. It is claimed that the bias in favor of Mormon institutions would render it impossible for a "Mormon" jurymen to act impartially in judging as to the matter of fact as to the guilt or innocence of one accused of polygamy or unlawful cohabitation; while a non-"Mormon," who not only dislikes the particular feature of Mormonism denominated celestial marriage, but hates that whole system of faith and worship, and is "filled from the toe, top full" of bitterness against the devotees, can act impartially in judging the guilt or innocence



of a member of the "Mormon" Church accused of crime. Is this consistent? If the favor of the "Mormon" jurymen would prevent him being impartial, would not the malice of the non-"Mormon" render him incapable of acting impartially. This Edmunds Act, then, besides being, as we believe, an invasion of our religious liberties, violates several provisions of the Constitution, in that it inflicts punishment without due process of law--it is a legislative enactment inflicting punishment without a judicial trial, and therefore a bill of attainder. Bills of attainder, in a technical sense, are legislative enactments convicting a person of some crime for which it inflicts upon him, without any trial whatever, the punishment of death. If they inflict a milder punishment, they are usually called bills of pains and penalties. Judge Field of the Supreme Court of this nation, in *Cummings vs. the State of Missouri*, from which I have before quoted, said: "A bill of attainder is a legislative act which inflicts punishment without a judicial trial."

The definition includes a bill of pains and penalties as a bill of attainder, and indeed so it is; and if the Edmunds Act is not a bill of attainder, then no legislature ever passed one. Judge Story, speaking of such enactments, says: "Such acts are in the highest degree objectionable and tyrannical, since they deprive the party (accused) of any regular trial by jury, and deprive him of his life, liberty, and property, without any legal proof of his guilt. In a republican government, such a proceeding is utterly inconsistent with first principles. It would be despotism in its worst form by arming a popular legislature with the power to destroy at will the most virtuous and valuable of its citizens of the state." (Story on the Constitution, p. 144.)

The Constitution expressly forbids the passage of such acts. The language is: "No bill of attainder or ex post facto law shall be passed" (Art. I, Sec.9). Section 10 of the same Article prohibits a State passing a bill of attainder, etc. Hence, since the Edmunds Act is a bill of attainder, it violates the Constitution, which forbids the passage of such acts. How forcible the remarks

of Judge Story are to one acquainted with Utah affairs, wherein he says, the passage of such acts "would be despotism in its worst form, by arming a popular legislature with the power to destroy, at its will, the most virtuous and valuable citizens of the state." If inquiry be made, it will be found that it is the "most virtuous and valuable citizens" of Utah--men who laid the foundation of the Territory's prosperity--who have been afflicted, whose rights and liberties have been stricken down by the Edmunds Act.

## Epilogue

I cannot conclude this series of articles without referring again to the enactments of Congress respecting Utah being an invasion of our religious liberties. We are graciously told by our judges that the religious liberty vouchsafed to us by the Constitution means freedom to believe whatever we choose, to entertain such opinions as we please; but we are not at liberty to practice our religious belief, nor to act in accordance with our opinions. If this is what is meant by the guarantee of religious liberty in the Constitution, then "What thrice mocked fools are we!" We have always understood we were free in the United States, not only to believe, but to practice any principle of religion, so long as in doing so we trespassed not upon the rights of others. And if it is not so, then religious liberty in the United States is a myth and the Constitution a fraud, which keeps "the word of promise to our ear, and breaks it to our hope," for no government ever existed, however tyrannical it may have been, but what its subjects could have enjoyed this much religious liberty. Why, the peasants of the monarchies of Europe--aye, the very serfs of autocratic Russia--could believe what they pleased so long as they attempted not to carry their belief into practice.

Such an interpretation of the first amendment to the Constitution, which provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof," makes a farce of our boasted religious liberty. We have fondly believed that our Revolutionary forefathers had, in the institutions of our country for which they shed their blood, bequeathed to us, their posterity, the precious boon of pursuing happiness in our own way, and freedom to worship God according to the dictates of our own consciences--that they had planted the tree upon which was to grow the luscious fruit which they and their fathers had so longingly desired in the monarchies of the Old World. But after lovingly clinging to this belief for more than a hundred years, we awake to find our hopes dust, and the fruit from

the tree of liberty but Sodom apples--fair to the eye, but within filled with bitter ashes! Can intelligence believe an interpretation so monstrously absurd? Can we believe that the men who were grand enough, in the face of an ignominious death, to declare their independence of Great Britain for liberty's sake would so mock their posterity with such delusive hopes? I will not, I cannot, believe it! I could more readily believe our judges, who thus interpret the law, have erred, or allowed their prejudices against the Celestial Marriage of the Latter-day Saints to influence their judgment.

We claim no immunity from proper punishment for those who, in practicing their religious belief, shall do injury to others, or trespass upon the liberties of their fellow men; but we do claim this: So long as men, in practicing their religion, do no violence to the rights of others, government cannot rightfully interfere with their religion, cannot prohibit the free exercise thereof, and when the correctness of this interpretation of the clause in the Constitution respecting religion is recognized, the Celestial Marriage of the Latter-day Saints will no longer be punished by fine and imprisonment, for it is a principle of religion, the practice of which is not injurious even to those who may not believe in it.

-B. H. Roberts

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For further information visit  
[www.ChristsChurchTheBranch.org](http://www.ChristsChurchTheBranch.org)

Or please contact the missionaries at:  
[Right.Branch@Gmail.com](mailto:Right.Branch@Gmail.com)  
or call 1 (801) 769-6279

If we are too busy meeting with others to meet with you right away, or if the number on the back of this booklet is busy when you call, I hope that you will try again. Please remember: "seek and ye shall find, knock and the door will open."

