Mormon Polygamy and the Construction of American Citizenship, 1852-1910

by

Jenette Wood Crowley

Department of History
Duke University

Date: ___________________________

Approved:

___________________________
Sarah Deutsch, Supervisor

___________________________
Laura Edwards

___________________________
John Thompson

___________________________
Grant Wacker

Dissertation submitted in partial fulfillment of
the requirements for the degree of Doctor of Philosophy in the Department of
History in the Graduate School
of Duke University

2011
ABSTRACT

Mormon Polygamy and the Construction of American Citizenship, 1852-1910

by

Jenette Wood Crowley

Department of History
Duke University

Date:________________________

Approved:

Sarah Deutsch, Supervisor

Laura Edwards

John Thompson

Grant Wacker

An abstract of a dissertation submitted in partial fulfillment of the requirements for the degree of Doctor of Philosophy in the Department of History in the Graduate School of Duke University

2011
Copyright by
Jenette Wood Crowley
2011
Abstract

From 1852 to 1910 Congress labored to find the right instruments to eliminate polygamy among the Mormons and the Church of Jesus Christ of Latter-day Saints struggled to retain its claim as the most American of institutions. What these struggles reveal about the shifting role of religion in the developing definition of American citizenship is at the heart of this dissertation. Looking at developing ideas about citizenship in this particular frame exposes the social and political history of exclusion and inclusion comes and the role religion played in determining who could lay claim to citizenship and who could not, who tried and failed, who succeeded, and why. In the end, the coercive measures of the state and their own desire to join the body politic drove the Saints to abandon unquestionably the practice of polygamy, a central tenet of their faith, so that they could be accepted as American citizens.

The battle over polygamy and the rights of polygamists was not limited to the floor of the U.S. Congress or the Supreme Court, although those sources are carefully examined here. Debates over polygamy and Mormons’ right to be Americans also took place in sermons, novels, newspapers, and popular periodicals. Official actions of the state and popular discourses simultaneously defined citizenship and influenced how Mormons understood their own citizenship. This dissertation is a history of the discourse generated by Mormons and their antagonists, laws passed by Congress, and court cases fought to defend or deny the civil, political and social rights of Latter-day Saints.
To Matt, Tommy and Charlie.
I love you.
Contents

Abstract ......................................................................................................................... iv

Introduction .................................................................................................................. 1

Chapter 1: A People Apart .......................................................................................... 25
  Theocracy and National Standing .............................................................................. 28
  1852 ....................................................................................................................... 38
  Polygamy Enters National Politics .......................................................................... 45
  Reformation ............................................................................................................ 51
  More Trouble with Judges ....................................................................................... 55
  Mountain Meadows ................................................................................................. 60
  The Utah War ........................................................................................................... 62
  Denouement ........................................................................................................... 74

Chapter 2: The Threat of Polygamy ......................................................................... 77
  Mormonism Threatens Western Civilization ............................................................ 80
  Polygamy Destroys the American Family and Home ............................................. 85
  Domestic Fiction and its Influence on Anti-Mormon Literature ............................ 90
  True American Women, Consent, and Slavery ....................................................... 92
  Orientalism of Mormons and the Creation of a New Race .................................. 106
  Politics of the Written Word ................................................................................... 112

Chapter 3: Rapidly Diverging Understandings of Religion and Citizenship .......... 115
  Legislators Make the Case that Mormonism is Not a Religion .............................. 120
  The Cullom Bill ...................................................................................................... 128
  The Poland Act ...................................................................................................... 135
**The United States vs. George Reynolds and the Centrality of Monogamy to American Citizenship** ................................................................. 143

A Change in Course ............................................................................. 154

Chapter 4: The Political and Legal Reconstruction of Utah ................. 157

The Cullom Bill and Radical Reconstruction ....................................... 159

Anti-Mormon Hysteria ........................................................................ 165

Edmunds Act of 1882 .......................................................................... 169

Political Reconstruction of Utah ........................................................ 187

Legal Reconstruction of Marriage ....................................................... 200

Chapter 5: Building a White, Monogamous, Protestant Nation ............. 215

Edmunds-Tucker Act .......................................................................... 217

Sexuality .............................................................................................. 221

Immigration ........................................................................................ 226

Civil Rights ........................................................................................ 234

Property and Faith ............................................................................. 251

Dreams of Statehood ......................................................................... 258

Chapter 6: Becoming American .......................................................... 262

Public Acquiescence and Private Continuance ..................................... 267

The Saints Join the Union ................................................................... 277

The Price of American Citizenship ...................................................... 287

Continued Cohabitation .................................................................... 296

New Plural Marriages .......................................................................... 300

Continuing Revelation and Loyalty to the Nation ................................. 304
Acceptance ................................................................................................................. 312
Conclusion .................................................................................................................. 319
Bibliography .............................................................................................................. 327
Biography .................................................................................................................. 365
Introduction

In June 2008, authorities within the Church of Jesus Christ of Latter-day Saints called on California Mormons to donate their time and money to the campaign for Proposition 8, a measure that if passed would overturn a state Supreme Court ruling permitting gay marriage. In response to the Church’s calling, Latter-day Saints gave more than $20 million to the effort to pass the measure, helping the initiative win narrow passage on election day. The Church’s role in Proposition 8’s success made the Mormons a political target of those who opposed the measure. Protestors gathered outside Mormon temples across the country; for every donation made to a fund to overturn Proposition 8, a postcard was sent to the President of the Church; supporters of Gay marriage proposed a boycott of Utah businesses; and someone burned a Book of Mormon outside a temple near Denver. Many called for the Church’s tax-exempt status to end because it had so involved itself in political matters.¹

In response to the political backlash, the First Presidency of the Church issued a statement decrying what it called a campaign not just against Latter-day Saints, but against all religious people who voted their conscience. “People of faith have been intimidated for simply exercising their democratic rights,” the statement said. “These are not actions that are worthy of the democratic ideals of our nation. The end of a free and fair election should not be the beginning of a hostile response in America.”² A spokesman for the L.A. Gay and Lesbian Center, Jim Key, said activists were targeting Church

---

¹ Nicholas Ricciardi, “Mormons Feel the Backlash Over their Support of Prop. 8,” *The Los Angeles Times*, November 17, 2008.
² Ibid.
leadership, not individual Mormons: “We’re making a statement that no one’s religious beliefs should be used to deny fundamental rights to others.”3 The Saints believed they were being attacked because they voted according to their religious beliefs and those who protested against the Church’s political activities claimed their rights were being limited by the voting power of a large group of religious citizens. The similarities between the language used in the Proposition 8 debate and that used in the debates surrounding Mormon polygamy in the nineteenth century are uncanny—only in the twenty-first century it is the Latter-day Saints, not Protestant reformers, who are calling for governmental intervention in marriage rights.

The Latter-day Saints’ defense of hetero-normative, monogamous marriage in the twenty-first century belies their history of battling the United States government to maintain their own non-normative marriage practices during the nineteenth century. Contemporary Mormons argue that marriage between “one man and one woman” is the foundation upon which the nation is built. With such arguments, the Saints have co-opted the very language anti-polygamists used in their campaign to end plural marriage in Utah, claiming their attacks on polygamists were meant to protect the country. Ironically, nineteenth-century Latter-day Saints used the same vocabulary of “fundamental rights” employed by the Gay rights activists they oppose today, pleading with a nation to be allowed to marry polygamously as their faith dictated. They too argued that the religious

3 Ibid.
beliefs of others, specifically the Protestant dominated Congress, should not be allowed to deny their fundamental right to religious expression.

How did the Latter-day Saints, once religious outcasts of the United States, find themselves at the center of another debate concerning marriage and the rights of religious citizens, only this time as the enforcers of “normative” monogamous marriage and “American” ideals? Polygamous family structure, utopian communal economy and defiant theocratic government defined nineteenth-century Mormonism. That Church seems to have little relation to the twenty-first-century Church of Jesus Christ of Latter-day Saints. Indeed, the Mormons’ current reputation is based on idealization of the nuclear family, capitalism, and patriotic republicanism. It is as if there were two Latter-day Saint churches, not one. This dissertation examines the coercive practices of the United States government that forced the tremendous change in the nature of the Church of Jesus Christ of Latter-day Saints that made it possible for the same church to have fought so vehemently for polygamy in one century and campaign with equal vigor against gay rights in the next. This study unpacks the myriad ways the Mormon Question of the nineteenth century was tied up in issues of citizenship and how the battle between the Saints and the federal government over plural marriage helped define who could and could not be an American citizen. In the end, the Saints altered their religious beliefs and practices to be accepted as full citizens, resulting in the extreme differences between the

historic Church that fought for freedom of religious expression through non-normative marriage and the contemporary Church that supported Proposition 8.

This dissertation begins to bring religion into the historiography of citizenship and nation building. Using the history of the Latter-day Saints as an entry point into U.S. history illuminates not only the social and political, but the religious components of the construction of citizenship as well. The battle over polygamy and the rights of polygamists was not limited to the floor of the U.S. Congress or the Supreme Court. Debates over polygamy and Mormons’ right to be Americans took place in novels, newspapers, and popular periodicals. Official actions of the state and popular discourses simultaneously defined citizenship and influenced how Mormons understood their own citizenship. This dissertation is a history of the discourse generated by Mormons and their antagonists, laws passed by Congress, and court cases fought to defend or deny civil and political rights of polygamists. What rights did Mormons believe their citizenship assured them? How did they employ the language of citizenship to fight the federal government in the struggle over polygamy? How did legislators, judges, and antipolygamy activists understand the citizenship of Mormons? What rights did they believe polygamist Mormons had? How did these definitions of citizenship change over time? What concessions did Mormons make to gain unquestionable citizenship? How was the polygamy debate integrated into the development of a concrete concept of citizenship in the United States?

This study builds on those of legal historian Sarah Gordon and religious historian Kathleen Flake, both of whom have started to pull Mormon history from its often
insulated and isolated place in American history with important studies on Latter-day Saint polygamy and its significance in American history. Gordon’s book is a *tour de force* on the legal context of the antipolygamy laws passed during the nineteenth century. She discusses how laws affecting Mormon marital relations came into legal play, how the Mormon hierarchy reacted, and the vociferous defense of polygamy that Mormon women mounted. Importantly, she analyzes the implications of antipolygamy legislation for the social “contract” that resulted, not just for Mormons, but for the entire nation as well.

Flake examines the Reed Smoot hearing within a historical context of American religious political identity at the turn of the twentieth century. She examines the way the Church sought to understand the political realities of mainstream America—an America the Church desperately needed to become part of for political, social, economic and cultural reasons.

I take no issue with the major arguments made by either Gordon or Flake. Instead, my work complements theirs. This study of Mormon polygamy differs in its approach and treatment by connecting the history of the Latter-day Saints to the history of United States citizenship. My hope is to alter the way we understand the history of religious identity and its relation to the development of American citizenship.

Although the Saints had trouble with the U.S. government and other Americans from the very inception of the church, this study focuses on the particularly turbulent years after the Church officially announced the practice of plural marriage as a primary

---


5
tenet of its doctrine. The Latter-day Saint practice of plural marriage began when Joseph Smith, founder and first prophet of the Church of Jesus Christ of Latter-day Saints, received a revelation known as the “Revelation of Celestial Marriage.” Historians are not certain when Joseph began practicing the principal of plural marriage. Some have argued that he polygamonously married his maid, Fanny Alger, as early as 1833. But the scholarship does establish that Joseph began teaching the doctrine of plural marriage to his closest associates and the Church leadership in 1839.\(^6\) Mormon leaders kept the practice a secret and for several years publicly denied any accusations of having more than one wife. Once the Saints had safely settled in Utah, however, the reasons to announce the practice of plural marriage publicly began to outweigh the reasons for keeping it secret. By 1852 the practice was not much of a secret among the Saints. Most knew the Church leaders had more than one wife but many did not know why. In addition, the relative isolation of the Saints was coming to an end. Reports about polygamy were beginning to make their way into newspapers and magazines around the country. It was in this context that Church official Orson Pratt officially announced the

---

doctrine of celestial marriage to the Latter-day Saints and to the world. Soon, antipolygamists began their fight for legal action against Mormon polygamists.\(^7\)

From 1862 to 1887 Congress struggled to find the right instruments to eliminate polygamy; to retain its claim as the most American of institutions, The Church of Jesus Christ of Latter-day Saints resisted. This dissertation centers on what these struggles reveal about the shifting role of religion in the developing definition of United States citizenship.

The legislation, court decisions, and public outrage that fuelled the ideological battle between the Church and the American government can be understood as measures taken by Americans citizens against other Americans whose citizenship status was questioned because of their religious identity. The acts of Congress and decisions made by the Supreme Court about polygamy helped shape the way Americans understood citizenship. At the same time, in the name of religious freedom Mormons pushed back against these exclusionary definitions.

The history of citizenship and the role that polygamy played in defining it illuminates moments when bottom-up constructions of rights consciousness and political

participation met top-down policies and formal laws of legislatures and courts. By looking at developing ideas about citizenship in this particular frame, the social and political history of exclusion and inclusion comes into focus and exposes the role religion played in who could lay claim to citizenship and who could not, who tried and failed, who succeeded, and why. Over the last ten years, historians have turned to the idea of citizenship to gain a better understanding of the history of equality and inequality in the United States. They have examined the experiences of those who were excluded from citizenship and who struggled to gain the rights of citizens: women, people of color, and wage workers. Historians believe citizenship is a useful entry point into American history because the very groups who have been excluded from citizenship have often been the most forceful proponents of its ideals. Citizenship was the language blacks used to call for the abolition of slavery, that women used to call for suffrage, and that workers used to demand the right to form unions. Latter-day Saints used the language of citizenship to demand religious freedom and fought their fight against federal legislation that aimed to eradicate the practice of polygamy based on their position as American citizens. Anti-Mormons also used the language of citizenship to call for the eradication of polygamy in order to protect the purity of the nation.

By demonstrating the crucial role religion played in the construction of American citizenship—not only the religion of the polygamous Latter-day Saints, but also the

---


religiosity of those who so vehemently battled polygamy—this study alters the way we read the existing history of American citizenship. Labeled as religious outsiders, Mormons—like immigrants, militant workers, freed slaves, and politically vocal women—threatened the white, patriarchal, protestant hierarchy of social power in the United States. Plural marriage and Mormon insistence on intertwining ecclesiastic and civil authority put them at odds with the majority of their fellow Americans. The battle over polygamy was a crucial part of the struggle to define Americans as white, protestant, members of heterosexual monogamous families. In the end, after decades of battling the government for the freedom to practice their religion to the fullest, the Saints abandoned their different view of marriage in order to gain the power and privileges of American citizenship. They gave up central parts of their religious identity and doctrine in order to fit the mold of the model American citizen—a mold that was being cast at the same time the Saints were fighting for religious freedom. In many important ways, the battle over polygamy influenced the shape that mold would take.

As many historians have shown, the analytical categories of race, class, and gender are remarkably well suited to the study of citizenship because the history of citizenship is one of inclusion and exclusion based an individual’s position in each of these categories. Most historians agree that U.S. citizenship was gendered and racialized from its very inception. Missing from their analysis, however, has been the important role religion played in the history of the development of American citizenship. Inclusion and exclusion based on a person’s religious affiliation and beliefs have been critical to the ever-changing definition of who could or could not be a citizen. The history of religion
and religious people are significant parts of the history of citizenship and nation building. The battle over polygamy engages critical parts of the growing scholarship on citizenship, including the centrality of marriage as a legal institution, gender relations, sexuality, constructions of race, immigration, suffrage, civil and political rights, the pursuit of property, and the freedom of religion.

Citizenship is a difficult subject to study because its meaning shifted during the late nineteenth and early twentieth century. The danger of being anachronistic is always present when writing about citizenship. Before the Civil War, the states maintained the definitions of individual rights and social duties. The link between these rights and citizenship was not always clear. For example, white women were considered citizens but could not vote, hold office, sit on a jury or serve in the military. The political vocabulary of the time emphasized civil and political rights, not citizenship. Civil rights guaranteed governmental protection of an individual’s “natural rights,” rights to personal security, liberty, and the pursuit of property. Political rights indicated full participation in governance: voting, holding office, serving on a jury, and participating in the military. Both Mormons and antipolygamists used this language of “rights” when speaking of citizenship before the Civil War.

Also important to ideas about citizenship during the antebellum period were “social rights,” a vague and contested category that historian Nancy Cott describes as

---

being in “the domain of social relations” and included “such things as choice of friends and intimates as well as business associates, generally seen as not directly susceptible to legislation.” Similarly, Judith Shklar maintains that one of the most important meanings of citizenship is that of social status or what she calls “standing”—one’s position in relation to others. Citizenship, she argues, has always been a matter of inclusion or exclusion. The notions of standing, exclusion and inclusion are particularly useful ways of thinking about citizenship during the antebellum section of this study because citizenship was not yet defined as a set of concrete privileges and obligations, but was instead discussed in terms of one’s relation to other people and to political power.

Taking cues from Shklar and Cott, scholars have begun to study citizenship as a more complicated relationship between an individual and the state than that defined by law. Scholars such as Evelyn Nakano Glenn, Nayan Shah, Kathleen Canning, Sonya Rose, Martha Gardner, Susan Koshy, and Mae Ngai are guided by Shklar’s theory that citizenship is more about standing—“an affirmation of belonging rather than the exercise of a right.” Along the same lines, Kenneth Karst maintains that people have a strong need to belong, that membership in a community is central to identity, and that a sense of

---

common belonging is often accompanied by exclusionary attitudes toward outsiders. American history can be understood as a continual struggle between an ideal of equality that is inclusive and one that excludes some persons within the country as outsiders or “the other.”

Unlike most the subjects of the histories listed above, Mormons were labeled “the other” and excluded exclusively because of their religious beliefs and practices. Missing from these recent histories of what citizenship meant before the Civil War is the importance of religion. One’s religious affiliation had an enormous impact on one’s standing and ability to lay claim to Americanness. Histories of nineteenth century American Catholics have shown how adhering to a religion outside the protestant hierarchy limited access to power and status. Present in antebellum discourse concerning citizenship is the paradox that those who insisted that American identity was white, middle-class and determinedly protestant at the same time maintained that religious freedom was essential to American. Non-Mormon Americans struggled to reconcile their Jacksonian notions of liberty and religious tolerance with their belief that Mormon religious freedom could not include the freedom to practice polygamy. This palpable tension between wanting the United States to be a free and tolerant country and at the same time wanting to squash the peculiar people infuses the attacks against Mormons that emerged during the antebellum antipolygamy debates.

After the Civil War, Congress began to grapple with the definition of citizenship. Forced to deal with the emancipation and citizenship status of former slaves, the government had to decide what citizenship would mean to newly freed-slaves and how the government would ensure and protect their rights. A formal definition of the relationship between political and civil rights needed to be developed. The 1866 Civil Rights Bill, and the Fourteenth and Fifteenth Amendments established continuity between citizenship and political rights. Once Reconstruction came to an end, however, the federal courts limited these rights and the government retreated from federal enforcement of these measures. But as the federal government abandoned Reconstruction in the South it increasingly intervened in Utah, using Reconstruction-like legislation to restrict the rights of polygamists. During this time the federal government and militant protestant reformers deemed the strict control of the religiosity of Americans critical to the construction of an American nation and to the future of a powerful American nation-state. The national concern over the social, cultural, and political implications of polygamy influenced how the constitution would be interpreted and who could lay claim to the civil and political rights of the newly-defined national citizenship.

Political scientist Rogers Smith places race at the center of his tome, *Civic Ideals: Conflicting Visions of Citizenship in U.S. History*. Smith traces the history of citizenship from colonial origins to the Progressive years focusing on the shaping influence of beliefs in white Anglo-Saxon Protestant male superiority. He systematically tracks the legal manifestations of illiberal practices and beliefs in American history, arguing that American national identity, far from being hegemonically liberal, is instead the product
of multiple traditions: liberalism, republicanism, and “ascriptivism.” He primarily focuses on ascriptivism, which he defines as a restricted vision of citizenship with its basis in ascribed characteristics such as race and gender.\textsuperscript{17}

Smith’s ascriptivism can be clearly seen in debates about polygamy both before and after the Manifesto suspending plural marriage in 1890. Yet, we can learn much more about ascriptivism by including religion as a category of analysis. The complicated literary and political attacks made against the Saints stemmed, in part, from the anxiety that Mormons could not be easily placed into the same categories as those of traditionally troubling American subjects such as blacks, Native Americans, or immigrants. Peggy Pascoe’s investigation of the home missions that protestant women established in Salt Lake City to “save” Mormon women from polygamy exposes this anxiety. Mormon women mattered especially to home missionaries, Pascoe argues, because they were “white women of about the same age and background as Protestant home mission women; leaving religion the only significant demarcation between the reformers and the reformed.”\textsuperscript{18} For the most part, Mormons were white, landowning, politically-active American citizens. Latter-day Saints were ethnically and racially indistinguishable from the Americans who so vehemently opposed them. How could a group of people so


\textsuperscript{18} Peggy Pascoe, \textit{Relations of Rescue: The Search for Female Moral Authority in the American West, 1874-1939} (New York: Oxford University Press, 1990), 61.
similar to the mainstream in race and class, yet so different in their religious beliefs, be considered Americans?

To make their attack on Mormons while at the same time protecting their white, middle-class hegemony, antipolygamists racialized Mormon religion. Latter-day Saints were often depicted as racially troubling U.S. subjects because of their religious beliefs and practices. Political cartoons depicted Mormons alongside Chinese, blacks, and Native Americans. The blending of ethnic imagery between Mormons and other minorities in mass-produced prints expressed the view that all such groups were troubling ethnic, racial and sexual subjects of the United States. Mormons were often thrown in among Native Americans, blacks and Chinese whose citizenship and right to call themselves Americans were being similarly challenged at this time. Mormon rights to citizenship were also under attack. They could not practice a tenet of their religion: if they did they

were incarcerated, fined, and denied the right to vote. To legitimize this attack on white, middle-class Americans, reformers caste Mormons as racially suspect.

Recent histories have maintained that a person’s standing as a citizen must be considered in light of legal history. Legal status, not a single definition of citizenship, was the primary determiner of an American’s rights before and during the time citizenship was being defined. Race and gender were fundamental to the ways that all legal rights were protected and acted upon. Whether someone was legally a slave, freedman, husband, wife, son or daughter determined that individual’s access to civil and political rights. Central to this legal definition of standing was marriage. Nancy Cott, Hendrik Hartog, Laura Edwards, and Linda Kerber all maintain that a person’s legal marriage status was central to defining his or her civil and political rights. Additionally, Michael Grossberg, Dylan Penningroth, and Elizabeth Regosin have shown that legal familial relations were crucial to determining the rights of parents, children, guardians and wards.21

In *Public Vows*, Nancy Cott argues that a paradigm of normative marriage in the United States has been the foundation for the construction of acceptable sexuality and race and through that to belonging as an American citizen. She demonstrates that the insistence on heterosexual marriage not only organizes community life, but also facilitates the government’s control of the populace. The government, she claims, has always been strict about the kind of marriages it tolerates—forcing all who want the benefits of marriage to comply with the federal standard of Christian, preferably intraracial, heterosexual monogamy with the husband as the economic provider and the wife as dependent partner. This federal standard became hegemonic and, Cott maintains, Americans do not realize how limited their choices for marriage truly are.²²

Cott briefly mentions the battle over polygamy in her book, however, she misses the opportunity to include religion as a category of analysis through which we can understand sexual citizenship. She does not demonstrate how the paradigm of monogamous heterosexual marriage also defined acceptable religiosity in the United States. Antipolygamist legislators used hegemonic ideologies about marriage and gender roles of husbands and wives to depict Mormons as deviants. According to several Republican senators, Mormon men were not protectors and providers but rather seducers libertines; lecherous, bearded old patriarchs who continued to marry young girls even into their old age. As the government legislated against the practice of polygamy, it began to establish a very strict standard of what constituted an acceptable marriage and thus

 unrealistic.

²² Cott, *Public Vows*, 1.
what constituted acceptable sexuality among its citizens. Because marriage was central to the definition of a person’s access to certain rights, polygamy presented more than a religious and social aberration: it was a political threat to the integrity of the United States.23

The federal government’s push to control marriage among its subjects can also be seen in the limitations it placed on the immigration of Latter-day Saint converts to the United States. Citizenship was central to nineteenth-century discussions concerning marriage and immigration. Martha Gardner’s *Qualities of a Citizen: Women, Immigration and Citizenship, 1870-1950* demonstrates how immigration policy and national identity influenced each other both legally and socially.24 She shows how marriage laws were informed by the categories of race, class and gender. She also demonstrates how policy and national identity were in turn influenced by the dominant ideology of women’s domesticity and Victorian morality. At the center of these influences was marriage. The newcomer would become “one of us,” meaning not only assimilating into society, but also marrying and having children. Nancy Cott argues that “immigration promised—or risked—the creation of new citizens.” Together marriage and immigration had dynamic potential to create new kinds of citizens for the United States, because children born on American soil would be U.S. citizens regardless of their immigrant parents’ own capacity

23 Ibid., 73.
for naturalization.\textsuperscript{25} Policing who could marry whom went hand in hand with laws about immigration because both directly affected the racial makeup of the polity.

While the focus in recent literature has been on the racialization of immigrants, religion was critical to the barring of certain groups from immigrating to the United States. Legislation against prohibiting Chinese immigration was passed in 1882—the same year as the antipolygamy Edmunds Act. Legislators sometimes linked the two issues. Antipolygamists used growing anti-Chinese sentiment and limitations put on Chinese immigration to call for stricter control of Mormon immigration as well, claiming that Mormon polygamy fed on a constant diet of ‘fresh victims’ from overseas. In 1850, the Church had established The Perpetual Emigrating Fund (PEF), which managed and financed the gathering of the faithful in Utah. Tens of thousands of European converts used the fund to immigrate to the United States. The PEF provided loans to converts to travel from Europe to Utah, whose repayment then financed the immigration of future converts. Antipolygamists charged that through the PEF Mormons wrested control over immigration from the national and state governments.\textsuperscript{26} Antipolygamists charged that the converts were more devoted to the Church than to their newly adopted country and were involving themselves in U.S. politics. There was also concern that Mormon men were scouring Europe to bring the poor and hopeless to Utah to add them to their harems.


\textsuperscript{26} Gordon, \textit{The Mormon Question}, 195.
Some even postulated that if Mormon immigration was limited or prohibited, polygamy would die out.  

As the nineteenth-century progressed, citizenship became as much about participation rights as it was about legal standings such as marriage and immigrant status. Historians have demonstrated that a particularly fruitful way to inquire into American citizenship is to investigate what citizenship has meant to those women and men who have been denied all or some of its attributes, yet who have ardently wanted to be full citizens. Emphasizing the contrast between professed American ideals of equal citizenship and the idea of standing, which depends upon exclusion, Shklar traces the struggle for suffrage of black Americans and then of women. She argues that for both the vote represented above all a “certificate of full membership.” Suffrage was not a call to action, but a “condition” that once attained, did not necessarily have to be exercised. Thus, one simply needed to have the right, not actually use the right to gain status. She argues that without the right to vote “one was less than a citizen.” Once the right to vote was obtained, it could then fulfill its function “in distancing the citizen from his inferiors, especially slaves and women.”

---

27 Ibid., 195.
The history of suffrage in Utah during the polygamy battle illuminates the importance Americans, including Mormons, put on the ability to vote and the feeling of alienation when that right was restricted. In addition, the history of suffrage in Utah brings religion and the American belief in the sanctity of the vote into the history of the suffrage in the United States. Part of the Edmunds-Tucker Act, legislation passed in 1887 that was the death knell for the practice of plural marriage, stripped convicted polygamists of the right to vote. In addition, women in Utah—who had had the vote since 1870—were disenfranchised. The U.S. government approved female suffrage in the territory under the assumption that woman suffrage and polygamy were inherently antithetical and that Utah women would therefore use the vote to eliminate polygamy. When the women of Utah failed to vote down polygamy, however, Congress did an about face on the issue of women’s suffrage in Utah. The United States could not extend the vote to women who would choose to degrade themselves by entering polygamous marriages. The loss of the franchise devastated Latter-day Saints who saw the right to vote not only as a civic duty, but a religious one as well.

* * *

---

This dissertation is divided into two sections. Chapters one and two analyze the citizenship status of the Saints before and during the Civil War, and chapters three, four, five and six analyze the citizenship of Mormons after Reconstruction.

Chapter one traces the political efforts made by the Saints between 1850 and 1860 to secure their place in the American body politic and the efforts of those who did not want such a “peculiar people” to enjoy the status of full belonging as American citizens. Mormons were labeled “other” and excluded during these decades because of their religious beliefs, practices and political ideology. This chapter demonstrates that religious affiliation shaped one’s standing and ability to lay claim to Americanness.33

Chapter two traces the discursive efforts of anti-Mormons during the 1850s and 1860s to construct Mormons as un-American through tell-all novels, newspaper editorials, political cartoons, lectures and sermons. This chapter further explores the paradox of religious freedom maintained by those who at the same time insisted the ideal American identity was white, middle-class and determinedly protestant.

Chapter three begins an in-depth analysis of antipolygamy legislation and the way Congress constructed religious citizenship after the Civil War. It traces the rapidly diverging understandings of religion and citizenship held by anti-Mormons and Latter-day Saints during the 1860s and 1870s. These differences in opinion concerning religious freedom and citizenship rights were best articulated in the Supreme Court case of United States v. Reynolds, where the Court upheld antipolygamy laws as constitutional.

Chapter four looks closely at the role Reconstruction and Redemption ideology played in antipolygamy legislation passed in 1882. The federal government limited the citizenship rights of practicing polygamists in Utah by implementing electoral boards, confiscation, and test oaths, all in the name of protecting the nation from the contagion of plural marriage. At the same time, anti-Mormon judges reconstructed Utah’s legal system by executing a judicial campaign against polygamists and immigrating Latter-day Saints.

Chapter five examines the coercive policies used by the federal government to bring the Latter-day Saints in line with what was being defined as the ideal American citizen. Limiting their citizenship rights by policing Mormon sexuality, immigration, voting rights, and property rights, and by denying Utah statehood, antipolygamists used the Mormon Question to establish an idealized white, monogamous, protestant nation.

Chapter six explores what the Latter-day Saints had to give up in order to be accepted as American. It traces the ways the Saints accommodated the demands of Americanization and what they lost to better fit the modern American citizenship mold. Between 1890 and 1907 the Church moved from publicly acquiescence and private continuance of polygamy to finally changing Church doctrine and ending plural marriage once and for all.

This dissertation integrates the history of Mormonism and its people into the mainstream current of American history. For too long, historians have isolated Mormon history from the larger field of U.S. history, relegating the history of the Saints to the margins of mainstream academic history. This study puts the history of Mormon polygamy into conversation with the history of the development of American citizenship.
At the same time, it furthers scholarship about the development of American citizenship by including religion as a critical category of analysis alongside race, class, and gender.
Chapter 1: A People Apart

Events that took place between 1850 and 1862 set the tone for the intense discursive, political and legal battles over Mormon citizenship that began during the late 1860s. The citizenship of the Saints was not legally challenged in Congress and the courts between 1850 and 1862 the way that it would be later in the century. At this time, national citizenship was not so much a legally defined status as it was an issue of belonging. Legal historian William Novak argues that citizenship “was not the principal determinant of rights and duties in antebellum law.” What did determine the substantive rights and duties of early Americans, Novak maintains, was, “first, personal legal status—office, property, household positions, race, gender, infirmity, and age. Such status markers raise significant hurdles to one’s membership in the imagined body politic (and the privileges and immunities entailed therein), regardless of one’s official citizenship.”¹ The Latter-day Saints were legally citizens based on these status markers. The men of the Church were active members of the American citizenry—they were male, white, office-holders, property owners, and heads of households. Based on these criteria their legal status as citizens was not questioned during the 1850s and early 1860s.

Instead, Latter-day Saint citizenship was questioned based on their belonging to what Novak calls the second determinant of substantive rights and duties: “membership in the host of subsidiary associations that constituted the early American polity, society, and economy.”² As members of the Church of Jesus Christ of Latter-day Saints, the

---

² Ibid.
Mormons were seen as un-American. Their religious convictions—particularly those of the literal gathering of Israel, the establishment of the Kingdom of God on earth and the doctrine of plural marriage—gave the rest of the United States reason enough to keep Mormons from participating as full members of the body politic. Rather than questioning the Saints’ belonging and status as American citizens in the realm of laws and courts, anti-Mormons in Congress made a concerted effort to show how Latter-day Saints were the antithesis of good citizens by denying their petitions for statehood, decrying their religious beliefs on the floor of Congress, and eventually sending federal troops to Utah.

Ironically, during this time the Saints viewed themselves as quintessential American citizens and often used the language of citizenship to claim their natural rights of personal security, liberty, pursuit of property, and most importantly, freedom of conscience and religion. They also maintained their citizenship granted them political rights—full participation in governance, voting, holding office, sitting on juries, and military service. The Latter-day Saints’ strong anti-government rhetoric, harassment of federally-appointed officials and marriage of civil government and Church affairs during this time did not, however, help their cause.

Although “citizen” and “citizenship” were not clearly defined terms during this decade, the Saints and their detractors made liberal use of the terms during their disputes. Both sides seemed to have an understanding of what citizenship meant, but neither side’s understanding was always consistent nor in harmony with that of opposing side. This ambiguity concerning what it meant to be a citizen was typical of the time. For example, in 1862, Attorney General Edward Bates circulated a frustrated opinion on the question
of national citizenship rights: “I have often been pained by the fruitless search in our law books and the records of our courts for a clear and satisfactory definition of the phrase citizen of the United States. . . . Eighty years of practical enjoyment of the [rights of national] citizenship, under the Constitution, have not sufficed to teach us wither the exact meaning of the word or the constituent elements of the thing we prize so highly.”

And in 1866, the highly regarded legal minds Horace Binney and Francis Lieber were asked by Republican congressmen to define the meaning of “citizen.” As Binney complained to Lieber, “The word citizen or citizens is found ten times at least in the Constitution of the United States, and no definition of it is given anywhere.”

This ambiguity in American citizenship law made Dred Scott possible and led to the need for an explicit constitutional amendment. The exclusion of Mormons from the body politic based on their religious identity is an overlooked part of the history of the construction of the modern American citizenship during the mid-nineteenth century.

This chapter traces the political efforts made by the Saints between 1850 and 1862 to secure their place in the American body politic and the efforts of those who did not want such a “peculiar people” to enjoy the status of full belonging as American citizens. The following chapter will trace the discursive efforts of anti-Mormons during the same time to construct Mormons as un-American through tell-all novels, newspaper editorials, political cartoons, lectures and sermons.

---

5 Ibid.
Theocracy and National Standing

Understanding the millenarian world-view of the Saints in the late 1840s and early 1850s is critical to understanding why they created the civil government in their new home the way they did. They called it a “theodemocracy,” a term first used by Joseph Smith to describe the government he envisioned during his presidential campaign of 1844. Later, Church official George A. Smith would elaborate on the concept: “Our system should be Theo-Democracy—the voice of the people consenting to the voice of God.” They believed that because God spoke directly to and through the leaders of the Church, as part of the restoration of the one and only true gospel in these latter days, the will of God could actually be known and conveyed to the people. In a theodemocracy there would be unanimity and no “hostile parties.” They believed that a lack of political dissent would be evidence of God’s law working.

John Taylor, counselor to Brigham Young and his eventual successor as president of the Church, explained the meaning of theodemocracy in a sermon preached on the eve of the Civil War: “The Proper mode of government is this—God first speaks, and then the people have their action. … We have our voice and our agency, and act with the most perfect freedom; still we believe there is a correct order—some wisdom and knowledge somewhere that is superior to ours; that wisdom and knowledge proceeds from God

---

7 Journal of Discourses 9:19 (April 6, 1861).
8 Joseph Smith to The Daily Globe, April 14, 1844.
through the medium of the holy Priesthood.” 9 The Latter-day Saints believed that they should listen to God, who spoke through church leaders, when making any political decisions. To them, this was not a form of religious tyranny, as anti-Mormons repeatedly claimed. Instead, Mormons believed they were freely choosing to follow their leaders in all matters—spiritual and political. As a result, it was logical to them that their political leaders should be the same men who officiated the Church.

Organizing a theodemocracy in their new home was an important first step in establishing the Kingdom of God on earth. The Saints believed they lived in an age of great apostasy, which extended not only to religious but to political matters as well. In a sense, the Church itself was conceived as the Kingdom, but at the same time the Kingdom of God was to be forthcoming and the Saints had to work within the existing American government structure to create it. Importantly, the Kingdom was not conceived as merely millennial; it was to proceed by social evolution. Moving the Saints to the Great Basin and creating a theodemocracy in their new home was critical to building the Kingdom. Church leaders believed a goal of the migration, in addition to escaping persecution and violence, was to found “a territorial or state government under the Constitution of the United States, where we shall be the first settlers and a vast majority of the people.” 10 The Kingdom of God would of course be part of the United States, and

9 Journal of Discourses 9:10 (April 6, 1861).
10 Parley P. Pratt to “All the Saints,” July 9, 1846, in B.H. Roberts, A Comprehensive History of the Church of Jesus Christ of Latter-day Saints, 6 vols. (Salt Lake City: Church of Jesus Christ of Latter-day Saints, 1930), 3:94-95, 415.
its government would be rooted in the Constitution, a divine document that made the full restoration of the gospel possible.  

Mormons believed the American Constitution was the foundation of freedom on which the Kingdom of God would be built. They believed the freedom of religion clause allowed divine incursion to rescue the world from the apostasy that had plagued Christianity since Roman times. The restoration of the true Church of Christ could only have happened in the United States because of the Constitution.  

A revelation received by Joseph Smith in 1833 concerning the persecution the Saints were enduring in Missouri, later canonized in the *Doctrine and Covenants*, explicitly states that the Founding Fathers were divinely led to establish the Constitution. The Lord said: “According to the laws and constitution of the people, which I have suffered to be established, and should be maintained for the rights and protection of all flesh, according to just and holy principles. … And for this purpose have I established the Constitution of this land, by the hands of wise men whom I have raised up until this very purpose.” The Constitution was divinely inspired because the Kingdom of God was to be established in the Americas, as is recorded in the tenth article of faith: “We believe in the literal gathering of Israel and in the restoration of the Ten Tribes; that Zion will be built upon the American continent; that Christ will reign personally upon the earth; and, that the

13 *Doctrine and Covenants* 101:76-77. 80.
earth will be renewed and receive its paradisiacal glory.”  

14 Article of Faith X, *Pearl of Great Price*.  

Latter-day Saints.” Thus, the Lord inspired the Constitution and had a hand in the construction of the American government, but did not, Pratt argued, see fit to establish a theocracy at that time because the people of the Americas were not yet prepared for the government of God. Pratt explained that the Constitution was designed by God “to suit the people and circumstances in which they were placed, until they were prepared to receive a more perfect [government].” The more perfect kind of government would be a theocracy led by the Saints. The time to establish that theocracy, Pratt argued, was now.¹⁶

The Saints began the establishment of their theodemocracy in the Great Basin as soon as they arrived. Just as they had a deep respect for and faith in the Constitution, the Mormons also had a profound respect for government and governmental forms. At the same time, their experiences in Missouri and Illinois had generated a virulent disrespect and outright distrust of “the damned rascals who administer the government.”¹⁷ Instead of turning to outsiders to help them establish a government, they used their already existing structure of authority and simply elaborated their ecclesiastical offices into a civil government. Brigham Young, president of the church, became governor; Heber C. Kimball, first counselor to the president, became lieutenant governor and justice of the Supreme Court (despite his lack of formal legal training); and William Richard, second counselor, became secretary of state. The members of the church’s First Presidency were the most powerful civil officers. This overlap of ecclesiastic and civil office-holders would become one of the major complaints against the Saints as the debate over

¹⁶ *Journal of Discourses* 3:71 (July 8, 1855).
¹⁷ Brigham Young’s reply to Perry E. Brocchus, quoted in *Journal History*, September 8, 1851.
theocracy in Utah put their citizenship status in question. Anti-Mormons believed political unanimity and lack of political parties meant that the people of Utah were victims of tyranny, intentionally kept in ignorance by their leaders. They could not imagine that any American would willingly choose to root their government in such a new and different faith.

Once a skeletal government was in place, the Saints quickly assembled a committee to draft a state constitution and in 1849 urged Congress to adopt the constitution of the State of Deseret with all due haste. Church leaders believed that “Territorial or State powers would give us facilities for doing business by agents in the U.S. and thus save great expense and loss; but we go in, for once in all our life, if possible, to enjoy a breath of sweet liberty and independence.” They knew that they had to have some kind of official relationship with the federal government in order to prosper. At the same time, they believed that official recognition, particularly in the form of statehood, would allow the Saints to live and worship freely in their new home without federal governmental interference.

The petition for statehood advanced several arguments why Deseret should be admitted as a state. Most of the reasons were couched in the rhetoric of popular sovereignty and the rights of citizenship. The Saints argued that all political power is inherent in the people and that inhabitants of a region are best qualified to judge the type of government suited to their needs. They pointed out that the inhabitants of Deseret had

---

18 The word Deseret comes from the Book of Ether in *The Book of Mormon* and means “honey bee.” The Mormons linked the land to their faith by using a word from their sacred text.
19 Brigham Young, *Journal History*, June 28, 1848.
organized a government in the absence of any government sanctioned by the federal
government in order to impose a higher law than that of “the revolver and the bowie
knife” and that the swarming emigration of gold-seekers on their way to California made
government of the region a necessity. Finally, they maintained that Deseret was too
distant and difficult to access to make incorporation into any other existing state or
territory practical. They wanted independence through statehood.

State citizenship was of paramount importance to an American’s citizenship at
this time. William Novak explains that whereas modern citizenship involves a single,
formal, and undifferentiated legal status of membership in a central nation-state,
nineteenth-century American governance was about differentiation, jurisdictional
autonomy, and local control. Federalism kept Americans from establishing a conception
of national citizenship rights. Most privileges and immunities were products of state
citizenship rather than national citizenship. Importantly, the exact nature of those
privileges and immunities was left unspecified. It was in this lack of definition of
privileges and immunities that the Saints saw their opportunity to establish a state based
on their faith in the necessity of building the Kingdom of God and the freedom to practice
plural marriage to further that end.

The Saints were espousing a popular opinion of the day—that the primary power
to govern lay with the states, not the federal government. They deliberately applied for
statehood over territorial status, believing that should Deseret become a state they could

20 The entire petition can be found in the Millennial Star 13:23-25.
establish a theodemocracy and practice polygamy and it would not be the business of the federal government to meddle in the internal affairs of Deseret. Speaking specifically about plural marriage, Brigham Young explained that, should Deseret become a state, Congress would not be allowed “according to the Constitution, to legislate upon it.”

Young knew that the American law of rights and duties, privileges and immunities remained profoundly disparate and diverse from state to state. Statehood, he believed, would allow the inhabitants of Deseret to elect Church officials to state offices and practice polygamy without threat of interference from federal government.

Editorializing in the church-owned Deseret News, Charles Penrose explained the Saints’ viewpoint on statehood this way:

Should not a nation be willing, nay, seek to cherish those who are endeavoring to render her most sterile and barren domain productive; who are extending settlements, making improvements, and developing the national resources of hitherto unexplored regions, thereby adding to the national wealth; not it is true, merely in gold, but in the proudest trophies of any enlightened nation, that of civilized society…. Let Congress give us a Government based as all Republican Governments should be, upon the authority of the people; let them decide our boundaries in accordance with the wishes of common Justice, according and guaranteeing unto us those right and immunities only, which are the privilege of American citizens in like, or similar circumstances.…

Mormons saw themselves as the best kind of American citizens—those who would work hard and make personal sacrifices to tame the West and develop the natural resources of their new mountain home. Their citizenship status granted them, they argued, the right to

---

22 Deseret News, September 17, 1856.
24 The Deseret News, September 21, 1850.
elect their own officials and maintain whatever kind of domestic relationships they wanted.

The petition for statehood was denied. Instead, Congress established Utah Territory as part of the Organic Act of 1850. The desultory discussions about the proposed State of Deseret during the debates on the Compromise of 1850 suggest that the Saints and their proposed state mattered little to lawmakers at the time. Dr. John M. Bernihisel, the delegate Brigham Young sent to Washington, D.C. to lobby for the Saints’ interests, was disillusioned by how little attention the Mormons and their petition received: “The ignorance of the collected wisdom of the nation in regard to our region of the country is most profound” he wrote to Brigham Young. Rather than having their petition considered on its own merits, the fate of the State of Deseret was tied in to the contest for sectional advantage. When Congress failed to attach the Wilmot Proviso to the Organic Act, anti-slavery congressmen lost what little interest they had in Utah.

In addition to the freedom they believed would come with statehood, Latter-day Saints preferred statehood to territorial status because territories occupied an ambiguous and often malleable place in the legal order. Much to the Saints’ dismay, territories were subject to federal organization as political entities, meaning they would not have the power to organize their own governments and would be at the mercy of federally appointed officials—officials who would most likely be Gentiles—non-Mormons who would bring along common prejudices against the Saints. They knew that as a federal

25 Journal History September 7, 1850.
territory they would maintain a political status inferior to those of state citizens. They would be treated like a colony rather than an equal member of the Union.

Disappointed that they did not receive statehood, the Saints nevertheless moved forward with establishing a territorial legislature and filling government offices. On September 16, 1850, Dr. Bernhisel submitted a recommendation to President Fillmore that Brigham Young remain governor, adding that

The people of Utah cannot but consider it their right, as American citizens, to be governed by men of their own choice, entitled to their confidence, and united with them in opinion and feeling; but the undersigned will add that for especial and important reasons which grown out of the peculiar circumstances of the community of Deseret, and its government, the people are prepared to esteem as a high favor the nomination by the President of the entire list of officers submitted, as it stands, and will not fail to evince that they remember it with gratitude.\(^{26}\)

Their wishes were not entirely fulfilled, but Brigham Young did get to maintain his office of governor, a decision that most in Washington accepted as the easiest way to maintain the status quo. Clearly, the Saints had a definite idea of what their rights as American citizens were in relation to political representation. They believed it was their right to be governed by men of their own choosing. At the same time, they believed it was imperative that those men also be leaders of the Church in order to establish the Kingdom of God on earth.

Despite the official designation of territorial status and the federal oversight that status would entail, the resulting territorial legislature and the laws it enacted further blurred the line between civil and ecclesiastical governments in Utah. The 1851 Act for

\(^{26}\) Bernhisel to President Millard Fillmore, September 16, 1850, in *Journal History*. 37
Incorporation of the Church of Jesus Christ of Latter-day Saints, for example, provided that all rules and laws for marriage promulgated by the church “could not be legally questioned.” As Brigham Young explained, the act guaranteed “if the Latter-day Saints wish to have more wives than one to live Holy & raise up Holy seed unto the Lord [then we shall] let them have that privilege.” This same act also empowered the church corporation to acquire and control unlimited amounts of property, both real and personal. As historian Sarah Gordon points out, these extraordinary legal powers were very different from those granted to church corporations in the States. Many jurisdictions strictly limited the amount of property a church could acquire and none provided that church decisions regarding marriage “could not be legally questioned,” as the Utah statute did. Brigham Young was obviously preparing to reveal the doctrine of plural marriage to the world, and wanted to make sure he could legally protect the practice.

1852

In August of 1852 Brigham Young asked apostle Orson Pratt to make a public announcement about polygamy. The first and most obvious reason for publicly recognizing the practice was that it was no longer truly a secret. For the most part, men lived openly with their plural wives. Historian B.H. Roberts, polygamist and contemporary of Pratt and Young, claimed “it had been a matter of wide knowledge

28 Wilford Woodruff’s Journal, 4:11.
29 For more about the history of disestablishment in the United States see Gordon, The Mormon Question, 70-81.
within the Church for some time that such a principle was not only believed in but practiced by many leading Mormon officials. Yet none to whom this knowledge had come felt at liberty to make a public proclamation of the doctrine…In the absence of an official announcement plural marriage had become a source of embarrassment. Justice to the women involved in the system, moreover, also required an official proclamation.”

The fact that the church had not made a public announcement about the practice of plural marriage put many plural wives in an awkward position. Everyone knew they were married polygamously, but not everyone knew why.

There were many public charges about the Mormon practice of polygamy being made in the eastern press by the so-called “runaway” federal appointees. These appointees and their widely-circulated opinions of the Saints would establish the rhetoric used to describe Mormon polygamy as un-American and unpatriotic over the next five decades. In addition, the events that followed would set the tone of Mormon-government relations throughout the 1850s and would play a critical role in the federal government’s decision to send troops to declare war against the citizens of Utah five years later.

Federal Judge Perry E. Brocchus came to Utah in the summer of 1851. Two days after arriving in Salt Lake, he read speeches made by leaders of the church that were reprinted in the *Deseret News*—particularly those made by Daniel H. Wells and Brigham Young that criticized the United States government. At the July 24th celebration that year, what the Saints celebrated as the day the first Mormons came into the Salt Lake

---

valley, Wells spoke of the requisition of the Mormon Battalion in 1846 and argued that it had been intended as a blow at the weakened and homeless Saints. Brigham Young, perhaps remembering Zachary Taylor’s opposition to the Mormons’ request for statehood, asserted that Taylor was undoubtedly suffering the torments of Hell for his wickedness. Brocchus was assured by other non-Mormons in Salt Lake that church leaders often made these kinds of disloyal sentiments. With this disloyalty in mind, and having witnessed men living openly with more than one wife, Brocchus asked for permission to speak at the general conference of the Church in September of 1851.

Brocchus decided to make patriotism and virtue the themes of his oration, drawing an obvious connection between the Saints’ political actions and religious beliefs. He referred to the Mormons’ recent troubles in Illinois and Missouri in sympathetic words, but advised that those states, not the officials of the central government, should receive the blame for those misfortunes. He next introduced an invitation of the Washington Monument committee to send a piece of marble from Utah to Washington, D.C.—their committee’s goal was to include a piece of marble from each state and territory. Such a contribution, he warned, should come only from citizens inspired by a lofty devotion to the Union and its Constitution: “If the people of Utah cannot offer a block [of marble] in full fellowship with the United States, it were better to leave it unquarried in the bosom of its native mountain.” The inference that Mormons’ patriotism was questionable irritated the congregation who became visibly aggravated. Near the end

—

of his speech, Brocchus turned from patriotism to morality. In a transparent reference to polygamy, he lectured the women present at some length on the importance of virtue, overtly linking the Saints’ patriotism to their practice of polygamy. He then took his seat on the platform.\(^{32}\)

Instead of applause, Brocchus heard threats of violence from the incensed congregation. Brigham Young was furious, and rising to answer him spoke of hair-pulling and throat-cutting. Although he did not incite violence against the judge, he took advantage of the situation to deliver a jeremiad against the government of the United States. Federal officials, he argued, were guilty of the Saint’s past troubles because they had done nothing to protect or to recompense the Church during its darkest hours.

It is well known to every man in this community, and it has become a matter of history throughout the enlightened world that the government of the United States looked upon the scenes of robbing, driving, and murdering this people and said nothing about the matter, but silence gave sanction to the lawless proceedings. Hundreds of women and children have been laid in the tomb prematurely in consequence thereof, and their blood cried to the Father for vengeance against those who have caused or consented to their death. George Washington was not dandled in the cradle of ease but schooled to a life of hardship in exploring and surveying the mountains and defending the frontier settlers … It was God that dictated to him and enabled him to assert and maintain the independence of the country. It is the same God that leads this people. I love the government and the Constitution of the United States but I do not love the damned rascals who administer the government.\(^{33}\)

This quotation sums up precisely how the Saints felt about the federal government at the time. While they loved the United States, they did not extend that love to their fellow

\(^{32}\) Leland Hargrave Creer, *Utah and the Nation* (Seattle: University of Washington Press, 1929), 96 and *Congressional Globe*, January 9, 32\(^{\text{nd}}\) Cong., 1\(^{\text{st}}\) sess., Senate Executive Document 12, pp.1 ff.

\(^{33}\) *History of Brigham Young*, (MS 1851), 61-64 and Wilford Woodruff, 349.
Americans or political leaders. Mormons, Young pointed out, were American citizens who, because of their religious beliefs, had been driven from their homes in the Midwest. When they pleaded to the federal government for help, they were ignored. Young wanted to make sure Brocchus and the other government officials in attendance knew exactly why Church leaders often sounded like traitors—because they had not the slightest trust in the U.S. government.

Young dealt even more severely with Brocchus. The governor commented on his overweening political ambitions, accused him of profligate debauchery, and summed him up as one of those “corrupt fellows” whom he could buy, with a thousand of his kind, “and put in a bandbox.” Afterward, Young said that “if I had but crooked my little finger, he would have been used up, but I did not bend it. If I had, the sisters alone felt indignant enough to have chopped him to pieces.” Instead, he satisfied himself with a tongue-lashing. Fearful for their safety, Brocchus, Chief Justice Lemuel H. Brandebury, Territorial Secretary Broughton D. Harris, and Indian Agent Henry R. Day, who shared the platform on that unhappy occasion, fled Utah later that same month. Once they had returned to the east they reported to President Fillmore about the Mormons and their practice of polygamy. Published in the New York Herald in January of 1852, the report charged, among other things, that Mormons were “openly sanctioning and defending the

34 Journal of Discourses 1:186-187 (June 19, 1853).
practice of polygamy or plurality of wives.” Brigham Young instructed the eastern Mormon representatives not to deny the charges.  

The eastern press latched on to the idea of treasonous Mormon polygamists gathering strength in Salt Lake. The attention of the press was one of the reasons Church leaders decided it was time to officially announce the practice of plural marriage. By 1852 the relative isolation the Mormons had enjoyed in the Great Basin was coming to an end. Salt Lake City was becoming a crossroads for people heading to California in search for gold and government surveyors were often stationed near Salt Lake. Corps of Topographical Engineers surveyors Howard Stansbury and John Gunnison were both very much aware of the practice of polygamy in the Salt Lake Valley in 1851. These surveyors published widely-read accounts of their experiences among the Mormons and in early 1852 wrote: “That many have a large number of wives in Deseret, is perfectly manifest to any one residing long among them, and, indeed, the subject begins to be more openly discussed than formerly, and it is announced that a treatise is in preparation, to prove by the scriptures the right of plurality by all Christians.” The widespread public interest in the charges made by the “runaway” officials and the imminent end to Mormon isolation provided the political background to the public announcement.

It was in this context that in August of 1852 Orson Pratt addressed a special conference of Mormon men who were about to embark on missionary work around the

world. Pratt’s address set the tone and direction for later Mormon defenses of polygamy.\textsuperscript{37} He began his speech by reminding the assembled elders that the right to practice plural marriage was protected by the American Bill of Rights. This would be reiterated by defenders of polygamy for decades to come. The Saints always linked their right to practice polygamy to their status as Americans, a right they believed was protected by the Constitution. Next, Pratt spoke of the premortal existence, specifically the origins of man’s spirit body. Recalling the teachings of Joseph Smith, Pratt explained how humans’ spirit bodies were literally sired by God and how all of God’s spirit children relied on living humans to provide them with earthly bodies. Marriage, he reminded the audience, was eternal in nature and the only divinely appointed channel through which bodies were to come.\textsuperscript{38}

Pratt then told the congregation that the Church sanctioned the plurality of wives and gave five reasons why all Mormons should practice plural marriage. Pratt’s arguments would be used by Mormons to defend polygamy for the next forty years. First, he said that polygamy would help humans fulfill the commandment given to Adam and Eve “to multiply and replenish the earth.” Second, polygamy was part of the Abrahamic family code and thus was part of the “restoration of all things.” Third, Pratt argued that four-fifths of the world’s population practiced polygamy, making monogamy an exception, not the rule. Fourth, Pratt argued that polygamy would morally reform the world. He claimed that monogamy was unnatural and as a result invited immorality.

\textsuperscript{37} Whittaker, “The Bone in the Throat,” 302.

\textsuperscript{38} The entire conference minutes were published in the church-owned newspaper \textit{Deseret News} on September 14, 1852.
Defenders of polygamy often used this argument in the decades that followed. Many Mormons argued that the practice of polygamy would eradicate prostitution and other social ills. Lastly, polygamy would allow more women to have children, thus providing Mormon families for the spirit children of God who would help usher in the Kingdom of God. Polygamy was, therefore, critical to the Mormon millennial worldview. The second coming was imminent and to prepare the world the Saints needed to quickly establish the Kingdom of God on earth—polygamy would help them do just that.

After Pratt finished speaking, Brigham Young stood to explain how Joseph Smith had received knowledge of plural marriage as part of the revelation about celestial marriage and why he had thought it best to keep it a secret. He announced that the document written by Joseph Smith “contains a doctrine, a small portion of the world is opposed to; but I can deliver a prophecy upon it.” Calling upon the authority of Joseph Smith and backing it with his own testimony, Brigham Young kept public objection from the faithful in check.

**Polygamy Enters National Politics**

The episode of the runaway justices brought the Mormon polygamy question into national prominence for the first time. The officials submitted a report to the President on December 19. The four men attributed their flight from the Territory to the “lawless acts and hostile and insidious feelings and sentiments of Brigham Young,” all of which had

40 *Deseret News*, September 14, 1852.
made their service as federal representatives in Utah impossible. They believed the Mormons were ready to reverse their hypocritical pose of allegiance to the Union and recounted Young’s recent reference to President Taylor’s unenviable status in the next world, Wells’ subversive remarks on July 24, and the seditious behavior of other Church dignitaries. The hierarchy of the Church, they declared, exercised an autocratic domination over its followers with Young presuming to rule as God’s chosen spokesman on earth in both spiritual and political matters. In short, the Mormons were not speaking or behaving as good American citizens should.

The day after Brocchus and the other officials left Utah Brigham Young wrote a strongly worded and at times defiant letter to President Fillmore, explaining the Mormons’ side of the story. He defended his actions and explained that the Saints were as attached to the United States as any citizens, but that their patriotism did not blind them to previous betrayals of their constitutional rights. Near the end of the letter, Young offered suggestions for future federal appointees, recommending that the government appoint territorial residents if it wished to avoid past difficulties.

Congress read the reports of the “runaways,” listened to Bernhiesel and other Latter-day Saint representatives sent to the capitol to defend the Mormons’ from the Judges’ claims, and in the end decided to do nothing. That did not mean, however, that the confrontation between the federal officials and Saints was without consequence. The

41 Report of Messrs. Brandebury, Brocchus, and Harris, to the President of the United States, December 19, 1851, 32d Congress, Ex. Doc. No. 35.
42 Journal History, September 28, 1891.
events spurred a number of newspapers articles, magazine exposes and novels that kept the Mormons as a topic of political and social discourse over the next five years.\textsuperscript{43}

Thus, the Saints remained very much a part of the political consciousness in Washington, D.C. throughout the 1850s. A speech by Brigham Young made a speech that was widely published in 1853. Nearing the end of his four-year-term as governor of the territory, Young told the people of Utah, “I am and will be Governor, and no power can hinder it until the Lord Almighty says, ‘Brigham, you need not be Governor any longer.’”\textsuperscript{44} Such claims could hardly be overlooked at a time when the question of federal authority over the territories threatened to split the Union. Not surprisingly, newly-elected President Pierce appointed a non-Mormon governor for the territory. He chose Lieutenant Colonel E. J. Steptoe, a man who knew the territory and the people of the Great Basin well. But Steptoe, who had a rocky relationship with the Mormons during his previous surveying expeditions, refused the appointment and rather than appointing someone else, Pierce left well-enough alone and Brigham Young continued to function as governor until his replacement arrived during the Utah War.

Utah became one of the precedents for the Kansas-Nebraska Bill, directing more and more attention to the people of Great Basin. Congress began to debate the constitutionality of outlawing polygamy, almost all congressmen who spoke on the subject objected to polygamy, but not all supported legislation against it. The debate did not center on whether polygamy was right or wrong—every speaker agreed that

\textsuperscript{43} This discourse will be examined in detail in Chapter 2. \textsuperscript{44} Journal of Discourses 1:187 (June 19, 1853).
polygamy was wrong. Instead, the debate revolved around this question: if Congress had the power to check polygamists in Utah, did it not also have the power to exclude the South’s “peculiar institution” as well? Action against polygamy might be a way to begin breaking down the barrier of state’s rights and thus to attack Southern slavery.

There were three major political repercussions of the popular interest in the Mormon Question during the mid-1850s. First, anti-polygamy bills and resolutions were introduced to Congress. Whig Representative Justin Morrill of Vermont introduced a bill to outlaw polygamy in 1856, but without the support of Southern Democrats it died quickly. Secondly, the increasingly frequent references to polygamy during discussions of sectional issues indicated a growing awareness of the ways in which the Mormon Question could be used to deflect attention from slavery to polygamy. Third, many anti-slavery members of Congress countered the Southern gentlemen’s biblical defenses of slavery by pointing to the domestic arrangements of Brigham Young or “the Father of the Faithful.” The issues of polygamy and slavery were matters of religion, and the linking of the two biblical institutions placed an even heavier strain on the religious defenses of slave owners.

Some of the men who would become pillars of the new Republican Party were eager to join the conversation about polygamy, particularly after the issues of plural marriage and slavery were inextricably intertwined by the Republican Party in 1856 when its platform promised to eradicate the “twin relics of barbarism.” For example,

---

45 Anti-Mormon arguments against polygamy will be discussed in further detail in the next chapter.
46 *Congressional Globe*, 34th Cong., 1st sess., appendix, 908, 1216-1217
Massachusetts Free-Soil Senator Charles Sumner told his fellow congressmen he imagined that “no person could contend that a polygamous husband, resident in one of the States, would be entitled to enter the national Territory with his harem—his property if you please—and there claim immunity. Clearly, when he passes the bounds of that local jurisdiction which sanctions polygamy, the peculiar domestic relation would cease; and it is precisely the same with Slavery.”

Southerners expressed their disgust for polygamy at the same time that they asserted the inability of Congress to legislate on it. Representative Laurence Keitt, Democrat of South Carolina, framed his comments this way:

> With me it is mainly a question of power. I know that the instincts of the American people revolt against polygamy; I know that we, in this House, abhor and detest it; but our condemnation of it should not hurry us into usurpation of power. If I can be satisfied of the power of Congress in the premises, I shall not hesitate to use it; for I believe that polygamy is flagitious in its influence upon society, and that it corrupts and debases wherever it exists. … I abhor and detest polygamy, because it violates the sanctities of the household. And abuses the holiest relations of life. But my detestation is no criterion of my power.

To Democrats, the restructuring of government proposed by Republicans to reign in polygamy was a thinly-veiled threat to slavery, and thus far more dangerous than the practice of polygamy by Mormons in Utah. It would expand the powers of the federal government in ways that they were not ready to accept.

For many Southern Democrats, the polygamy question not only highlighted the politics of slavery, but also placed their religious defense of slavery in bad company. If

---

the government could decide what kind of domestic institutions a religion could incorporate, their religious defense of slavery would be severely limited.\(^49\) William H. Seward, then a Whig Senator from New York, countered a popular biblical justification for slavery by remarking that he, too, admired the simplicity of “patriarchal times. But they nevertheless exhibited some peculiar institutions … namely that of a latitude of construction of the marriage contract, which has been carried by one class of so-called patriarchs into Utah. Certainly no one would desire to extend that peculiar institution into Nebraska.”\(^50\) All the speeches about the barbarism of polygamy and the federal government’s need to provide moral stewardship to the territories were anathema to southerners. “If there is power in Congress to inspect the moral of a nascent political community,” queried Keitt in a speech condemning proposed anti-polygamy legislation, “and of its own autocratic will to decree this and prohibit that, may they not declare slaveholding a crime?”\(^51\)

Unfortunately, the people of Utah, completely misreading the temper of national politics, chose this opportunity to make another bid for statehood. After a convention was held in Salt Lake City in March of 1856, John Taylor and George A. Smith transmitted a draft constitution and memorial for statehood to Washington by. Once in Washington, Taylor and Smith quickly discovered the political climate was not favorable for their project. Nothing political came of this bid for statehood, but their presence elicited


\(^50\) *Congressional Globe*, 33\(^{rd}\) Cong., 1 sess., appendix, 154.

\(^51\) *Congressional Globe*, 36\(^{th}\) Cong., 1 sess., 197 (April 4, 1860).
considerable press coverage, which continued to link the issues of polygamy and slavery.\textsuperscript{52} The \textit{New York Times} editorialized that:

\begin{quote}
We shall be somewhat curious to see what ground Southern politicians will take upon this question when it comes before Congress. They have been fond of asserting, lately, that Congress was bound to admit new States, without regard to the character of their domestic institutions. If this be true concerning slavery, it must, also, be true concerning polygamy. Utah cannot be excluded upon any theory of power which would not, also, authorize the exclusion of any new Slave State.\textsuperscript{53}
\end{quote}

Popular sovereignty, much to the Southern representatives’ chagrin, had become permanently linked to the unsavory issue of polygamy in Utah. The Utah War would be in no small part an attempt to break that link, and to show the country that while slavery would be tolerated, polygamy could not.

\textbf{Reformation}

While politics in Utah had been relatively calm between 1852 and 1856, calm enough that the Saints felt it appropriate to resubmit their ill-timed bid for statehood, the Mormon settlers faced a series of natural disasters. The first was a grasshopper plague in 1855. The hoppers were so numerous they were described as “snowflakes in a storm” and “occasionally fill[ing] the air over this city, as far as the eye can reach.”\textsuperscript{54} Accompanying the grasshoppers was a devastating drought, which by August 1856 had replaced the departing hoppers as the worst threat to Utah crops. The drought was followed by a

\textsuperscript{54} George Albert Smith to Editor of \textit{The Mormon}, June 20, 1855, in \textit{The Mormon}, August 11, 1855.
severe winter, during which most of the Church-owned cattle froze to death in Cache Valley, north of Salt Lake. Food was scarce and poverty widespread.  

During these months of trial and tribulation, Brigham Young began to speak of a spiritual lethargy he observed among his people. Times were hard, Young acknowledged, but Mormons were not living up to the standard of their mission. The number of converts immigrating to Utah from Britain, British North American and other states had fallen off significantly, yet the number of gentiles moving into the area was on the rise. The Saints, leaders believed, needed to prepare themselves for growing social and political opposition.  

Like a prophet of the Old Testament, Young told members that the natural disasters were God’s way of punishing his people for straying from the path of righteousness. By the spring of 1856, church leaders were delivering ominous threats of God’s retribution for unrighteousness. On March 2, Brigham Young observed, “I will tell you what this people need, with regard to preaching; you need, figuratively, to have it rain pitchforks, tines downwards, from this pulpit, Sunday after Sunday. Instead of the smooth, beautiful, sweet, still, silk-velvet-lipped preaching, you should have sermons like peals of thunder, and perhaps we then can get the scales from our eyes. This style is necessary in order to save many of this people.” The fire and brimstone sermons paved the way for a full-blown religious reformation later that year. Speaking at the Bowery in Salt Lake City on September 21, 1856, as part of a series of sermons about reforming,  

57 Journal of Discourses 3:222-223, Brigham Young, March 2, 1856
Young testified: “We need a reformation in the midst of this people; we need a thorough reform, for I know that very many are in a cozy condition with regard to their religion. … you must part with your sins, or the righteous must be separated from the ungodly.”58

The reformation was modeled after New England religious revivals, described by Harriet Beecher Stowe as “A time when that deep spiritual undercurrent of thought and emotion with regard to the future life … exhaled and steamed up into the atmosphere which pervaded all things.”59 The aim was to bring people back to their religious devotion through strong preaching. Teachers were dispatched into homes to “catechize” members about their sins, asking a set of questions written by church leaders that all members were meant to answer. The questions included: “Have you shed innocent blood or assented thereto? Have you committed adultery? Have you betrayed your brother? Have you borne false witness against your neighbor? Do you get drunk? Have you stolen? Have you lied?”60 The Saints took the preaching to heart. Church meetings were better attended, many were rebaptized, tithing and church donations increased.61

The reformation also brought about a renewed emphasis on plural marriage. An example of the increased pressure to participate in plural marriage can be found in the literary efforts of the time. On November 26, the Deseret News printed a song called “The Reformation.” The most striking verse in the song reads:

Now, sisters, list to what I say,
With trials this world is rife
You can’t expect to miss them all,
Help husband get a wife!
Now, this advice I freely give,
If exalted you would be,
Remember that your husband must
Be blessed with more than thee.

Then, O, let us say,
God bless the wife that strives
And aids her husband all she can
T’obtain a dozen wives

Poems like this and a significant increase in preaching about the importance of polygamy led to an explosion of new plural marriages. Stanley S. Ivins’s landmark study on the statistics of Mormon polygamy demonstrates that during the Reformation “plural marriages skyrocketed to a height not before approached and never again to be reached. … there were sixty-five percent more of such marriages during 1856 and 1857 than in any other two years of this experiment.”

The effect of the Reformation was to arouse the Saints to a new religious consciousness. At the same time, it also set them more directly against federal government officials, whom the Satins believed were ruling without the consent of the governed and represented a sinful and wicked world that the Saints resisted. Three events during the summer and fall of 1857 irrevocably altered relations between Mormons and the United States government and solidified the perception among other Americans that Mormons were a dangerous group that needed to be reined in: an attack by a Mormon

---

mob on the office of federal judge George P. Stiles, the Mountain Meadows Massacre, and the Utah War all set the Mormons at irrevocable odds with the rest of the country.

**More Trouble with Judges**

The Saints’ relationship with the federal government was further damaged as they came into more difficulties with federally-appointed judges, two in particular: George P. Stiles and Judge William W. Drummond. Stiles, a member of the Utah Supreme Court and an excommunicated Mormon, worked to limit the influence of the Church in judicial and civil affairs. He began by trying to get the man empowered to serve writs, make arrests, and perform other important functions to be a gentile, simply because the church liked having a reliable churchman in this position. In addition, he issued a ruling from the bench that the United States marshal should be the executive officer in the district courts during territorial as well as federal cases. The mere fact that an apostate sat in such a position of power angered the Saints, but Stiles’s moves to limit their influence infuriated them. Several Mormon lawyers came into Stiles’s court and threatened him with violence. When he appealed to Brigham Young for help, Young answered that perhaps the judge should close his court if he could not enforce the law.

On the night of December 29, 1856, a mob of angry Mormons broke into Stiles’ office. The raiders removed everything from the office and then set a bonfire in the

---

backyard privy. When Stiles arrived on the scene he believed the entire contents of his office, including the records of his court as well as his law library, was in flames. While his furniture was set aflame, none of his books or records was burned. Not knowing what exactly had been burned and enraged that the Saints would be so bold as to destroy property of the federal government, Stiles promptly left for Washington, where he and Judge Drummond offered this event as proof that the people of Utah were in open rebellion against the United States.65

Judge Drummond was an obnoxious and “whoring Judge” who antagonized the Mormons from the moment he arrived in Utah. He was despised by the Saints, not only for his public criticisms of polygamy, despite the fact that he openly lived with another man’s wife, but also for his attack on the Church’s authority by questioning the jurisdiction of the probate courts, which by a territorial law of 1852 had come to include civil and criminal cases.66 He called a grand jury to investigate the records of the probate courts and wanted any illegal activity to result in indictments of both the judges and juries involved. He was the first federal official to challenge the Mormon’s peculiar judiciary system, and the Church believed he was endangering one of its front-line defenses against Gentile interference with polygamy.

It was as a writer of letters, not a judge, that Drummond seriously endangered the

65 Roberts, Comprehensive History, 4:203.
66 Roberts, Comprehensive History, 4:200. The Saints were not alone in their assessment of the man. On going to Utah he deserted his wife and children and took with him a prostitute from Washington, whom he occasionally seated beside him during court sessions. Fellow Judge, John F. Kinney urged Drummond’s removal, arguing that although he was an anti-Mormon “is in consequence of his immoral conduct … entirely unworthy of place upon the bench.” (Kinney to Cushing, n.d., Appointment Papers, Department of Justice) as found in Norman F. Furniss, The Mormon Conflict, 1850-1859 (Westport, Conn: Greenwood Press, 1977), 55.
Saints. While in Utah, he sent a continuous stream of letters to President Pierce and his cabinet about the wickedness of the church. His letter of resignation, written March 30, 1857, to Attorney General Jeremiah S. Black, along with a letter dated April 2 that named substantiating witnesses to his charges against the Mormons, was a major factor in the precipitation of the Utah War.

Drummond’s accusations repeated what many non-Mormons had said before, that Brigham Young ruled the territory as a tyrant, that the Saints had secretly sworn to “resist the laws of the country,” and that the Church was a “blind and treasonable organization.” He went on to charge the Mormons with inflicting cruel indignities upon representatives of the United States and blindly following Young’s orders to destroy the records of Justice Stiles’ courts. He closed his long summary of Mormon wrong-doing by claiming that “the Federal officers are daily compelled to hear the form of the American government traduced, the chief executives of the nation, both dead and living, slandered and abused from the masses, as well as from the leading members of the Church, in the most vulgar, loathsome, and wicked manner that the evil passions of men can possibly conceive.”

The New York Herald published Drummond’s entire letter on March 20, the day after the administration received it. On the day of its publication, Utah’s chief justice,

---

57 United States, The Utah expedition: Message from the President of the United States, transmitting reports from the secretaries of state, of war, of the interior, and of the attorney general, relative to the military expedition ordered into the territory of Utah February 26, 1858, 212.
John F. Kinney, who was visiting Washington at the time, presented the U.S. attorney general similar letters from himself and Utah surveyor general David H. Burr, both urging that a U.S. military force be sent to Utah. Specifically, Burr wrote that the “United States courts have been broken up and driven from the Territory.” The plain fact was, he said, “these people repudiate the authority of the United States in this country, and are in open rebellion against the general government.”

Just two weeks after taking office, James Buchanan and his cabinet had a collection of indictments against the Saints from its chief justice, an associate Supreme Court justice, and the surveyor general.

Drummond’s flair for the dramatic and constant stream of public letters about his experiences in Utah made his opinions the centerpiece of much of the press’s coverage of the impending war. Many newspapers printed his letter of resignation in its entirety. Others printed only part of it and expanded on Drummond’s claims of tyranny and polygamy, assuring their readers of the Saints’ hatred for their country. Soon, many American newspapers were responding sharply to what was going on in Utah. A letter published under the name “Veratus” in the April 29, 1857 American Journal made the outlandish claim that one hundred thousand Mormons were poised to fight the federal government. The New York Tribune told its readers that Utah was full of espionage, rape, robbery and suicide. “Surely there never was a more atrocious and revolting tyranny,” it

---

House of Representatives During the First Session of the Thirty-Fifth Congress, 1957-58, (Washington: James B. Steedman, 1858), Doc 71, 10:213


said.\textsuperscript{71} The New York \textit{Times} demanded Brigham Young be replaced by a new territorial governor, backed by a military force “to tender the Constitution with one hand, while a drawn sword is held in the other.”\textsuperscript{72} Hostility toward the Saints was all but universal. One author called Mormonism “the most daring and dangerous conspiracy ever formed against the liberties of man.” The Louisiana \textit{Courier} called Brigham Young “this horrid Mormon”; the New York \textit{Times} expounded upon his oppressive tyranny; and Horace Greeley’s \textit{Tribune} spoke of his followers as “exstatico-religious, tyrannico-politic and poly-uxorial loafers.”\textsuperscript{73}

The letters of Judge Drummond and the press coverage that followed helped to paint the Latter-day Saints as outsiders, people who could never be considered fellow citizens. Theorist Judith Shklar maintains that one of the most important meanings of citizenship is that of social status or what she calls “standing”—one’s position in relation to others.\textsuperscript{74} Citizenship, she argues, has always been a matter of inclusion or exclusion. The notions of standing, exclusion and inclusion are particularly useful ways of thinking about citizenship during the mid-nineteenth century because citizenship was not yet defined as a set of concrete privileges and obligations, but was discussed in terms of one’s relation to other people and to political power. Similarly, Kenneth Karst maintains that people have a strong need to belong, that membership in a community is central to identity, and that a sense of common belonging is often accompanied by exclusionary


\textsuperscript{74} Shklar, \textit{American Citizenship}, 26.
attitudes toward outsiders. American history can be understood as a continual struggle between an ideal of equality that is inclusive and one that excludes some persons within the country as outsiders or “the other.” The anti-Mormon writings quoted above suggest that Americans were doing their best to make Mormons an internal “other,” to exclude Mormons by describing them as a blight that needed to be cut from the body politic.

Mountain Meadows

Amidst the background of the reformation and the threat of federal troops being dispatched to Utah, the darkest event in the Church’s history occurred. The massacre at Mountain Meadows is a much-studied event in the history of the Latter-day Saints. The most recent studies have focused on the involvement of Brigham Young and other Church leaders in the massacre. That is not the focus of this dissertation. What concerns this study is the effect the Mountain Meadows massacre had on the Saints’ relationship with the rest of the country and the way the tragedy colored the Mormons as heartless, murderous, traitors in the minds of most Americans.

The Mountain Meadows massacre was a mass slaughter of the Francher-Baker wagon train at Mountain Meadows, just outside Cedar City, Utah on September 11, 1857.

75 Karst, Belonging To America.
The wagon train was made up of emigrant, most of them from Arkansas, headed for California. They stopped to rest and regroup their 800 head of cattle at Mountain Meadows. Initially, local Mormon militia leaders headed by John D. Lee conspired to lead militiamen disguised as Native Americans along with some members of the local Paiute tribe in an attack against the wagon train. The emigrants fought back and a siege ensued. When the Mormon militiamen discovered that they had been identified as the attacking force, they decided to annihilate the emigrants. Their intent was to leave no witnesses who could speak of Mormon complicity in the siege. Using a white flag to lure the emigrants out of their fortifications, the militiamen executed the entire party except for seventeen children who were under the age of eight years old. Although the exact number of emigrants murdered is not known, most historians agree about 120 men, women, and children were shot dead at point blank range that day. After the massacre, the corpses of the victims were left to decompose for two years on the open plain, the surviving children were distributed to local Mormon families, and most of their possessions auctioned off at the Cedar City tithing office.

The Mountain Meadows massacre happened in part because of the rhetoric of millennialism used by Church leaders during the reformation, the heightened religiosity of the Saints and the ways that often put them at odds with the federal government, and the deployment of troops to Utah Territory, all of which collided during the summer of 1857. The result was a horrific event that the rest of the United States could point to as proof that the Saints were not polygamous but barbarous, murderous, villains.
The first widely-published report of the massacre was made by Brevet Major J.H. Carleton in 1859. He had been ordered by the U.S. army to investigate the incident and bury the still exposed corpses that lay in Mountain Meadows. In that report he wrote: “Major it is no use to talk or split hairs about that accursed race. All fine spun nonsense about their rights as citizens, and all knotty questions about Constitutional Rights should be solved with the sword. … Give them one year, no more; and if after that they pollute our soil by their presence make literally Children of the Mist of them.” This was the general tone of all press coverage of the event. The country was too preoccupied with the Utah War and impending Civil War to pay the Massacre much attention until 1872, after investigators obtained confessions from some of the militia men and accounts of the horror were published is popular novels about the Saints. The effects of the massacre on Mormons’ standing in America will be covered in greater detail in the next chapter.

**The Utah War**

If the newly-elected James Buchanan had reason to feel that the rebelliousness of the Saints demanded forceful correction, the inflamed public opinion made such a policy almost mandatory. The editor of the New York Times summed up the situation this way: “The general feeling of the people in the Union in all sections, and of all sects and parties, is so decidedly adverse to the Mormons that the government is not likely to be held to a very strict account for its acts towards them, even though they should be utterly

---

exterminated.” It seemed politically necessary to take action against the Saints.

Buchanan did not want the Mormons using the doctrine of popular sovereignty to defend theocracy and polygamy; he believed that the result would be a federal government less capable of resolving the slave controversy over slavery and preserving the Union. It is no accident that Washington turned its focus to the rebellious Mormons when the nation was deeply divided over the great North-South issues of the Fugitive Slave Act, the Supreme Court’s Dred Scott decision, and growing bloodshed in Kansas Territory. By intervening in Utah, the new administration could send a message to would-be Southern secessionists that rebellion would not be tolerated.

In his first annual address of December 8, 1857, Buchanan indicated that military action against the Saints was likely. He criticized their theocratic society and rebelliousness in phrases reminiscent of Drummond’s letter of resignation. He spoke of Brigham Young’s plotting to preserve his “despotic power” by separation from the United States. He told Congress that “This is the first rebellion which has existed in our Territories; and humanity itself requires that we should put it down in a manner that it shall be the last.” Buchanan made another proclamation against the Saints later that spring, which was equally austere; it charged the people with the crime of treason. It ordered Mormons within the Territory to accept new federal officials and promised all

79 Kenneth Stampp, America in 1857: A Nation on the Brink (New York: Oxford University Press, 1990), 200. Stampp concludes that “Public sentiment favoring both a firm assertion of federal authority in Utah and the curbing of Brigham Young’s political power had made some kind of response on [Buchanan’s] part almost mandatory.”
who did so “a free pardon for the seditions and treason heretofore by them committed.”

But Buchanan also sternly warned that those who continued to oppose the authority of the United States could “expect no further lenity.”

By allegedly setting fire to books outside Judge Stiles’s office, the people of Utah had engaged in an activity close to rebellion. In so doing, they had given the Buchanan administration suitable pretext for armed intervention in Utah. To many Americans, however, the real purpose of the government’s expedition to Utah was to root out theocracy and polygamy. The eastern press perseverated on Young’s relations with his “concubines” and referred to Daniel H. Wells’ “seraglio,” comparing it with the harems of the Islamic world. Polygamy, they were convinced, must have produced not only sensuality but bestial behavior, with men marrying women and their daughters at the same time, sleeping with several wives in the same bed, and committing other dark acts akin to “oriental” degeneracy. Mormonism, as interpreted by those who wrote to expose its degeneracies, was a repulsive excrescence on American culture. Newspapers during 1857 branded polygamy “the enslavement of women.” They referred to Salt Lake City as “that sink of iniquity,” and to the Church as a “giant of licentiousness, lawlessness, and all evil.” Whereas President Buchanan cited the burning of law books and court records as the event that convinced him to send troops to Utah, most people believed this was a

---

81 Ibid., 202 and 242.
war against polygamy. In this way, it was as much a war about religion as it was about politics.

The expedition to Utah was widely supported as an expedition to free the people of Utah from the tyranny of Brigham Young and polygamy. Since gentiles would not have accepted the rule of Brigham Young, they assumed that the Mormons themselves were discontented with the theocracy erected in a democratic nation. These non-Mormons reasoned that the Saints would not oppose the entrance of the army into their Territory; rather they would welcome it with open arms as a savior come to redeem them from a living hell. Polygamy, they believed, must have fatally cracked the unity of the believers. Simply offer protection to all people who want to leave, one editor said. “This will cause a stampede among the women, and at once blow the Mormon Church to atoms or bring the Saints to terms.” Therefore, as the troops were dispatched in mid-July 1857, Americans believed they were marching to free people from tyranny and polygamy. They could not have been more wrong.

The Saints believed they were preparing for the end of times, building the Kingdom of God to usher in the second coming. When they learned the army of the United States was marching against them, the final days never seemed so close. In the days after learning of the dispatched army, the Saints were defiant. Addressing a congregation shortly after learning the an army had been dispatched for Utah, Brigham Young roared, “As for any nation’s coming to destroy this people, God Almighty being

---

84 New York Herald, June 5, 1857.
my helper, they cannot come here.”\textsuperscript{85} He was followed by an irate Heber C. Kimball who bellowed, “Send 2500 troops here, our brethren, to make a desolation of this people! God Almighty helping me, I will fight until there is not a drop of blood in my veins. Good God! I have wives enough to whip out the United States, for they will whip themselves. AMEN.”\textsuperscript{86}

Amidst the bravado, however, there was also a great deal of fear. The Saints had lived through terrible mistreatment in Missouri and Illinois. They believed the army was marching on orders to destroy them. Apostle Wilford Woodruff wrote in his journal that “An army has been sent by the United States to make was upon us for the sole purpose of destroying the Church of Jesus Christ of Latter-day Saints.”\textsuperscript{87} Kimball envisaged wholesale executions if the troops should arrive: “when they come here, the first dab will be to take brother Brigham Young, and Heber C. Kimball, and others, and they will slay us. That is their design; and if we will not yield to their meanness, they will say we have mutinized against the President of the United States, and they will put us under martial law and massacre the people.”\textsuperscript{88} They feared the federal army would do what the people of Missouri had failed to do: exterminate the Mormons.

On August 5, 1857, Brigham Young issued a proclamation to the people of Utah. “Citizens of Utah—We are invaded by a hostile force, who are evidently assailing us to accomplish our overthrow and destruction.” After rehearsing the history of the Church’s

\textsuperscript{85} Journal of Discourses 4:226, (September 13, 1857).
\textsuperscript{86} “Remarks” by Kimball of July 26, 1857, in Deseret News, August 12, 1857.
\textsuperscript{87} Matthias Foss Cowley, Wilford Woodruff: History of His Life and Labors as Recorded in his Daily Journals, (Salt Lake City: Deseret News, 1909), 391.
\textsuperscript{88} “Remarks” by Kimball of July 26, 1857, in Deseret News, August 12, 1857.

66
previous mistreatment at the hands of the Gentiles and complaining of the Government’s decision to send an “armed, mercenary mob” rather than an investigating committee on the “instigation of anonymous letter-writers,” “corrupt officials,” “hireling priests and howling editors,” he declared that his people must resort to the great first law of self-preservation and stand in our own defenses.” He accordingly prohibited any army from entering Utah, ordered the people to ready themselves for action, and imposed martial law upon the Territory. This proclamation was in fact treasonous. No state or territorial governor had the right to deny entry to the federal army. When the dust cleared, this document would be at the heart of Buchanan’s defense for sending troop to Utah.

In early August, Young activated the Nauvoo Legion—the Utah militia under the command of Daniel H. Wells. Young’s orders to the Legion were to ascertain “the locality or route of the troops [and] proceed at once to annoy them in every possible way. Use every exertion to stampede their animals, and set fire to their trains. Burn the whole country before them and on their flanks … Take no life, but destroy their trains, and stampede or drive away their animals at every opportunity.” The Saints harassed the army as it crossed the plains, burning brush, causing the army’s stock to die from lack of food. The harassment, early winter storms, and Mormon defense of the canyons leading into Salt Lake, forced the army to go north and eventually camp in Wyoming for the winter. In late March, Young called for the abandonment of the northern settlements,

89 Proclamation dated September 15, 1857, in Utah Expedition, 34-35.
91 Roberts, Comprehensive History, 4:299.
including Salt Lake City. The Saints formed wagon trains several miles long as they
heading south to make camp along the banks of Utah Lake near Provo.

While the Mormons spoke of fighting the army at first, Church leaders knew that
engaging such a large armed force would end in a bloody defeat. Young hoped to appeal
to the army leaders’ patriotic sensibilities, using his own understanding of citizenship and
that of his followers to convince the army to pull back. He exchanged a series of letters
with the commanding officer of the advancing troops, Colonel Edmund B. Alexander.
Young’s letter of October 14, 1857 so articulately sums up the Mormons’ understanding
of the situation it is worth quoting at length here:

As citizens of the United States, we both, it is presumable, feel strongly
attached to the Constitution and institutions of our common country; and,
as gentlemen, should probably agree in sustaining the dear bought liberties
bequeathed by our fathers—the position in which we are individually
placed being the only apparent cause of our present antagonism; you, as
colonel commanding, feeling that you have a rigid duty to perform in
obedience to orders, and I, still more important duty to the people of this
Territory.

I need not here reiterate what I have already mentioned in my
official proclamation, and what I and the people of this Territory
universally believe firmly to be the object of the administration in the
present expedition against Utah, viz: the destruction, if not the entire
annihilation of the Mormon community, solely upon religious grounds…

It therefore becomes a matter for your serious consideration
whether it would not be more in accordance with the spirit and institutions
of our country to return with your present force, rather than force an issue
so unpleasant to all, and which must result in much misery and, perhaps,
bloodshed, and, if persisted in, the total destruction of your army. And,
furthermore, does it not become a question whether it is more patriotic for
officers of the United States army to ward off, by all honorable means, a
collision with American citizens, or to further the precipitate move of an
indiscreet and rash administration, in plunging a whole Territory into a horrible, fratricidal and sanguinary war.\textsuperscript{92}

Citizenship is central to Brigham Young’s plea for peace and promise of destruction. He argued that by attacking Utahans, the army would be attacking fellow citizens, members of the American society. He not only speaks as a “citizen”, but goes on to refer to the revolution and natural rights, including those of representation and religious freedom, to appeal to the colonel’s patriotic sensibilities.

When it became clear that the army would not be dissuaded by Young’s pleas of respecting Mormons’ rights as citizens, the governor changed tack. He announced that he wanted all the Saints outside of Utah to join the main settlements in the territory. He believed the war would put them at risk and argued that gathering all the Saints in Utah would strengthen the Mormon numbers. He recalled missionaries and colonists from California and what is now Nevada. He asked those serving missions abroad to begin the long trek home to Utah. Should the army make it to Utah, Young promised to burn Salt Lake City to ashes the way the Russians had burned Moscow after Napoleon’s invasion of Russia. He said the Saints would scatter into the mountains and find a new place to gather in some more remote region of the West. He believed it was better to destroy their homes and farms than to leave them for outsiders, as they had done in Missouri and

\textsuperscript{92} Brigham Young to Colonel Alexander, October 14, 1857. \textit{House Exec. Doc. 71}, 35\textsuperscript{th} Cong., 1\textsuperscript{st} sess., 75-76. This collection of official papers includes the reports submitted by President Buchanan on February 26, 1858, in response to the Resolution of the House of Representatives of January 27, 1858, requesting “the President, if not incompatible with the public interest, to communicate to the House of Representatives the information which gave rise to the military expeditions ordered to Utah Territory, the instructions to the army officers in connexion with the same, and all correspondence which has taken place with said army officers, with Brigham Young and his followers, or with said others, throwing light upon the question as to how far said Brigham Young and his followers are in a state of rebellion or resistance to the government of the United States.”
Illinois. Young wanted the invading army to find the Salt Lake Valley in the same condition the Saints had found it when they arrived a decade earlier.93

This was a bitter pill for the Saints to swallow. Mormons were used to Brother Brigham preaching about smiting the enemy, and now they were listening to him speak of running away instead. “Some may marvel why the Lord says, ‘rather than fight your enemies, go away,’” Brigham acknowledged. He explained, “it is because many of the people are so grossly wicked, that were we to go out to fight, thousands of the elders would go into eternity, and women and children would perish.”94 The Saints still had spiritual work to do in order to be ready to defeat their enemies. The Kingdom of God was not yet ready to confront such a powerful outside threat. He described the Church’s position in grave terms. The anti-Mormons were plotting “to blot us out of existence if they can.” Resistance was futile, he warned. “If we open the ball upon them by slaying the United States soldiery, just so sure they would be fired up with anger to lavishly spend their means to compass out destruction, and thousands and millions if necessary would furnish means, if the Government was not able.” Young believed that retreating into the uninhabited areas nearby was the only alternative left to the Saints.95

As the army neared Salt Lake, members of Congress defended the President’s choice to send troops to Utah, despite the trouble they had had reaching the Salt Lake

93 Brigham Young, Discourse, August 16, 1857, reported by George D. Watt, in Historian’s Office Reports of Speeches.
94 “Instructions” by Young of March 28, 1858, in Deseret News, April 14, 1858 and in Journal History, March 21, 1858.
95 A Series of Instructions and Remarks by President Brigham Young at a Special Council, March 21, 1858 (pamphlet).
Valley. These speeches painted the Saints as un-American, traitorous zealots and focused on their marriage of religion and government as a primary reason for sending the army west. Representative John Thompson of New York spoke on January 27 saying, “This religious fanaticism has now assumed the form of a civil polity, and this civil polity is anti-republican and despotic; and this despotism has committed overt treason against the Government of the United States. The authority of every Federal officer is denied, or a reign of terror instituted over all their acts.”96 The only solution, Thompson argued, was to “send an army there sufficient to apprehend Young and all his co-conspirators against the authority of the General Government—who will be found to include every lord of the seraglio—try them for treason, and hang every one, without distinction, who should be found guilty; excluding every Mormon from any participation in the legal processes of the court.”97 The Saints were not to be treated as Americans, but as outsiders who threatened the safety of the nation. In March, Representative William W. Boyce of South Carolina called the Mormons a “cancer on your body politic.”98 Their relationship to the rest of the nation was making the rest of the country sick. They needed to be reined in or eliminated.

The Saints responded to the impeding army and subsequent attacks made by members of Congress with a petition of their own. The petition, written by Heber Kimball and read on the House floor in March of 1858, pleaded with Congress to recall the army. “We appeal to you as American citizens who have been wronged, insulted,

97 Ibid.
98 Ibid., 1085-86
abused, and persecuted…We claim to be a portion of the people, and as such have rights which must be respected, and which we have a right to demand.” Kimball recounted the mistreatment the Saints had endured in Illinois and Missouri and sought to prove their loyalty by reminding Congress of the Mormon Battalion, sent to fight in the war with Mexico. He implored that the Mormons wanted nothing more than to be treated as “friends—as citizens entitled to and possessing equal rights with our fellows—and not as ‘alien enemies,’ lest you make us such.” He reiterated the Saints’ desire to elect their own officials and freedom to practice their religion to the fullest. He concluded by asking Congress to give the Saints their “constitutional rights; they are all we ask, and them we have a right to expect.”

As the snow began to melt in the spring of 1858, tempers on both sides cooled and a dialogue began between Church leaders and the newly appointed governor, Alfred Cumming. At first, Cumming was hostile to the Mormons, mostly because he believed what he had read and been told by the runaway judges and by Garland Hurt, who, in December wrote Cumming that Church leaders had instilled in their people a “heartfelt hatred for the people of the United States.” But, in May Cumming went to the Saints to talk them into returning to Salt Lake and came away with a different opinion. After a belated inspection of the territorial records, Cumming found that everything was in a state of “perfect preservation.” Since Stiles, Drummond, and others had advanced the

100 Hurt to Cumming, December 17, 1857, in Dale L. Morgan, “The Administration of Indian Affairs in Utah, 1851-1858,” *Pacific Historical Review* 17 (1948), 394.
Mormons’ destruction of federal documents as reason enough for intervention in Utah, and the public in the States had become greatly concerned for the safety of these papers, Cumming believed that by disproving these rumors, he could successfully portray the Mormons as law-abiding citizens to the leaders of the army pressing forward toward Utah.

Further investigation convinced him of the falseness of another charge against the Saints. In Gentile minds, the Church stood convicted of having imposed a cruel tyranny upon the people of Utah. In fact, one of the loudest arguments in favor of the expedition held that many Mormons, oppressed but unable to flee, would rush to the army as soon as it was near enough to provide protection. When on April 24 Cumming publicly offered assistance to all who “considered themselves unlawfully restrained of their liberties,” only fifty-six men, thirty-three women, and seventy-one children responded, and most of the adults told Cumming that they “had no complaint against anyone” but only had found Utah economically unrewarding.”

As Cumming exposed many of the rumors about the Saints to be false, support for the Utah expedition back east waned. Similarly, Church leaders’ hostility toward Cumming began to thaw as they got to know him. Cumming had issued a proclamation to the people of Utah in late November assuring the Saints that he came to Utah “with no prejudices or enmities, and, by the exercise of a just and firm administration, I hope to command your confidence. Freedom of conscience, and the use of your own peculiar mode of serving God, are sacred rights

102 Ibid.
guarantied by the Constitution, with which it is not the province of the government, or the
disposition of its representatives in this Territory, to interfere.\textsuperscript{103} After long talks with
the new governor, Young could see that Cumming was not planning to interfere in the
affairs of his Church, particularly polygamy. Nor was he going to treat the Mormons as
rebels against the Government. To Cumming, Young wrote that his “highly
commendable efforts in behalf of law, order, and the extension of civil and religious
rights, are cheerfully and promptly sustained by the people as well as by myself.”\textsuperscript{104}
Peace was possible.

\textbf{Denouement}

In May, Buchanan came under considerable pressure to end the crisis. To that
end, he sent an official peace commission to Utah, made up of Benjamin McCulloch and
Lazarus Powell. The men arrived in June and promptly offered a free pardon to the Saints
for any acts incident to the conflict as long as they promised to submit to government
authority. The Government’s intentions, Powell explained, included the establishment of
law and order in the Territory; the insistence upon obedience to the constitution, statutes,
and officers; and the protection of the Mormons’ constitutional rights. He urged the
people of Utah to accept the President’s pardon.\textsuperscript{105}

\textsuperscript{103} Printed in \textit{House Exec. Doc. 71}, 35\textsuperscript{th} Cong., 1\textsuperscript{st} sess., 75-76.
\textsuperscript{104} \textit{Journal History}, May 8, 1858.
\textsuperscript{105} Powell and McCulloch to Floyd, June 26, 1858, 35\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., House Exec. Doc. 2, Vol. 2, Pt. II,
168-72 and \textit{Journal History} June 10, 11, 1858.
The President’s pardon was difficult for the Saints to accept. Buchanan maintained a harsh stance towards the people of Utah. To his “fellow-citizens of Utah,” he wrote, “this is rebellion against the government to which you owe allegiance. It is levying war against the United States, and involved you in the guilt of treason.” He went on to deny that the religion of the Saints was among the reasons he sent the troops west. “Do not deceive yourselves nor try to mislead others by propagating the idea that this is a crusade against your religion. The Constitution and laws of this country can take no notice of your creed, whether it be true or false.” The president neither took on himself any blame for what had happened nor made any concessions. Instead he charged that Utah had for years shown “a spirit of insubordination to the Constitution and laws of the United States.” This rebellion, he said, was “without just cause, without reason, without excuse.” In the end, however, he offered “a free pardon for the seditions and treasons heretofore by them committed,” to all willing to obey the laws, but no leniency to those who were not.106

In response, the Mormons denied that they had done anything wrong and instead poured criticism on Buchanan and referred to the days of Missouri and Nauvoo. In a speech to the peace commission George A. Smith defended the Saints hostile position during the crisis. “We can see our wives and children turned out of doors and driven from their homes over and over again, but we can never disgrace the blood of our ancestors, by submitting tamely to be ruled by bayonets. We are American Citizens! Citizens of this

great republic! Our fathers bled for its liberties, which they have bequeathed to us, as a priceless treasure; and no tyrant shall ever wrest them from us.”

After a day of meetings with Powell and McCulloch, Brigham Young announced the termination of hostilities. But in so doing, he insisted that the Mormons had always dutifully obeyed the Constitution; he challenged the accuracy of the charges contained in the President’s proclamation; and he boasted of the Mormons’ ability to defeat any force sent against them. Yet, in between these defiant assertions, Brother Brigham also announced his acceptance of the pardon.

The Saints’ marriage of civil and ecclesiastical authority, their hostility toward federally appointed officials, and their open practice of polygamy set them at odds with the rest of the country. Wrapped up in issues of popular sovereignty and slavery, their hopes for self-rule were dashed when Congress denied Utah statehood and instead ensured federal rule by establishing Utah as a territory instead. This also ensured a tumultuous relationship between the federal government and the Saints, who would continue to place themselves apart from the rest of the nation by actively defending their rights to build the Kingdom of God in the Great Basin—complete with theodemocratic government and plural marriage. After the events of 1857—the attack on Judge Stile’s office, the Mountain Meadows Massacre, and the Utah War—the Saints’ standing in the nation was suspect. The social and political discourse of the 1860s further entrenched the Saint’s status as “outsiders” within the nation.

107 Quoted in Roberts, Comprehensive History, 4:429 (emphasis in original).
108 Journal History, June 12, 1858.
Chapter 2: The Threat of Polygamy

In his book Civic Myths: A Law and Literature Approach to Citizenship, Brook Thomas argues that by studying literature we can better understand how citizenship works in American ideologies. Whereas citizenship laws help determine the condition of civic membership, Thomas maintains that “works of literature can suggest the effects that legal determinations have on citizens’ everyday lives as well as how people’s interaction within a community can affect what goes on in the civic realm.”¹ This model is particularly helpful to historians studying antebellum citizenship because direct participation in civic life—holding office, serving as jurors, voting—was confined to a few. Thus, indirect participation in the voluntary associations of civil society was “essential to the well-being of the commonwealth.”² As members of the Church of Jesus Christ of Latter-day Saints, a voluntary association that openly encouraged plural marriage and theocracy, many Americans considered Mormons as a threat to the well-being of the nation. In tell-all novels, newspaper editorials, political cartoons, lectures and sermons, authors bombarded their audiences with scandalous portrayals of polygamy, titillating the readers with harrowing tales of Mormon barbarity while at the same time constructing Mormons as unfit citizens.

But why were Mormons so threatening? Why did it matter that the Mormons practiced polygamy? And why would it matter whether the members of a religious community in a remote part of the country chose to follow devoutly the dictates of their

² Ibid., 14.
leader? Scholars have long observed that the success enjoyed by writers and illustrators of Mormonism probably tells us less about Mormon polygamy than it does about the people who were so anxious to read about it. Roger Smith’s understanding of nineteenth-century citizenship provides a useful guide to help us better understand how and why the Mormons were so troubling to Americans. In his tome *Civic Ideals: Conflicting Visions of Citizenship in U.S. History*, Smith focuses on the shaping influence of beliefs in white Anglo-Saxon Protestant male superiority and systematically tracks the legal manifestations of illiberal practices and beliefs in American history, arguing that American national identity, far from being hegemonically liberal, is instead the product of multiple traditions: liberalism, republicanism, and “ascriptivism.” He primarily focuses on ascriptivism, which he defines as a restricted vision of citizenship with its basis in ascribed characteristics such as race and gender.

Smith’s ascriptivism can be clearly seen in anti-Mormon writing of the nineteenth century, demonstrating that we can learn more about citizenship by including religion as a category of analysis. The complicated literary attacks made against the Saints stemmed, in part, from the anxiety that Mormons could not be easily placed into the same categories as those of traditionally troubling American subjects such as blacks, Native Americans, or immigrants. Yet, they clearly could not be numbered among the white, Anglo-Saxon, Protestants who were seen as superior citizens. Mormons seemed

---

4 Smith, *Civic Ideals*. 

78
dangerous to Americans because they made the hegemonic paradigm of white, Anglo-Saxon, Protestant monogamy in America appear vulnerable.

As we saw in Chapter 1, the Mormons and their adversaries in Washington held conflicting notions of what citizenship meant during the 1850s and 1860s. Thomas demonstrates that it is out of these very kinds of conflicts that the definition of citizenship grows into civic myths and ideals. This chapter traces the discursive efforts of anti-Mormons during the 1850s and 1860s to construct a civic myth of what it meant to be an American by illustrating why Mormons could not be placed in that category. Mormons were portrayed as un-American in tell-all novels, newspaper editorials, political cartoons, lectures and sermons. Yet, this portrayal relied entirely on their religious affiliation because Mormons could not be easily placed in the typical categories used to deny others membership in the American polity. In the literature examined below, we see Americans struggle to reconcile their Jacksonian notions of liberty and religious tolerance with their belief that Mormon religious freedom to practice polygamy should be reigned in. The tension between wanting America to be a free and tolerant country and at the same time wanting to squash the peculiar people is palpable in the attacks against Mormons that emerged during this time. This chapter further explores the paradox of religious freedom maintained by those who at the same time insisted American identity was white, middle-class and determinedly protestant.

---

5 Thomas, Civic Myths, 21.
Mormonism Threatens Western Civilization

Anti-Mormon writing appeared at almost the same time as the religion. The Saints were the subject of numerous books, newspaper articles and magazine exposés as early as 1830. Most of the writing focused on the story of the gold plates, visitations by angels, Joseph Smith and his history, and the secret temple ceremonies. After 1852, however, anti-Mormonism and anti-polygamy became increasingly synonymous terms. By the mid-1850s, many who wrote about Mormonism understood the centrality of polygamy to Latter-day Saint theology and therefore made it central to their writings about Mormons. For example, former secretary of Utah Territory and anti-Mormon writer, Benjamin Ferris, wrote in 1856 that polygamy “as an element of salvation, has become paramount to the atonement, and even to faith itself.” Anti-Mormon writers explained that to be considered a good Mormon, a man had to be a polygamist. Quickly, all Mormons became polygamists in the American imagination, and polygamy was something to write about.

---

6 Alexander Campbell, founder of the Disciples of Christ, wrote the first published anti-Mormon pamphlet. The text appeared first as articles in his own paper, the Millennial Harbinger (1831), and then in a pamphlet entitled Delusions (1832). Other examples of early anti-Mormon writings include, Henry Caswell, The City of the Mormons; or, Three Days at Nauvoo, (London: Printed for J.G.F. ad J. Rivington, 1843); J.B. Turner, Mormonism in All Ages: or, The Rise, Progress, and Causes of Mormonism: With the Biography of its Owner and Founder, Joseph Smith Junior, (New York: Published by Platt and Peters, 1843); John A. Clark, Gleanings By the Way, (Philadelphia: W.J. and J.K. Simon; New York: Robert Carter, 1842); William Swartzell, Mormonism Exposed: Being a Journal of a Residence in Missouri from the 28th Day of May to the 20th of August, 1838, Together with an Appendix Containing the Revelation Concerning the Golden Bible, with Numerous Extracts from the ‘Book of Covenants,’ &c., &c. (Pittsburgh: A. Ingram, Jr., Printer, 1840); Tyler Parsons, Mormon Fanaticism Exposed: A Compendium of the Book of Mormon, or Joseph Smith’s Golden Bible: Also, the Examination of its Internal and External Evidences with the Argument to Refute its Pretences to a Revelation from God, Argued ... between Freeman Nickerson, a Mormon, and the Author, Tyler Parsons (Boston: Printed for the Author, 1841); LaRoy Sunderland, Mormonism Exposed: In Which is Shown the Monstrous Imposture, the Blasphemy, and the Wicked Tendency, of that Enormous Delusions, Advocated by a Professedly Religious Sect, Calling Themselves “Latter-day Saints” (New York: Printed and Published at the Office of the New York Watchman, 1842).

Nearly 100 novels, dozens of book-length memoirs and exposés, and hundreds of magazine and newspaper articles about polygamy and its association with theocracy flooded the country after 1852.  

The majority of anti-Mormon publications emerged in one of three genres, all of which also doubled as exposés. First, narratives in the form of novels, testimonials, or stories populated local and national presses. Women wrote most of the anti-Mormon narratives that focused on polygamy as the central evil to Mormonism. In their stories they included variants of Mormon lawlessness: murder, rape, kidnapping, theft, and fraud. These types of crimes, they argued, served to bolster the institution of plural marriage and were used as literary tropes to highlight its nefarious implications of polygamy for women. Travel literature from government officials, military personnel from the 1857 “Utah War,” and passers-by en route to California, made up the second genre of anti-Mormon literature. These stories always devoted at least significant sections

\footnote{Gordon, *The Mormon Question*, 29. Anti-polygamist authors were successful, in part because the social and economic conditions of the 1850s that created a ready market for their writings. At mid-century, the market for fiction was burgeoning. Women and young people bought and read books as they had never done before. The power of the printed word was extended far beyond the male elite that traditionally had controlled literary taste and output. Publishers’ marketing practices improved rapidly in the late 1840’s and early 1850’s. Closely tracking the transportation and mechanical revolutions, book jobbers travelled thousands of miles by rail, peddling cheap books churned out by steam presses. See generally the work of William Charvat, *The Profession of Authorship in America, 1800-1870*, ed. Matthew J. Bruccoli (Athens, Ohio: Ohio State University Press, 1968) and Nina Baym, *Woman’s Fiction: A Guide to Novels by and about Women in America, 1820-1870* (Ithaca: Cornell University Press, 1978) and Baym, *American Women Writers and the Works of History, 1790-1860* (New Brunswick, NJ: Rutgers University Press, 1995).}

\footnote{Jana Riess argues that the nature of anti-polygamy discourse was often contingent upon the gender of its author. While “women focused almost single-mindedly on the horror of Mormon polygamy,” men focused more on its political and religious challenges, “deed[ing] the ‘tyranny’ of Mormon theocracy and the debasement of Mormon theology.” Jana K. Riess, “Heathen in Our Fair Land: Anti-Polygamy and Protestant Women’s Missions to Utah, 1860-1910” (Ph.D. dissertation, Columbia University, 2000). From abstract.}
of their writings to tales about and reflections on polygamy, interspersed with other kinds of descriptions and observations of Mormons. Third, and less frequent, treatises on political affairs in Utah emerged in many popular press outlets. All three genres will be examined here to ascertain why Mormons were constructed as such a threat to the nation and how they were subsequently denied membership in the American polity because of their religious beliefs.

Polygamy was a threat to the United States, in part, because it was deemed “uncivilized.” Monogamy was, according to anti-Mormon writers, both essential to civilization and the only possible marital form in a democracy. Their logic went something like this: because the nations of Western Europe were the most civilized on earth, and because monogamy was uniformly the only legitimate form of marriage in those countries, monogamy was therefore a key component to civilized life. Theorists, such as the influential anthropologist Henry Lewis Morgan, argued that monogamy alone placed societies on a “moral basis.”

Although the threat of Mormon polygamy was remote given the isolation of Mormons in Utah, anti-polygamist writers were convinced that the threat was real—they did not trust the nation to sense the danger to its own spiritual and moral welfare. The result would be the demise of decency and the collapse of civilization. Monogamy, they believed, secured the identity of America as a civilized nation. Francis Lieber, in his essay decrying Mormon polygamy, defined monogamy “as a law written in the heart of

---

10 Henry Lewis Morgan, Ancient Society; or, Researches in the Lines of Human Progress from Savagery through Barbarism to Civilization. (New York: H. Holt & Company, 1877), 487. For more on the importance of monogamy to western civilization see, 505-515.
our race … one of the elementary distinctions—historical and actual—between European and Asiatic humanity. It is one of the framers of our thoughts, and moulds [sic] of our feelings; it is a psychological condition of our jural consciousness, of our liberty of our literature, of our aspirations, of our religious conviction, and of our domestic being and family relation, the foundation of all that is called polity.”

Monogamy was more than a marriage practice—it was central to the American national essence and served as an expression of subjectivity itself.

Unrestrained sexuality was both explicit and implicit in anti-Mormon literature. In her travel report, Mrs. Thomas Fitch insisted that the Mormon system of polygamy was nothing more than “organized indulgence,” an attempt to “religionize sensuousness.”

Perversion of the sexual instinct, anti-Mormons writers argued, seemed inevitably to accompany religious error. Hamilton Child maintained that, “The basis of Mormonism is polygamy, and nothing else; the ‘prophets’ are sensualists, whose sole desire is to keep a harem of concubines; and in no other way can they carry out their beastly designs, than by cloaking their hideousness under the pretence of a religious sect.” The false ideology of Mormonism had deadened the moral sense and liberated man’s wild sexual impulse from the normal restraints of civilization. Descriptions of Mormon men’s insatiable

---

14 Hamilton Child, Gazetteer and Business Directory of Wayne County, New York, for 1867-1868 (Syracuse: Printed at the Journal Office, 1867), 54.
sexual appetite are not hard to find. Perhaps most influential was the description made by John C. Bennett, whom the Mormons expelled from the Church as a result of his own flagrant sexual immorality. According to Bennett, the Mormons maintained secret orders of beautiful prostitutes who were reserved for various officials of the Church. Bennett invented the fantasy of “The Mormon Seraglio” which soon became a trope in anti-Mormon writings.15

Unrestrained sexuality, the anti-Mormon authors argued, would undoubtedly lead to the breakdown of civilization. Americans believed that social order rested on man’s ability to control sexual desire, and therefore could not tolerate the implied criticism of its sexual ethics that Mormon polygamy put forth. Several books written in the nineteenth century traced the progress of civilization through an evolution of sexualities. According to these theorists, human sexuality began with promiscuity, then progressed to polygamy, and ultimately ended up in monogamy.16 The crusade to end polygamy in America and purge society of the alleged sexual excesses of polygamy was not merely a campaign for Christian virtue; it was also essential for the preservation of the community’s confidence in itself.17 The sexual relations between men and women were the basic condition upon which all social and political life depended. Following this logic, anti-Mormons, without

15 John C. Bennett, The History of the Saints; Or, An Exposé of Joe Smith And Mormonism, (Boston: Leland & Whiting, 1842).
16 This was most famously argued by Francis Lieber in his Manual of Political Ethics: Designed for College and Student at Law, 2 vols. (Boston: C.C. Little and J. Brown, 1838-1839), 2:9, 13. Lieber’s treatise on western monogamy was later cited by Justice Waite in Reynolds vs. United States.
exception, argued that monogamous marriage was vital to the functioning of the state, and as such, family structure was a matter of national concern.  

**Polygamy Destroys the American Family and Home**

As religious historian Colleen McDannell has demonstrated, the mid-nineteenth century witnessed several significant shifts pertaining to the family and Protestant theology. The nuclear family became privileged over the older model of the extended family, the mother-child bond became the most important relationship within the family, and “mothers were the saviors of the sons and husbands.”

---

18 Sarah Barringer Gordon, “‘The Twin Relic of Barbarism’: A History of Anti-Polygamy in Nineteenth-Century America,” (Ph.D. diss., Princeton University, 1995), 37. Mormon theologians, on the other hand, argued that sexuality, as long as it was expressed with marriage, should be celebrated. Sexuality was as much a part of man’s potentially divine nature as was charity or benevolence. Orson Pratt raised the question of whether sexual love would “exist in the eternal world after the resurrection,” and then went on to answer that not only would sexual love exist, but that men would enjoy it even more than they did on earth. Orson Pratt, *The Bible and Polygamy* (Salt Lake City, 1877), 75. Brigham Young echoed these sentiments when he promised that those receiving exaltation would “have the power then of propagating their species in spirit.” *Journal of Discourses* 6:275, Brigham Young, (August 28, 1852).

19 Colleen McDannell, *The Christian Home in Victorian America, 1840-1900* (Indianapolis: Indiana University Pres, 1986), 127-130. Sexuality, especially the redefinition of female sexuality, was an essential component of this re-visioning of family and marriage. Women, as Nancy Cott has demonstrated, were supposed to be less likely than men to crave extra-marital or improper sexual intercourse, less likely to fall victim to the penalties of “overindulgence.” Nancy F. Cott, “Passionlessness: An Interpretation of Victorian Sexual Ideology, 1790-1850,” in Nancy F. Cott and Elizabeth Pleck, eds., *A Heritage of Her Own* (New York: Simon and Schuster, 1979), 162-81. According to many mid-century treatise writers, male and female alike, woman's natural state, contrary to earlier conceptions of rampant female sexuality, was one of moderation, constancy, and self-restraint in matters sexual. See generally, Carl N. Degler, *At Odds: Women and the Family in America from the Revolution to the Present,* (New York: Oxford University Press, 1980), 253-63; Charles Grier Sellers, *Market Revolution: Jacksonian American, 1815-1846,* (New York: Oxford University Press, 1991), 242-45. Men were urged, for their own health as well as for the health of their wives, to allow women to dictate the frequency and timing of intimate relations. Even more important, both women and men were assured (by the same treatise writers) that purification of sexual mores was contingent on this ethic of deference to wives. On this point, see Cott, “Passionless,” 165-69; Carroll Smith-Rosenberg, “Beauty, the Beast and the Militant Woman: A Case Study in Sex Roles and Social Stress in Jacksonian America,” *American Quarterly* 23 (October 1971): 563, 583. Women's innate sexual virtue made them reliable guides to proper sexual behavior within marriage, which men were urged to accept and respect for the superior spirituality it symbolized.
ownership of its property qualified the head of a household for full citizenship during the early Republic. The emergence of the contractual or companionate family, however, added a new dimension to citizenship.\textsuperscript{20} The domestic sphere ensured the liberty and civic morality of its inhabitants. The voluntary participation of each family member brought order to the contractual or companionate family even more than patriarchal authority. The companionate family protected and encouraged the moral development of each family member’s individuality, and women, as wives and mothers, played the most important role.\textsuperscript{21}

With the true woman as wife and mother as its moral guideposts, Victorians imagined that the private family established the moral order from which the public state and its citizens emanated. The state, they imagined, rested upon the home. At the same time, true womanhood was the only thing that stood between man’s destructive sexual impulse and the order of the Victorian home. By freeing man’s sexuality from the tight control of monogamy, anti-Mormons believed polygamy threatened to destroy true womanhood and thus the American home.

To anti-Mormons, Mormon wives were the antithesis of true womanhood and their degradation had terrible consequences for the members of the Victorian family. Anti-Mormons believed that “the soul and mind, the mentality of woman points

\begin{footnotesize}
\begin{enumerate}
\end{enumerate}
\end{footnotesize}
unerringly to monogamy as her only possible state for domestic happiness.” Plural
marriage had disastrous effects upon an American woman. Under polygamy “A sense of
inferiority on the part of the wife blunts her pride and ambition, and renders her careless
of intellectual and moral progress, and insensible to many of the highest and noblest
duties of her sex.” One anti-Mormon concluded that, “The observer is almost compelled
to think that they must have ceased to be women altogether, in heart, in soul and in
mind.” According to Mormon apostate and outspoken anti-Mormon activist, John Hyde
Jr., in polygamy “marriage is stripped of every sentiment that makes it holy, innocent,
and pure. With them it is nothing more than the means of obtaining families; and children
are only desired as a means of increasing glory in the next world; for they believe that
every man will reign over his children, who will constitute his ‘kingdom;’ and, therefore,
the more children, the more glory!” The idea of a husband and father reigning over his
home like a king flew in the face of the idealized democratic American family and made
Mormon families seem un-American and dangerous.

Polygamy also struck at the heart of Victorian morality, which was based on the
inspiring influence of woman’s affections. Polygamy “renders man coarse, tyrannical,
brutal, and heartless. It deals death to all sentiments of true manhood. It enslaves and

22 John Hanson Beadle, Life in Utah: or, The Mysteries and Crimes of Mormonism; Being an Expose of the
Secret Rites and Ceremonies of the Latter-day Saints, with a Full and Authentic History of Polygamy and
23 Waite, The Mormon Prophet, 244.
ruins woman. It crucifies every God-given feeling of her nature.” Accordingly, a Mormon man, “if he acted out the principles of his church, must be hypocritical, sensual, devoid of all conscience, and devilish.” In polygamy, women “are the companions of [the husband’s] passions, not his life; panderers of his lusts, instead of being partners of his affections; … crushing out every dream of girlhood, every wish and every necessity of their deep woman hearts.” This kind of degradation of women and corruption of man served to highlight the importance of democratic, monogamic marriage in the American home.

It wasn’t only the relationship of husband and wife that was at stake in the polygamous home. “Polygamy introduces an element of disorder into families, and saps the foundations of social order according to the extent to which it prevails.” The entire structure of American family and home was at risk. Polygamy according to anti-Mormons “separated the people from American homes.” Some went so far as to disqualify polygamous families from even being considered families because in

---

27 Maria Ward, *Female Life Among the Mormons: A Narrative of Many Years’ Personal Experience* (New York: J.C. Derby, 1855), 291.
polygamy “there is no privacy—no oneness of sentiment—no home.”

Alfreda Eva Bell put it this way: “Among the Mormons, the peculiar sanctity of the home is unknown. There is not that privacy, that secluded retreat, which makes every house, where things are as they should be, a sort of Penetralia, or Inner Temple, a Sanctum Sanctorum.”

Polygamy threatened the public/private divide Victorian authors were concurrently constructing.

The lack of a true American home made the Mormons dangerous to the nation because homes were the building blocks of the nation, generating the sentiment that undergirded national belonging. The home was the “national hearthstone,” with the wife as its guardian angel.

Anti-Mormons, like many other Victorians at this time, argued that “The love of home is intimately associated with the love of country and liberty, and whatever tends to refine and purify the former will inevitably exalt and strengthen the latter.” Without a home to love, Mormons could not possibly love their country or be good citizens. Ferris argued that under Mormonism, “the mass of the Mormons will be alike purged of American feelings.”

Catherine Van Valkenburg Waite was even more

---

36 Waite, *Mormon Prophet*, 244.
37 Ferris, *Utah and the Mormons*, 142.
explicit in her explanation of why Mormons made bad Americans: Polygamy “tends to … confuse and break up the family relation, thus weakening the attachment to home and country.”

**Domestic Fiction and its Influence on Anti-Mormon Literature**

Over the past twenty years, scholars have maintained that nineteenth-century domestic fiction offered the reading public guides that directed the American middle-class as to how they should or should not structure and perform their domestic relations. Studying domestic literature gives scholars a glimpse at the way nineteenth-century writers believed the American family should look and behave. By reading and writing, men and women of the middle-class came to understand how to love, marry, and perform the compulsory social obligation of husband- and wife-hood. More recently, scholars such as Nancy Armstrong have argued that the importance of domestic literature is more than a window into the domestic world of the nineteenth century. Domestic fiction “relocates the center of power in American life, placing it not in the government, nor in the courts of law, nor in the factories, nor in the marketplace, but in the kitchen. And that

---

means that the new society will not be controlled by men, but by women.”^41 It is no surprise that Mormon polygamy and the threat it posed to the idealized construct of true womanhood and the American family became the topic of several novels after 1852.

Over the past three decades, scholars have written several studies about anti-Mormon literature.^[42] Nearly all the studies point to the centrality of four early texts that established the core themes and narrative structures of anti-Mormon domestic literature: Maria Ward’s *Female Life Among the Mormons*; Metta Victoria Fuller’s *Mormon Wives: A Narrative of Facts Stranger than Fiction*; Orvilla Belisle’s *Mormonism Unveiled* (also printed under the title *The Prophets; or, Mormonism Unveiled*); and Alfreda Eva Bell’s *Boadicea*.^43 The themes central to these novels were repeated over and over again by anti-

---


^43 Ward, *Female Life*; Metta Victoria Fuller, *Mormon Wives: A Narrative of Facts Stranger than Fiction* (New York: Deby & Jackson, 1867); Bell, *Boadicea*; Orvilla S. Belisle, *Mormonism Unveiled; or, A History of Mormonism from its Rise to the Present Time* (Philadelphia: William White Smith, 1855). The most popular of these novels were reprinted several times; perhaps most frequently reissued were Ward’s *Female Life Among the Mormons*, and Fuller’s *Mormon Wives*. Ward’s novel sold 40,000 copies in the first
Mormons during the second half of the nineteenth century and this chapter includes examples not only from these novels, but from travel literature and political treatises as well. The themes examined below include: descriptions of a true American woman who is ruined by becoming entangled in the disastrous world of polygamy; the lack of consent imagined in polygamous marriages; the explicit comparison of polygamy to slavery, which exposed fears about the role of women in American families, both polygamous and monogamous; nativism and anti-Catholicism; the racialization of Mormons by comparing them to “orientals,” rendering them foreign, barbaric, dangerous, and completely un-American; finally, the claim that white people who participated in polygamy actually de-evolved both physically and mentally. All of these tropes worked to make Mormon membership in the body politic an impossibility in the mind of Victorian Americans.

True American Women, Consent, and Slavery

The heroines found in most anti-Mormon fiction begin their journeys as true American women. Belisle’s heroine was the “daughter of one of Massachusetts’ most favored sons, one whose ancestors had fled from oppression in the old world … and [had] borne with him to the new world all the love of virtue which caused him to forsake a year, to be reissued one year later. Her book was eventually translated into at least four foreign languages. Ward’s Female Life Among the Mormons was reissued in English at least nineteen times (sometimes under the title The Mormon Wife: A Life Story of the Sacrifices, Sorrows and Sufferings of a Woman: A Narrative of Many Years’ Personal Experience), the last edition appearing in 1913. See The National Union Catalog: Pre-1956 Imprints (London: Masell Publishing, 1979), 648: 287-288, as quoted in Gordon, “Our National Hearthstone,” 308, n.44. The centrality of these four texts is examined in Arrington and Haupt, “Intolerable Zion,” 243-260 and Gordon, The Mormon Question, 29.
fatherland for a wilderness." One of Fuller’s heroines “was one of the most beautiful of those fair New England maidens who grew up amid the hills and chilly breezes as sweetly and delicately as Alpine roses.” These women were the gauge of true womanhood that would help the readers understand what was at stake.

One way or another, these women become involved with the Mormons. In most cases, their husbands, whom they love deeply (just as they should) are somehow duped into converting to Mormonism and subsequently move the family west to Utah. Although the good American wives are horrified at the prospect of living among Mormon polygamists, they put faith in the love they have for their husbands and assure themselves that he will never take another wife. Once in Utah, however, the heroines watch in vain as other Mormon wives are emotionally destroyed, fall ill and die, or are murdered, all because of the degradations of polygamy. The message is clear: no true American woman can possibly continue to live after her husband takes another wife.

Mormon men in anti-Mormon fiction serve as foils to the masculine virtue Victorian husbands are meant to possess. They embody the duplicity, licentiousness and depravity of all Mormon men. They are paragons of immorality and the Church leaders are impostors who mesmerize, convert and seduce men with promises of money, power

44 Belisle, Mormonism Unveiled, 60.
45 Ibid.
46 Fuller, Mormon Wives, 27.
47 Bell, Boadicea, 31-32 and Belisle, Mormonism Unveiled, 121-127.
and sex. Belisle helped to popularize the theory that criminals were likely to convert to Mormonism, and that Mormon leaders sanctioned criminal behavior. Mormon men, she claimed, were “steeped in crime” because Mormon leaders assured members that no crime could undermine the power of a Mormon baptism: “if you have murdered all your days, committed all the sins the devil could prompt you to commit, you would arise at the resurrection, and your spirit be restored to your body, because you have received the baptism which cleanseth from sin. A Mormon can no more be lost than a Gentile unbaptized saved.” Belisle

Mormon husbands were freed by their religion from the marital rules that protected women; and thus all other rules crumbled, too. Here we see the belief that the very basis of civilization is rooted in the tightly controlled sexuality of monogamy laid bare in anti-Mormon fiction.

Because polygamy was simply contrary to an American woman’s nature, novelists aimed to make a woman’s consent to polygamy unthinkable. “No pureminded [sic] woman would ever consent to have any part of lot in such a system.” Not one “woman of the republic” would “barter her rich inheritance of honor and female purity for the ambiguous and unsatisfactory position assigned to the frail Sapphos and Lesbias [sic] of a Mormon harem.” Nancy Bentley argues that anti-Mormons made consent to polygamy impossible because “a specific notion of female consent represented a form of

48 Belisle, Mormonism Unveiled, 52 and 259.
49 Ward, Female Life Among the Mormons, 215.
50 Increase McGee Van Deusen, Startling Disclosures of the Wonderful Ceremonies of the Mormon Spiritual Wife System: Being the Celebrated “Endowment.” As It Was Acted by Upwards of Twelve Thousand Men and Women in Secret, in the Nauvoo Temple, in 1846, and Said to Have Been Revealed From God (New York: [s.n.], 1852), 30.
social legitimation that had become both indispensable and problematic for the modern nation-state.”

Indispensable, because wifely consent was a model for social relations that softened the harsh reality of the constraints of law and marital duty. Problematic, because the passivity of wifely consent made it an ambiguous model for female political agency. Polygamy, as Bentley points out, exacerbated the dilemma of wifely consent in every way. It highlighted the need felt by liberals for an affective mode of consensual citizenship and threatened the extralegal sphere of moral meaning and feeling—the American home—which fused privacy and nationality. At the same time, polygamy exposed the enduring tensions in the liberal concept of consent. Was there any such thing as wifely consent? Anti-Mormon novelist maintained that there was, but only in monogamy. Bentley maintains that polygamy purified the consent to monogamy as the surest expression of female will. Polygamy, then, was the bondage that sanctified marriage as freedom. By denying that plural wives exercised consent, novelists denied Mormons any possible place in American nationhood. Mormons’ alleged violations of female consent meant their exile from a federation of feeling that was the affective life of the nation, its psychic and moral unity.

If polygamy could never be consented to by an American woman, how then did women find themselves in the predicament of being a plural wife? Anti-Mormons

51 Bentley, “Marriage as Treason,” 348.
52 Ibid., 348-352. Nancy Cott also explores the “thematic equivalency between polygamy, despotism, and coercion on the one side, and between monogamy, political liberty, and consent on the other.” For more on this see Nancy F. Cott, Public Vows, 9-23. The way anti-Mormons viewed Mormon women changed after 1872 when Utah women were given the right to vote. When Mormon women neither voted against Church leaders nor used the franchise to somehow end polygamy, they were no longer perceived as victims of Mormonism, but rather as complicit members who agreed to self-degradation. This will be examined in greater detail in Chapter 3.
maintained that women joined Mormonism and became plural wives through coercion or mesmerism—a fashionable topic of the day and closely linked with the popular Spiritualism movement.\textsuperscript{53} Mormons in domestic fiction and other writings exercised mysterious powers of magic, mesmerism and deception to undercut any individual will.\textsuperscript{54}

For example, a character in Maria Ward’s \textit{Female Life Among the Mormons} alleged that in obtaining her hand in marriage a Mormon leader “exerted a mystical magical influence over me—a sort of sorcery that deprived me of the unrestricted exercise of free will.”\textsuperscript{55}

Mesmerism allowed anti-Mormon writers to maintain their belief that no woman would ever enter polygamy willingly and knowingly. At the same time, their use of mesmerism to explain women’s self-degrading choices also highlighted the real danger of polygamy. \textit{Any} woman was susceptible to Mormonism. Perfectly virtuous Christian women might find themselves trapped in a carriage with a spellbinding Mormon elder, and temporarily take leave of their senses while in his hypnotic presence. No woman was safe from polygamy’s snare.\textsuperscript{56}


\textsuperscript{54} For more on how Mormons were often accused of mesmerism see Gary L. Bunker and Davis Bitton, “Mesmerism and Mormonism,” \textit{BYU Studies} 15(Autumn 1974): 145-170. Bunker and Bitton demonstrate that many nineteenth-century Americans believed the body contained magnetic forces that could be manipulated against human will.

\textsuperscript{55} Maria Ward, \textit{Female Life}, 38.

\textsuperscript{56} Riess, “Heathen in Our Fair Land,” 116.
Using mesmerism to explain why women would enter polygamy denied Mormons any authenticity of religious feeling, rendering Mormonism anathema to the spirit of voluntary religion. Religious coercion, however, was only one part of the lack of freedom in Utah. Anti-Mormons believed Mormonism “absorbs not only the religious, but all the civil and political liberty of the individual member.” In the age of contract, anti-Mormons argued that Mormonism denied its members the freedom of contract in all matters, including religion, marriage, civil society and politics. Mormon theocracy and its suppression of American freedom could never be accepted as part of the body politic. It was altogether too un-American.

Because no true American woman could consent to polygamy, anti-Mormon novelists used polygamy to resurrect the American drama of violent captivity. This was most effectively achieved by comparing polygamy to slavery. The language and imagery of slavery saturated anti-Mormon novels. Harriet Beecher Stowe insisted that Mormon polygamy was a “degrading bondage, …a cruel slavery whose chains have cut into the very hearts of thousands of our sisters.” Alfreda Bell, describing the lot of women in Utah, claimed that, “they are in fact white slaves; are required to do all the most servile drudgery; are painfully impressed with their nothingness and utter inferiority…and are frequently … subjected to personal violence and various modes of corporeal

58 Harriet Beecher Stowe, preface to *Tell It All: The Story of A Life's Experience in Mormonism*, by Fanny Stenhouse (Hartford, Worthington, 1890), vi.
punishment.”

Like southern slaveholders, Bell argued, Mormon men bought and sold women—even their own daughters—and were “to the last degree demoralized, effeminate, and lazy.” Ward maintained that surveillance in Utah was as “cruel and remorseless” as the “bloodhounds” who tracked “runaway slave[s].” Like slavery, the institution of polygamy was said to violate the contractual family, whose members were to be bound by affection rather than subordination to the patriarchal head and governed by ideals of consent rather than obedience and corporeal force.

While not all anti-Mormon writers were abolitionists, many were and they found the language of abolition a useful tool in combating polygamy. How could the United States claim to be the most freedom-loving nation on earth when it harbored such demoralizing institutions as slavery and polygamy? Metta Victor described it this way:

Repulsive as slavery appears to us, we can but deem polygamy a thing more loathsome and poisonous to social and political purity. Half-civilized States have ceased its practice as dangerous to happiness, and as outraging every instinct of the better nature within every breast; and as ages rolled away they left the institution behind as one of the relics of barbarism which marked the half-developed state of man as a social being. ... And, as citizens of this country, we owe it as a duty, not only to the Constitution, but to humanity, that we sternly oppose slavery in all its forms—intemperance and its hideous deformities, and polygamy with its train of evils which no man can truly conceive, but which surely will end in animalizing man, in corrupting the very founts of virtue and purity, and, finally, in barbarism.

---

59 Bell, *Boadicea*, 54.  
60 Ibid., 34.  
61 Ward, *Female Life Among the Mormons*, 438.  
62 Bentley, “Marriage as Treason,” 346-347.  
63 Victor, *Mormon Wives*, vi-viii
Plural marriage, argued the anti-Mormon writers, was a return to barbarism, a threat to the stability and freedom of the entire nation. Like slavery, polygamy could not be tolerated in a civilized country.

Sarah Gordon points out that anti-polygamy authors not only compared the moral effects of polygamy to those of slavery, but they also clearly understood the political and legal similarities between the South’s defense of its peculiar domestic institution, and the defense of polygamy in Utah.64 Sectionalism is evident in many anti-Mormon novels, particularly in the work of Maria Ward: “[Once in the West, the Mormons] were at liberty to form such laws as suited them, to establish precedents and decisions, conformable to their own views; and, above all, the utter impossibility of escape or appeal, exercised a wonderful influence over the dissatisfied, and aided, more than anything else, in causing them to abide by their fate, and conform to the circumstances in which they were placed.”65 Similarly, Belisle described a Mormon missionary attempting to seduce a virtuous young English girl. When the young woman asked whether polygamy was illegal, the missionary explained that in America there was no such thing as a uniform legal code: “The Union is made up of distinct States, which make the laws that govern their own territory; and whatever laws the people of any one State construct for their own government, the other States have no right to interfere with; therefore, it is not necessary for the whole Union to give their assent to any custom to make it legal, or to have custom sanction it; if one State sanctions it within her territory, it is both legal

64 Gordon, “‘Our National Hearthstone,’” 334.
and right.” Belisle used polygamy to critique the territorial sovereignty argument popular among Democrats and Mormons who used it to defend their peculiar domestic institutions during the 1850s.

The politics of the day obviously informed anti-Mormon writing and anti-Mormon writers, in turn, participated in the political debate. Victor even argued that such “squatter sovereignty” was contrary to the fundamental constitutional design of the Union:

Reject [polygamy], and we accomplish the first step in a reform which shall restore our country to its once proud purity, and give to it a new character for moral and intellectual grandeur. Under its laws we ought to be the best, the purest, the wisest, the bravest people on earth; and this we shall be are we but true to the first principles laid down by our Revolutionary fathers—the nobility of man. Whatever degrades him—whatever corrupts and injures his moral, intellectual, and physical well-being is inimical to the well-being of society, to the State, to the whole country; consequently, to the spirit and intent of that Constitution which is to perpetuate the republic, and render it, in truth, the refuge for the oppressed, the home of liberty.

Writers not only used the themes of American freedom and liberty but also employed an already-existing constitutional-rights consciousness. The theory that marriage was a legal relationship that both “defined private obligations and mediated the distribution of public power” — was not only constitutive of human

---

68 Edwards, “‘The Marriage Covenant is at the foundation of all Our Rights,’” 81, 82.
happiness, but could be found the Constitution itself.69 Mormons and their practice of polygamy were not only un-American, but un-constitutional as well.

Nativism and anti-Catholicism

Anti-Mormon literature was informed by mid-century nativism, anti-Catholicism and anti-Masonic ideologies. As David Brion Davis pointed out some thirty years ago in a study of anti-Masonic, anti-Catholic, and anti-Mormon literature, nativist writers expressed fear that single-minded fanatics would subvert liberty, individuality, and prosperity. In their defense of Americanism, Davis argues, nativist authors not only contributed to a sense of national identity and purpose, they also took on some of the very traits they sought to exclude from American soil. That is, nativists ultimately advocated curtailing liberty for the sake of liberty.70 The tension between wanting the United States to be a free and welcoming country and the desire to eliminate Mormonism from the body politic is clear in the anti-Mormon literature of the 1850s and 1860s.71

Anti-Mormon nativism was, in part, a response to the massive numbers of Mormon immigrants from Europe, mainly from the British Isles and Scandinavia, but also from the Netherlands, Germany Switzerland, Italy, and France, and, to a lesser

---

69 Gordon, “‘Our National Hearthstone,’” 336. On the importance of constitutional consciousness in American history, and for an argument that constitutional theory is produced as much by extra-judicial (even extra-legal) actors as by authoritative pronouncements by the Supreme Court, see Hendrik Hartog, “The Constitution of Aspiration and ‘The Rights That Belong to Us All,’” Journal of American History 74 (December 1987): 353-74.
70 Davis, “Themes of Counter-Subversion,” 205 and 222.
71 The language of nativism found in anti-Mormon writing changed as the nature of immigration to the United States changed. This will be discussed in Chapter 3.
extent, colonies in the South Pacific and South Africa. Establishing a theme that would resonate in much of anti-polygamy fiction, Belisle bemoaned the idea that “[immigrants] with no other naturalization than that of a Mormon baptism, being permitted to vote … were even admitted into the Legislative body to make laws to govern free-born Americans.” Anti-Mormons were offended by the idea of Mormon immigrants participating as American citizens when their status of belonging within the nation was questionable. Not only were they foreign-born, but they were Mormons.

Class was closely tied up in issues of immigration and nativism. Anti-Mormons were concerned that Mormon immigrants came from the lowest European classes. Victor, in an appendix to Mormon Wives, included the following description of a boat-load of immigrants newly arrived from Liverpool: “They all belong to the lower, almost to the lowest classes of society. Their countenances were imbrued with ignorance and dirt—not the material dirt of a sea voyage, but the moral dirt of a life of imbecility and indolence. The Apostles of Joe Smith and Brigham Young found them an easy prey.” According to travel writer Samuel Bowles, Mormon coverts “are all of the peasantry, the lower classes of working people at home [in Europe]; and so the congregations of the Mormons do not exhibit the marks of high acuteness and intelligence. … [T]he great mass, both in size, looks and dress, was below the poorest, hardest-working and most ignorant classes of our

73 Belisle, Mormonism Unveiled, 233.
eastern large towns.” Anti-Mormon writers used class to distinguish Mormon immigrants because racially they were acceptable immigrants. Not only were they white, but they also came from countries that were predominantly accepted as good sources for new Americans.

It was precisely the absence of distinguishing outward traits that made Mormon immigrants so dangerous and true loyalty so difficult to prove. Waite wrote that, “The only form of religion in this country which refuses to conform either to the spirit of progress and improvement and enlightened humanity which characterizes the age in which we live, or to our laws and the genius of our free institutions,—drawing constantly from foreign countries hosts of votaries, impelled hither not by a love of republicanism, but rather by a desire to exchange a political for a religious monarchy,—is Mormonism, which presents an antagonism to our Government, and can scarcely fail to result in national trouble.” The Saints and their beliefs were antithetical to American ideals and

---

75 Samuel Bowles, *Across the Continent: A Stage Ride Over the Plains, to the Rocky Mountains, the Mormons, and the Pacific States, in the Summer of 1865, with Speaker Colfax*, (Springfield, Mass.: Samuel Bowles, 1869), 117.
76 David Roediger’s *The Wages of Whiteness, Race and the Making of the American Working Class*, (London; New York: Verso, 1991) has informed my reading of Mormon racial tropes and Thomas A. Guglielmo’s work on immigration has proven useful in making distinctions between race and color that can help make sense of the way both were used in anti-Mormon literature of the nineteenth century. Guglielmo argues that white as a category of color had within it a number of racial paradigms that made racial distinctions among whites. In this context, race was an obtuse set of categories that lay over the dynamics of color and could mean many things: “large groups like Nordics and Mediterraneans; medium-size ones like Celts and Jews; or smaller ones like North or South Italians.” I argue that Mormons were among these white Americans who were racialized as something other than white. Quoted text found in Thomas A. Guglielmo, “Rethinking Whiteness Historiography: The Case of Italians in Chicago, 1890-1945,” in *White Out: The Continuing Significance of Racism*, eds. Ashley Doane and Eduardo Bonilla-Silva (New York: Routledge, 2003), 51. For a more complete analysis of color and race see Thomas A. Guglielmo, *White on Arrival: Italians, Race, Color, and Power in Chicago, 1890-1945*, (Oxford: Oxford University Press, 2003).
by bringing in foreigners they only increased the population of disloyal people living on American soil. John Hyde, a Mormon apostate who wrote against the Church, provides another powerful example of how anti-Mormon questioned the loyalty of the Saints and their immigrant converts.

It must be remembered that the vast majority of the Mormons are foreigners; that they have been in this country only for several years; that the majority of them have not made the first step toward naturalization; that they did not come here in the love of republicanism; that it is not this love that retains them here; that they are by predilection, by instinct, and by preference monarchical in their feelings; that they still cling fondly to their fatherlands; that they came ‘not to America but to Zion;’ not in the admiration of American institutions, but in the confident expectation of assisting to subvert them; that were that system proven false, many of them would return again to old homes and old friends; that while here they are the dupes and victims of designing fanatics; and that these fanatics will force them into crime and danger if not prevented. These things must be remembered.78

This clearly highlights the nativist fear that Mormon immigrants would pledge allegiance to their religion above their adopted country. These immigrants could not become Americans if they were always Mormon first.

Terryl Givens argues that anti-polygamy fiction first emerged in a tradition of nativist fiction that found its most powerful expression in the anti-Catholic novels of the 1830s.79 The links between Catholics and Mormons rested upon the religious heresy and centralization of religious authority nativists perceived in both churches. Moreover, Givens shows that linking Mormons to an already-existing anti-Catholic tradition enable

78 Hyde, Mormonism: Its Leaders and Designs, 315.
anti-Mormons to utilize stock themes familiar to American readers. Particularly powerful were the similarities drawn between Catholic and Mormon ecclesiastic authority. Anti-Catholics often argued that Catholic loyalty to the Pope precluded any loyalty Catholics might have to the United States. Early anti-Mormons argued that, like Catholics to the Pope, Mormons proclaimed undying loyalty to Joseph Smith, compromising their allegiance as American citizens. Maria Ward drew an explicit connection between Catholicism and Mormonism: “The church government of the Mormons resembles that of the Catholic hierarchy, in many respects. Smith, while he lived, was pope.” Later, Josiah Strong wrote that Mormonism “is not simply a church, but a state; an ‘imperium in imperio’ ruled by a man who is prophet, priest, king and pope, all in one—a pope, too, who is not one whit less infallible than he who wears the tiara. … He out-popes the Roman by holding familiar conversations with the Almighty.”

There were similarities between anti-Masonic and anti-Mormon literature of the mid-nineteenth century as well. Davis argues that the secrecy of the temple ceremonies of both groups made them highly suspicious and led to their being labeled subversive. Anti-Masons and anti-Mormons agreed that “in a virtuous republic” no one would fear publicity or desire to conceal activities, “unless those activities were somehow contrary

---

80 Givens, *The Viper on the Hearth*, 104-106.
to the public interest.” While most Americans appeared willing to tolerate diversity, when they saw themselves barred from witnessing certain proceedings they imagined a “mystic power” conspiring to enslave them. The secrecy that cloaked the members’ loyalty to a self-governing body made those members seem dangerous.

Mormons were all the more threatening to nativists because they sought to establish a state in the Union based on these secret rights and beliefs. Representative Austin Blair of Michigan put it this way:

I can see a wide difference between a thing which hides itself in holes and corners, and keeps out of sight, defying all law and decency, but without setting itself up as a rule to follow, and a community which organizes lechery; that sets up a State founded upon it; that fulminates its decrees in favor of it; which makes the law itself speak for polygamy; which erects this everlasting nastiness in Utah, and adorns it with the mantle of religion and law.

The Saints, who openly practiced polygamy, an institution cloaked by secret temple ceremonies, could never be allowed to form a state in the union.

**Orientalism of Mormons and the Creation of a New Race**

A persistent theme throughout anti-Mormon literature of the nineteenth century is that of Orientalism. Mormons were often compared to Muslim Turks or other “barbaric Asians,” because of their acceptance of polygamy and theocracy. Obviously, the similarities and differences between Mormonism and Islam were less important than the

83 Davis, “Themes of Counter-Subversion,” 211.
84 Ibid.
85 Representative Austin Blair, Republican, of Michigan, *Congressional Globe*, 41st Cong., 2nd sess., 2149.
comparison, by which anti-Mormons tried to bring “into stark relief the un-American, un-Christian, un-Western nature of the Mormon religion.”\textsuperscript{87} The use of Oriental themes and descriptions can be seen as part of Americans’ complicity in defining and codifying the Orient as “other,” but more important to this study is the way anti-Mormons employed Orientalism to construct an essential “American” identity that excluded Latter-day Saints.\textsuperscript{88} Anti-Mormons used Oriental images to describe the fundamental incompatibility of Mormonism with all things American. As one anti-Mormon declared, “Polygamy … is adverse to the genius of our free institutions, and is, moreover, contrary to the laws and instincts of our nature, and to the suggestions of a sound reason.”\textsuperscript{89} Using the racial, cultural and political tropes of Orientalism, anti-Mormon writers worked to keep Latter-day Saints from claiming citizenship and national belonging by constructing Mormonism as a foreign, anti-American kingdom and the Mormons as a race apart from the rest of the nation. The use of Orientalism against Mormons, however, was always tricky because while their marriage and political practices were easily comparable to that of Muslim nations, Mormons were unambiguously white, and at least legally, American citizens.

The racialization of Mormons has been the topic of many recent studies.\textsuperscript{90} What is important to this study, however, is the way the racialization of Mormons as “Oriental” or

\begin{footnotesize}
\begin{enumerate}
\item Givens, \textit{The Viper on the Hearth}, 132.
\item Talbot, “Mormons, Polygamy, and the American Body Politic,” 322.
\item Waite, \textit{The Mormon Prophet and His Harem}, 241.
\end{enumerate}
\end{footnotesize}
fundamentally “other” complicates the assumed connection between race and national identity or citizenship. The racialized history of the Latter-day Saints counters the idea that being white is the open secret of American identity. Instead, Mormon history suggests that whiteness, like citizenship, is an idealized insider status that could be withheld even from a white population. Mormons, therefore, could be called the truest “false nationals,” white Americans whose polygamous marriages and homes made them unassimilable to the national body politic, in an exile from American domesticity that amounted to the construction of Mormons as a race apart.91

The development of polygamy in the United States among white people was inexplicable to many anti-Mormons. As one early writer noted, Mormonism’s “doctrines and its formulas are so foreign to our dispositions and habits of thought that we should never have supposed that it would have gained a thousand proselytes among men and Anglo-Saxon blood.” He went on to express great astonishment that the Mormons could transplant the “institutions of the mystic East into the practical and active West, … uniting the voluptuous sensuality of the Oriental harem with the stern virtue and far-seeing shrewdness of the American republican, these, we confess, are anomalies of which

in the New West, (New York: W.W. Norton, 2000); Gary L. Bunker and Davis Bitton, The Mormon Graphic Image, 1834-1914: Cartoon, Caricatures, and Illustrations (Salt Lake City: University of Utah Press, 1983); and Arrington and Haupt, “Intolerable Zion.”
91 Bentley, “Marriage as Treason,” 358.
we cannot determine the result.” It seemed impossible that white Americans could adopt such foreign institutions as polygamy and theocracy.

Not only did anti-Mormons understand plural marriage to be antithetical to the racial progress of the West, but they also commented on the climatological paradox of Mormon polygamy. J.H. Beadle commented that, “The Asiatic institution was never meant to flourish on American soil.” It “is tenfold more unnatural to such a climate and race than in southern Asia or Africa.” He found it baffling that “With snow in sight the year round, [the Mormons] pattern their domestic life after that of inter-tropical barbarians, and vainly hope to produce the vigor of North-men from the worst practices of effeminate Asiatics.” Polygamy and theocracy were not meant to exist among white Americans living in the temperate climate of North America.

In Utah, as in the imagined “Orient,” anti-Mormons argued that polygamy gave rise to theocracy and that theocracy in turn protected polygamy. They claimed, for example, that “polygamy is one of the most odious relics of Asiatic despotism.” In an early article written against Utah’s 1855 campaign for statehood, Francis Lieber declared, “Wedlock, or monogamic marriage … one of the elementary distinctions-historical and actual—between European and Asiatic humanity. … Strike it out and you destroy our very being; and when we say our, we mean our race—a race which has its great and broad destiny, a solemn aim in the great career of civilization, with which no one of us

92 F. C. Barber, “Mormonism in the United States” DeBow’s Review, April 1854, 370 and 382.
94 Beadle, Life in Utah, 374, 376, and 380.
95 “False Claims of Mormonism,” The Century, March 1872, 573.
has any right to trifle.” Polygamy and theocracy, according to Lieber, were antithetical to the very being of western peoples. Polygamy “belongs now to the indolent and opium-eating Turks and Asiatics, the miserable Africans, the North American savages, and the latter-day Saints.” By lumping Mormons in with Turks, Asians, Africans and Native Americans, anti-Mormons were able to use race to categorize Mormons as other, despite their white skin and European heritage. Such arguments assumed that polygamy, once introduced, would be so seductively effective that it would overtake and obliterate the presumably sturdier features of Anglo-Saxon life.

Many anti-Mormon writers believed that Latter-day Saint disregard for moral law resulted in both psychological and physical decline among the perpetrators. One writer observed, “the European (or white race of men) has never been a polygamist before. It is contrary to his nature and his instincts. Created, manifestly, for a higher destiny—an instinctive abhorrence of the brutality of a promiscuous intercourse is impressed upon the males and especially the females of the race.” By going against their nature, Mormon polygamists were putting themselves at risk of punishment that would take both physical and psychological forms. For example, one writer explains “Salt Lake polygamy must rob Anglo-Saxon females of their boast of intellect, and the age of its vaunt of progress.” The people who practice polygamy “as in Utah,” said Mrs. Jennie Froiseth, “will soon degenerate into mere brutes. Its effects are to destroy the moral and

96 Lieber, “The Mormons: Shall Utah be Admitted into the Union?” 234.
97 Ferris, Utah and the Mormons, 247.
intellectual nature, and develop only the animal." Anti-Mormon writers promised that the unrestrained sexuality of polygamy would result in social, spiritual and physical consequences.

Nineteenth-century scientists confirmed the connection between living a “moral life” and racial progress. In a meeting of the New Orleans Academy of Science in 1861, Dr. Samuel Cartwright and Professor C.G. Forshey gave a paper using parts of a report made by Assistant Surgeon Robert Barthelow of the U.S. Army on the “Effects and tendencies of Mormon Polygamy in the Territory of Utah.” The findings described characteristics of a new racial type:

the yellow, sunken, cadaverous visage [of Mormons]; … the thick, protuberant lips; the low forehead; the light, yellowish hair, and the lank angular person, all constitute an appearance so characteristic of the new race, the production of polygamy, as to distinguish them at a glance. The older men and women present all the physical peculiarities of the nationalities to which they belong; but these peculiarities are not propagated and continued in the new race; they are lost in the prevailing type.

Forshey, explained that this kind of racial deterioration was not apparent in “Eastern polygamy” because in the East, polygamy “is not a violation of the natural law, where the natural instincts in the normal condition of the race do not forbid it.” But in the United States, among white people of European descent, polygamy lead to retrogression and

100 Froiseth, Women of Mormonism, 212.
103 Ibid.
eventual extinction. It was also happening very quickly, within the first new generation of Mormons. The rate at which the Mormon population was believed to be growing made this particular revelation about Latter-day Saints especially concerning. This new, inferior racial type, could easily grow into a real genetic threat for the United States.

**Politics of the Written Word**

All anti-Mormon writing, whether fiction or not, contained some political intent. Peggy Pascoe has observed that “women’s novels transformed the anti-Mormon genre, which had earlier functioned as a proto-pornographic exposé of the sexual practices of Mormon families, into a call for middle-class women to eradicate polygamy.”\(^{104}\) Fuller was explicit about the political implications of her novel. Her agenda was to show the ways that polygamy enslaved and degraded American women, hoping that her “moral [would] sink deeply in the hearts of the people.”\(^{105}\) While the anti-Mormon political campaign was just in its infancy during the 1850s and 1860s, the message that Mormonism was the antithesis of Americanism found in literary works of the time was being read, digested and put to use in Washington, D.C.

More ominously, some of the fictitious stories about Mormons were reported as true, and politicians cited them to justify the suppression of immorality in Utah. For example, Representative Caleb Lyon of New York borrowed the language of John C. Bennett in a speech given to Congress in which he argued, “when polygamy is tacitly

\(^{104}\) Pascoe, *Relations of Rescue*, 23.  
\(^{105}\) Fuller, *Mormon Wives*, iii.
respectableized by an American Congress, it may not be so difficult to fill with sisters and daughters—those whom God destined for a nobler domestic sphere—an American Harem, a Mormon Seraglio.” Lyon took stories about polygamous wives fighting over their husbands at face value and used the ideology of Victorian domesticity to call for action: “Amid the jealousies of a plurality of wives the respect of parental authority is lost, the gentleness of fireside instruction and hearthstone memories is destroyed.”

Undoubtedly, the most disturbing bit of fiction found in Lyon’s diatribe against the Saints is that polygamy ultimately leads to infanticide. Making ample use of several anti-Mormon literary themes, including the criminal nature of Mormon men and Orientalism, Lyon argued that in a society that practices plural marriage

Crime of the most revolting character ensues; infanticide follows as a matter of course as soon as the husband finds he is getting more children than he can support. … The bodies of dead infant flout on the sapphire tide of the Bosphorus, and the Light of many a harem, from the destruction of her offspring, has been lost among the dark shadows of the cypress of Scutari. There is not a drug shop in an Oriental city but sell the means of destroying the new-born. And, being warned of these things, let us not fix this plague-spot upon the route to the golden gate of the Pacific, the western pathway of empire. Posterity, sir, will anathematize this kind of legislation to the latest years of the Republic.

Clearly, Lyon’s perception of Mormons and their threat to the nation had been informed by anti-Morman writings like those studied above.

The charge that Mormon polygamy and theocracy was destructive to the American political system and Christianity was heard again and again on the floor of the

---

106 Congressional Globe, 33rd Cong. 1st sess., 1100-1101. Emphasis in the original.
107 Ibid.
108 Ibid.
House and the Senate. Representative Hiram Walbridge, for example, said:

“Licentiousness has ever been the precursor of political enslavement.” Lyon stated, “Point me to a nation where polygamy is practice, and I will point you to heathens and barbarians. It seriously affects the prosperity of States, it retards civilization, it uproots Christianity.” And Representative John A. McClerand of Illinois said polygamous family life was “a scarlet whore,” a “reproach to ... Christian civilization,” and “an adjunct to political despotism.” The cultural work done by anti-Mormon literature to keep Mormons from participating fully in the American body politic informed law-makers as they approached the Mormon problem in the years during and after the Civil War.

110 Ibid., 1100-1101.
111 Congressional Globe, 36th Cong., 1st sess., 1514.
Chapter 3: Rapidly Diverging Understandings of Religion and Citizenship

After the Civil War, Congress began to grapple with the definition of citizenship because it had to deal with the legal status of former slaves. What would citizenship mean to the newly freed slaves? How would the government ensure and protect their rights? The relationship between political and civil rights and citizenship needed to be defined. The 1866 Civil Rights Bill, and the Fourteenth and Fifteenth Amendments established continuity between citizenship and political rights. Once Reconstruction came to an end, however, the federal courts limited these rights and the government began to retreat from federal enforcement of these measures. Just as the federal government began to abandon Reconstruction and the expansion of citizenship rights in the South, it increasingly intervened in Utah in order to reign in polygamists. The increased governmental involvement in Utah corresponded with the developing parameters of post-war citizenship—those who fell outside the categories of white, Christian, and male were denied full participation as citizens.

This study demonstrates that after the Civil War and Reconstruction, freed slaves, Indian Wars, and the conquest of the West were not the only important elements of the American nation-building project. The federal government and militant protestant reformers deemed religion and strict control of the religiosity of Americans as critical to the future of the United States as a powerful nation state. The national concern over the social, cultural, and political implications of polygamy influenced how the constitution would be interpreted and who could lay claim to the civil and political rights of the newly emerging national citizenship.
Between 1862 and 1880, the United States government passed legislation to suspend the incidents of political and civil rights among polygamous Mormons, limiting and sometimes suspending the rights to jury trial and the franchise in the interest of eradicating the “foul blot on our national escutcheon.”¹ The legislators’ goal was to expose Mormons to American law and political institutions in hopes of rehabilitating them. But when both the law and governmental systems failed to bring about an end to polygamy, lawmakers decided both mechanisms had to be actively recalibrated in order to rehabilitate the much-married Saints. Laws passed to recalibrate the governmental mechanisms so that they could better control the religious expression of Americans were created during the height of the Civil War and immediately following Reconstruction—moments when the meaning of citizenship and who could be an American were in great flux. The legislation passed to stop polygamy by restricting Mormon civil rights was critical in the formation of what it meant to be an American citizen at this time.

Two interrelated presumptions underlay the campaign against Mormon plural marriage during these decades. Both will be examined at length in the next three chapters. The first was that a religion that promoted a marriage institution so repugnant to conventional Christian values, as the Latter-day Saint faith did with polygamy, could not possibly qualify as a religion with the protection of the “exercise of religion” under the First Amendment. This notion was critical to the Antipolygamy campaign and construction of who a religious American could be. The second presumption was that

Mormon plural marriage, despite whatever the Saints might have believed or said about it, was “an overt act against peace and good order” and therefore ineligible for constitutional protection. Through the anti-polygamy debates, legislation, and court rulings, lawmakers and judges further defined what kinds of religious beliefs were protected by the constitution and which were not. The debates and resulting legislation defined what a religious American citizen could look like and how religiosity could be expressed.

Before the Civil War, states maintained the definitions of individual rights and social duties. The political vocabulary of the time emphasized civil and political rights, not citizenship. Civil rights guaranteed governmental protection of an individual’s “natural rights,” rights to personal security, liberty, and the pursuit of property. Political rights indicated full participation in governance: voting, holding office, serving on a jury, and participating in the military. It was not always clear whether these rights conveyed citizenship or if they applied equally to all citizens. For instance, white women were considered citizens but could not vote, hold office, sit on a jury or serve in the military. There were also social rights, what Nancy Cott describes as “a vaguer and more contested category” that were in “the domain of social relations” and included “such things as choice of friends and intimates as well as business associates, generally seen as not

---

2 United States vs. Reynolds 98 U.S. 145 (1879), 162.
4 Cott, “Marriage and Women’s Citizenship,” 1445.
directly susceptible to legislation.”

Similarly, Judith Shklar maintains that one of the most important meanings of citizenship is that of social status or what she calls “standing”—one’s position in relation to others. Citizenship, she argues, has always been a matter of inclusion or exclusion. The notions of standing, exclusion and inclusion are particularly useful ways of thinking about citizenship during the mid-nineteenth century because citizenship was not yet defined as a set of concrete privileges and obligations, but was discussed in terms of one’s relation to other people and to political power. As we have seen in the first two chapters, this relational definition of citizenship was especially true of the Latter-day Saints’ national standing.

Lawmakers knew that Mormon claims to constitutional protection and rights of citizenship could be limited or suspended much more easily if Latter-day Saints were constructed as un-American. The social and cultural discourse that cast Mormons as un-American examined in Chapter 2 was co-opted by lawmakers, lawyers and judges during the 1860s, 70s and 80s. Not only was the legal status—the civil and political rights such as voting or holding office—stripped from the Saints, but they were also ostracized and cast as outsiders. Their social standing as Americans was attacked, and their political rights suspended, forcing them out of the body politic.

The Saints, on the other hand, maintained that polygamy was an integral part of their faith, and therefore protected by the constitution. They continued to proclaim themselves the most American of Americans—patriotic and loyal—despite their marital

---

5 Ibid., 1448.
7 Ibid.
practices and what was being said about them in Washington and written about them in the press. For example, Brigham Young argued that polygamy was “honestly a matter of conscience” and about the Latter-day Saints he claimed, “they are the most patriotic and appreciate more fully the blessing of religious, civil, and political freedom than any other portion of the United States.”

Mormons embraced their Americanness and used the language of patriotism, religious freedom and citizenship to defend themselves against the attacks made by antipolygamists.

The rapidly diverging understandings of what religion was and how it would be protected by the constitution held by anti-Mormons and Latter-day Saints dominates the legislative narrative of the 1860s and 1870s, and is the primary topic of investigation in this chapter. Latter-day Saints used the language of citizenship to demand religious freedom and based their fight against federal legislation that aimed to eradicate the practice of polygamy on their position as American citizens. Anti-Mormons also used the language of citizenship; they deployed it to call for the eradication of polygamy in order to protect the purity of the nation. That both parties used the language citizenship to bolster their positions on the lawfulness of polygamy, demonstrates the fluidity of the meanings of citizenship at this point in American history. Mormons and anti-polygamists often talked past each other despite the fact that they were using the same vocabulary to defend their positions. Over the course of the 1860s, 70s and 80s, this polygamy debate would help set the mold for modern American religious citizenship.

---

Legislators Make the Case that Mormonism is Not a Religion

Legislators first attempted to pass a law to discourage Mormon polygamy in May of 1854 through a bill that sought to establish the office of surveyor-general and a method of securing land to original settlers in Utah Territory. Section 3 of the bill contained the proviso: “That the benefits of this act shall not extend to any person who shall now, or at any time hereafter, be the husband of more than one wife.”9 The bill failed due to its connection with the sectional crisis. The next significant legislative action came in the spring of 1856, when the first anti-polygamy bill appeared in Congress. Again, this attempt failed in the shadow of debates over slavery and state’s rights. On February 15, 1860, Representative Morrill made a third attempt to do something about polygamy.10 The bill he proposed would outlaw plural marriage in the territories, disincorporate the church, and restrict the church’s ownership of property to $50,000. This time his bill managed to make it through committee, and one month later, the Committee on the Judiciary reported it back to the House with the recommendation that it be passed.11 The bill recommended by the committee contained a preamble that denounced plural marriage as an “abomination in a Christian country” and rejected the Mormon claim that it was a religious rite.12 The committee report asserted the barbaric nature of polygamy, declared that the First Amendment was intended to protect only Christian belief and practices, and

---

9 Congressional Globe, 33rd Cong., 1st sess., 1093-1102, 1109-1114.
10 Congressional Globe, 36th Cong., 1st sess., 793.
11 Ibid., 1550-1551.
12 Congressional Globe, 36th Cong., 1st sess., 1410 and 1559.
placed this expansive interpretation upon the authority of the national government over the territories of the United States. “It is competent for Congress to declare any act criminal which is not sanctioned or authorized by the provisions of the Constitution.”¹³ In the committee’s opinion, polygamy should be made against the law.

Some lawmakers had serious doubts about passing such a measure. Foremost among the naysayers was Representative Keitt of South Carolina, who warned that it would launch the federal government on a war against opinion, and, confronted by the religious zeal ascribed to the Mormons, would become a war of extermination. His words were also heavy with the weight of the impending sectional crisis: “Is a result like this,” he asked, “worth the fearful aggrandizement of the Federal Government?”¹⁴ In response to the argument that the law should not interfere with intimate domestic relations, Representative John S. Millson of Virginia replied: “The law everywhere interferes with them. Marriage has always been a subject of regulation by the State.”¹⁵ Not everyone agreed. The fear of the federal government involving itself in the regulation of domestic relations and what that would mean to slave owners kept most Southern Democrats from endorsing the bill. The language of federalism versus state’s rights carried enormous weight on the eve of the Civil War, and without Southern support the bill had little chance of successfully passing both houses. The House passed the bill, but the Senate did not.

¹³ House Reports, 36th Cong., 1st sess., no. 83 (1860).
¹⁵ Ibid., 1499
The fruitless legislative debates over the proposed anti-polygamy bills held at the end of the 1850s and early 1860s set the tone for those that would follow and eventually produce anti-polygamy laws.\textsuperscript{16} Primarily, anti-polygamist legislators made a concerted effort to establish that Mormonism and Mormon plural marriages were not religious institutions and therefore not entitled to protection under the Constitution. Representative Morrill berated Congress for not moving forward with anti-Mormon legislation because of constitutional concerns. “We are told, because our constitution declares that ‘Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof,’ that we must tamely submit to any burlesque, outrage, or indecency which artful men may seek to hide under the name of religion!”\textsuperscript{17} He charged that calling Mormonism a religion would allow the term to “be invoked to protect cannibalism or infanticide.”\textsuperscript{18} Likening polygamy to these horrors echoed the outlandish reports made about Mormonism during the 1850s in fiction and yellow journalism, a trend that would continue for decades. In fact, Chief Justice Morrison Waite used these exact comparisons nineteen years later, when the Supreme Court ruled to uphold anti-polygamy laws as constitutional.

Similarly, the report from the House Committee on the Judiciary written after considering the Morrill Bill of 1860, admitted the bill was a law respecting an establishment of religion, but only “if the odious and execrable heresy of Mormonism

\textsuperscript{16}The complete debates and voting on the Morrill bill may be found in the \textit{Congressional Globe}, 36\textsuperscript{th} Cong., 1\textsuperscript{st} sess., 1409-1418, 1492-1501, 1512-1523, 1540-1546, 1557-1559, and Appendix, 187-202.
\textsuperscript{18}Morrill, “Polygamy and its License,” 1857, 10.
can be honored with the name of religion.”\textsuperscript{19} The report embodied an extremely restrictive interpretation of the first amendment protection of religious liberty. The committee alleged that the framers of the constitution, when they wrote the First Amendment,

did not mean to dignify with the name of religion a tribe of Latter Day Saints disgracing that hallowed name, and wickedly imposing upon the credulity of mankind … surely they never intended that the wild vagaries of the Hindoo or the ridiculous mummeries of the Hottentot should be ennobled by so honored and sacred a name.

Rather, the framers meant to dignify by the term “religion” by associating it with “a belief founded on the precepts of the Bible.”\textsuperscript{20} The committee’s findings defined Christian beliefs as the only beliefs protected by the constitution and classified Mormonism as something other than a religion.

Representative A. Pryor of Virginia simply denied that polygamy had any connection to religious practices and in this way disposed on the claim that Congress could not act against polygamy because it was a constitutionally protected religious practice.

It is not true that polygamy pretends to any religious sanction. It is not true that the Mormons practice it as a pious observance.

I have looked through the Mormon Bible—a disgusting farrago of nonsense and blasphemy, written in ribald parody of the more obvious characteristics of Scripture phraseology—I have examined this only dogmatic exposition of the Mormon faith, and nowhere do I find a word of recognition of the practice of polygamy.\textsuperscript{21}

\textsuperscript{19} House Reports, 36\textsuperscript{th} Cong., 1\textsuperscript{st} sess., no. 83 (1860).
\textsuperscript{20} House Reports, 36\textsuperscript{th} Cong., 1\textsuperscript{st} sess., no. 83 (1860).
\textsuperscript{21} Congressional Globe, 36\textsuperscript{th} Cong., 1\textsuperscript{st} sess., 1496.
Mormons were grouped with non-Christian believers, their practices deemed non-religious, and their right to protection from governmental interference denied. In the course of stripping Mormons of their constitutional protection, legislators defined what the United States government would recognize as “religion” and further established the country as a Christian nation.\textsuperscript{22}

Lawmakers linked their protestant faith to government institutions, thereby defining what the government would recognize as religion and denying those who fell outside the definition of “Christian” claims to protection under the constitution. For example, in his anti-polygamy speech of 1860, Representative Thomas Nelson of Kentucky proclaimed:

Our fathers, in the days of the Revolution, were not afraid or ashamed to acknowledge that the Almighty hand led them in that fearful and unequal struggle, and enabled them to establish the best and greatest Government that has ever existed since the world began. Let us endeavor to cherish and preserve it in the same spirit in which they were led to establish it. … we will yet endeavor … to show our abhorrence of institutions that are not authorized by the Constitution of the country, and that are contrary to the laws of the Being who created us.\textsuperscript{23}

Nelson was simultaneously attacking polygamy and defending slavery. Because polygamy was contrary to God’s law, it had to be contrary to United States law. But

\textsuperscript{22}Sarah Barringer Gordon has written the leading work on the nineteenth-century federal struggle against polygamy. In her book, Gordon advances the “Christian nation” thesis. She argues: “With the Morrill Act, the federal government directed a fundamental reordering of a society based explicitly and unabashedly on religious law to one based on the humanitarian impulses of a competing legal system and its silent yet potent Protestant subtext” (Gordon 82). Most other historians assert that federal anti-polygamy regulations were motivated by a desire to suppress “deviant” sexual practices and defend traditional, monogamous marriage. These studies tend to characterize anti-polygamy sentiments as essentially unchanged over time. While I believe policing sexuality was part of the driving force behind federal legislation, I also maintain that the importance of religious biases against the Saints cannot be overstated.

\textsuperscript{23}Appendix to the Congressional Globe, 36\textsuperscript{th} Cong, 1\textsuperscript{st} sess., 195.
slavery was, for many, sanctioned by God and authorized in the Constitution. Nelson was trying to map a path for the government to end polygamy without necessarily involving itself in slavery.

Once the Civil War began and the southern democrats left the halls of Congress, Morrill seized the opportunity to introduce an almost identical bill in 1862. Because the bill had been thoroughly debated by the preceding Congress and because there were almost no Democrats there to oppose it, Morrill’s bill was enacted into law with very little difficulty. In fact, there was no discussion in the House. After clarifying the definition of the crime, the Senate then added the first mortmain law ever enacted by Congress, their goal being “to prevent the accumulation of the property and wealth of the community in the hands of what may be called theocratic institutions, inconsistent with our form of government.” The House accepted the amendments, and on July 1, 1862, President Lincoln signed it into law.

The Morrill Act was the first basic federal legislation passed by the Congress of the United States that was meant to “punish and prevent the practice of polygamy in the Territories of the United States.” To that end, the law made bigamy punishable by a $500 fine and imprisonment not exceeding five years. All acts passed by the legislative assembly of Utah territory “pertaining to polygamy and spiritual marriage” were annulled. The law created a limit of $50,000 of real property that a religious or charitable

24 Congressional Globe, 37th Cong., 2nd sess., 1581.
25 Ibid., 1847-1848.
26 Ibid., 2506.
27 Ibid., 2906.
organization could hold in a territory of the U.S. Any amount exceeding the value of $50,000 was to be forfeited and escheated to the United States.\textsuperscript{28}

With the Morrill Act the federal government assumed more supervisory power over the structure of private authority than it ever had before. The restructuring of Utah’s marital and religious corporation law was a fundamental reordering of a society based explicitly on religious law to one based on the humanitarian impulses of a completing legal system and “its silent yet potent Protestant subtext.”\textsuperscript{29} Nothing immediately came of the bill’s enactment, however. The country was embroiled in a civil war, and Mormon polygamy received very little attention during the war years. Although President Lincoln signed the bill, he adopted the policy of leaving the Mormons alone. When asked what course he intended to pursue with reference to the Mormons, Lincoln replied,

> when I was a boy on the farm in Illinois there was a great deal of timber on the farms which we had to clear away. Occasionally we would come to a log which had fallen down. It was too hard to split, too wet to burn and too heavy to move, so we plowed around it. That’s what I intend to do with the Mormons. You go back and tell Brigham Young that if he will let me alone, I will let him alone.\textsuperscript{30}

Americans were preoccupied with the Civil War and the role of the federal government in States’ affairs was being tested. In 1862 Congress’s ability to determine the acceptability of certain domestic relationships was not at all clear. Lincoln was wary of involving

\textsuperscript{28} Ibid.
\textsuperscript{29} Gordon, The Mormon Question, 82.
himself in the Mormon question at the height of the national crisis. His attention was
directed at reestablishing the Union, not at the polygamists living in far-off Utah.

The act seemed potent on paper, yet the government did not make any effort to
enforce it, even after the war had ended. No officers were appointed to enforce the law
and no funds for enforcement were allotted. In addition, the Morrill Act had a fatal flaw:
plural marriage was all but impossible to prove because Mormons did not keep marriage
records, or if they did, they would not produce them in court. No fellow Mormon would
testify to a polygamous marriage and no jury made up of Latter-day Saints would convict
a polygamist for following what they believed to be a commandment of God.

The Mormons demonstrated that as long as enforcement was left to them, the act
would be ignored as an unconstitutional infringement upon their religious beliefs. In
response to the Morrill Act, Brigham Young asked a Salt Lake City congregation, “How
are we transgressing that law? In no other way than by obeying a law which God has
given unto us … By and by men will appear in the departments of the Government who
will inquire into the validity of some laws and question their constitutionality.”31 The
Saints trusted the law would eventually be overturned as unconstitutional. Their faith in
the constitution and sanctity of American democracy sustained their conviction that the
anti-Mormon hysteria would pass and they would emerge unscathed. They were so
unperturbed by the Morrill act, that the same year it was passed the residents of Utah

31 Journal of Discourses 11:270.
framed another constitution and applied for statehood for the third time. This application, like the previous two, was denied.

The Cullom Bill

Not until the completion of the transcontinental railroad did the national spotlight refocus on the Saints and polygamy. The organization of an anti-Mormon Liberal Party in Utah (the product of the influx of non-Mormons that came with the railroad), the small but vocal schismatic movement within the church directed against the authority of President Young, Vice President Schuyler Colfax’s visit to Salt Lake City, and a widely published debate between Apostle Orson Pratt and Reverend John Philip Newman all served to keep Utah and the Mormons on the minds of Americans.

The renewed interest in the Mormon question resulted in the proposition of the Cullom Bill. The Cullom Bill, introduced in 1870 by representative Shelby Cullom of Illinois, was a long, hodgepodge of thirty-four sections. It called for the appointment of all probate judges, justices of the peace, judges of elections, notaries public, and sheriffs

---

33 For a discussion of the Godbeite reform movement, which led to the excommunication of such church notable as W.S. Godbe, E.L.T. Harrison, Henry W. Lawrence, Edward W. Tullidge, and Stenhouse, see Robert, A Complete History, 5:252-272. Though few church members joined in the schism, the Godbeite exerted considerable influence in Washington in the years 1867-1870; The importance of the gentile Liberal Party is carefully examined in Edward Leo Lyman, Political Deliverance: The Mormon Quest for Utah Statehood (Urbana: University of Illinois Press, 1986). The debates between Colfax and Taylor can be read in Schuyler Colfax, The Mormon Question: Being a Speech of Vice-President Schuyler Colfax, at Salt Lake City. A reply thereto by Elder John Taylor: and a Letter of Vice President Colfax, (Printed at the Deseret News Office, 1870); An address by Newman in the Methodist meeting house of Salt Lake City before the contest, and complete transcripts of the first two days of debate were printed in “Mormonism,” New York Herald, 18 August 1870, 20 August 1870, 21 August 1870 and 23 August 1870. Whitney devotes a long chapter to the encounter in his Orson Ferguson Whitney, History of Utah 3 vols. (Salt Lake City: Cannon, 1892) 2:440-486.
by the federally appointed territorial governor. It aimed to reduce the probate courts’ jurisdiction; place the selection of jury panels in the hands of federal appointees; prescribe penalties for cohabitation trials; exempt polygamy and related offenses from the statue of limitations; permit wives to testify against their husbands as to the fact of polygamous marriage; exclude polygamists from naturalization, voting, or holding public office; permit the confiscation of polygamists’ property to care for their dependents; and authorized the President, “when in his judgment it shall be necessary to enforce the laws … or the convictions and sentences of the courts thereof, to send such a portion of the Army of the United States to said Territory as shall be required therefore.”

It was the most comprehensive legislative attack against the Saints to date and clearly challenged the civil rights of polygamists.

Discussion of the Cullom Bill furthered efforts to define Mormonism and the practice of polygamy as not religious. Campaigning for his bill, Cullom argued that “Polygamy has gone hand in hand with murder, idolatry, and every secret abomination. Misery, wretchedness, and woe have always marked its path. Instead of being a holy principle, receiving the sanction of Heaven, it is an institution founded in the lustful and unbridled passions of men, devised by Satan himself to destroy purity and authorize whoredom.”

Similarly, Michigan Representative Austin Blair maintained: “I can see a wide difference between a thing which hides itself in holes and corners, and keeps out of sight, defying all law and decency, but without setting itself up as a rule to follow, and a

---

34 Congressional Globe, 39th Cong., 1st sess., 1367-69. For debate on the bill see ibid., 1009, 1339, 1367-73, 1517-20, 1607, 2142-53, 2178-81, 2189, 2603, 3136, 3571-82, 4305, and 41st Congress, 3rd sess., 92.
35 Representative Cullom, Congressional Globe, 41st Cong., 2nd sess., p.1352.
community which organizes lechery; that sets up a State founded upon it; that fulminates its decrees in favor of it; which makes the law itself speak for polygamy; which erects this everlasting nastiness in Utah, and adorns it with the mantle of religion and law.”

Lawmakers needed to strip polygamous Saints of their religion in order to outlaw its practice. By deeming Mormonism something other than religion, these savvy legislators could justify outlawing polygamy as a practice guided by lust rather than faith. While it is important to note the legislators’ anxiety about marriage and its role in nation building, critical to this study is the understanding of religion found in the legislation against plural marriage.

While both advocates and opponents of the Cullom bill continued the pattern of denouncing Mormonism and polygamy, for everyone could agree that polygamy was an abomination, the substance of the debate was whether or not the evil was great enough to justify the proposed remedy, and whether or not that remedy would accomplish a cure. The extremist point of view was expressed by Hamilton Ward, of New York: “I am sorry to see in this country the signs of a sickly sentimentality which proposes to punish nobody, which proposes to hang nobody, which proposes to let all the unchained passions of the human heart become free to prey upon mankind … Had you hung one hundred traitors you would not have had rebellion in North Carolina and Tennessee today. Had you enforced the laws of the country against Utah years ago you would not have had this

36 Representative Austin Blair, Republican, of Michigan, Congressional Globe, 41st Cong., 2nd sess., 2149.  
37 See Nancy Cott, Public Vows and Hendrik Hartog, Man and Wife in America.
terrible power confronting you at this moment."  

Representative Ward went on to ask whether “after … redeeming [the nation] from the stain of human slavery” Republicans “had not the … manhood [or] nobility” to help the wives and children of Utah’s polygamous marriages. Radical Republicans like Hamilton Ward rekindled the comparison between polygamy and slavery to add weight to their arguments about the need to legislate against polygamy in Utah. The role of Reconstruction rhetoric in antipolygamy legislation, including debate surrounding the Cullom, is examined at length in the next chapter.

Many of those who opposed the Cullom bill believed that Mormon polygamy was going to die out without governmental interference. Senator Thomas Fitch of Nevada argued “that polygamy has run its course. I believe that the railroad which deprived the Mormons of their isolation has struck it a mortal blow. …. I do not believe that a practice which is at war with the interests of society hostile to the spirit of the age, and opposed to the instincts of human nature, can even when sustained by religious convictions, maintain itself against the silent, insidious, persistent, resistless assault of the social forces arrayed against it.” Polygamy, according to Fitch, would die out because it was anathema to the

38 Congressional Globe, 41st Cong., 2nd sess., 2144. For an in-depth discussion on the role reconstruction history played in southern opposition to the anti-polygamy legislation, see Kelly Elizabeth Phipps, “Marriage & Redemption: Mormon Polygamy in the Congressional Imagination, 1862-1887,” Virginia Law Review, 95 (2009), 435-487. Phipps carefully outlines the similarities between the proposed Cullom Bill and measures of Radical Reconstruction in the South and I am indebted to her scholarship. She goes on to argue, however, that Reconstruction played less of a role in opposition to Antipolygamy legislation in the 1880s. I respectfully disagree. The bitter feelings over Reconstruction can be clearly heard in the Congressional debates over the Edmunds Act and the Edmunds-Tucker Act as will be demonstrated in Chapter 5.

39 Congressional Globe, 41st Cong., 2nd sess., 2144.

40 Ibid., 1513.
social and political will of the rest of America, which, with the completion of the railroad, was pushing deeper and deeper into Mormon country.

Fitch was not persuaded by the reduction of Mormonism to something other than a religion. He added a warning: “They believe in their faith as deeply as the Mohammedan believes in his Koran or the Christian in the crucifixion of his Redeemer. Assail that faith with armies and you will consolidate and strength and infuse them with more ardent zeal.”41 His assessment of the Saints’ conviction that polygamy was a commandment of God was exactly right. The religious nature of Latter-day Saint plural marriage made outlawing it a dangerous precedent. At the same time, by dismissing polygamy’s basis in faith, the government underestimated Latter-day Saint resistance to Antipolygamy legislation.

The Saints responded angrily to the proposed Cullom Bill. At a mass meeting held in April of 1870 Church authority and mayor of Salt Lake City, Daniel Wells, read from a letter of protest against the bill sent to Congress by the Church leadership. The Saints argued that being a polygamist was not at odds with being an American: “The Bible confessedly stands in our nation as the foundation on which all law is based. It is the fountain from which our ideas of right and wrong are drawn, and it gives shape and force to our morality. Yet it sustains plural marriage, and in no instance does it condemn that institution.”42 Cutting to the heart of the matter, the Saints accused Congress of narrowly defining religion to fit their own purposes, arguing that the bill “prescribes what shall and

41 Ibid., 1517.
what shall not be believed by citizens, and assumes to decide on the validity of
delusions from Almighty God, the Author or existence.” Most importantly, the Saints
assured members of Congress that Mormons are “believers in the principle of plural
marriage or polygamy, not simply as an elevating social relationship and a preventative
of many terrible evils which afflict our race; but as a principle revealed by God,
underlying our every hope of eternal salvation and happiness in heaven.” As such, the
practice should be protected by the Constitution and not subject to laws passed by a
biased legislature. Recognizing that their claims of religious belief were being dismissed
by Congress, Church leaders asked Congress “What evidence can we give you that plural
marriage is part of our religion, other than what we have done by our public teachings
and publishing for years past?” The Saints pleaded with the government to accept their
definition of religion as one that included plural marriage, rendering the practice
constitutionally protected.

The women of Utah were particularly outspoken in their condemnation of the bill.
They held a mass demonstration of their own, during which they called the Cullom Bill a
“malicious attempt to subvert the rights of civil and religious liberty.” Eliza R. Snow
refuted the decades of slander that portrayed the women of Mormonism as slaves, unable
to flee from the bondage of polygamy. She asked the congregation, “Do you know of any
place on the face of the earth, where woman has more liberty, and where she enjoys such

43 Full report of the meeting and letter found in Deseret News, April 6, 1870.
high and glorious privileges as she does here, as a Latter-day Saint?” The congregation answered with a loud, “NO!”

Using the language of citizenship, many of the women who spoke at the meeting defended their choice to be plural wives as their right granted not only by the Constitution, but by God. Mrs. Wilmarth East took the podium and thundered:

I am an American citizen by birthright and, having lived above the laws of the land, I claim the right to worship God according to the dictates of my own conscience and the commandments that God shall give unto me. … I am proud to say to you that I am not only a citizen of the United States of America, but a citizen of the kingdom of God, and the laws of this kingdom I am willing to sustain and defend both by example and precept.

As women who had recently been given the right to vote—second only to the women in Wyoming—those who spoke argued that it was their duty as American citizens with the power of the franchise to lodge their complaint with Congress. “We unitedly exercise every moral power and every right which we inherit as the daughters of American citizens, to prevent the passage of such bills; knowing that they would inevitably cast a stigma on our Republican Government by jeopardizing the liberty and lives of its most loyal and peaceable citizens.” As newly franchised citizens, Latter-day Saint women saw the issues of Antipolygamy legislation through the lens of citizenship. Those who spoke out in defense of polygamy cloaked themselves in their religiosity and patriotism. They defended their choice to be plural wives as one granted them by God and the constitution. They saw the lawmakers who sought to limit their religious freedoms as tyrants, not the husbands they shared with their sister wives.

44 The meeting minutes and speeches in full are published in Deseret News, January 19, 1870.
While the Mormon opposition to the Cullom bill was loud, there is little proof that it made much impact in Washington. The opposition in the House to the proposal by representatives like Fitch, however, was strong enough to strike out sections considered the most blatant infringements of personal rights, including the right to subpoena a lawful first wife to testify against her husband and Presidential power to send the army to enforce anti-polygamy laws without the consent of Congress. With these and other changes in place, the bill passed the House on March 23, by a vote of 94 to 32. On April 11, 1869, Senator Cragin reported the bill to the Senate Committee on the Territories with amendments. The senator had an opportunity to discuss the measure at length on May 18, but the Cullom bill died on the Senate calendar. Why the bill died is unclear. Perhaps some senators believed reports that a liberal movement among the Saints would undermine the theocracy if external pressures were withheld. It is possible that senators were convinced by arguments that the railroad and mining industry would bring good citizens to Utah who would in turn further enlighten their Mormon neighbors of the wrongfulness of polygamy. Through the natural course of events, plural marriage would atrophy in an age of progress.

The Poland Act

Some of what had been proposed in the Collum Bill appeared in the successful Poland Act of 1874. As was made clear in Chapter 1, the Saints had a long and troubled

46 Congressional Globe, 41st Cong., 2nd sess., 2143-2145.
history with federal judges sent to Utah territory. In 1855 they enacted a law, which in
effect, restricted the District Courts to the consideration of cases arising under United
States law, and gave to the Probate Courts full civil and criminal jurisdiction.\(^{47}\) The law
also provided that the probate judges were to be elected by the Territorial Legislative
Assembly, which being solidly controlled by the Saints, selected judges from the
Mormon population.\(^{48}\) This arrangement permitted the Mormons to try civil and criminal
cases before Mormon judges instead of those appointed by the President. Thus, the Saints
had a tight control over the courts in Utah. This fact, along with the fatal flaw of the
Morrill Act—that polygamous marriage had to be proven to result in conviction—
prohibited any prosecution of Mormon polygamists.

By 1871, Utah had a tough new federal judge named James B. McKean. McKean,
a New York lawyer long associated with Republican opposition to polygamy, came to
Salt Lake believing his appointment to Utah’s judiciary was a summons to a divinely
appointed mission: “The Mission which God has called upon me to perform in Utah, is as
much above the duties of other courts and judges as the heavens are above the earth, and
whenever or wherever I may find the Local or Federal laws obstructing or interfering
therewith, by God’s blessing I shall trample them under my feet.”\(^{49}\) He approached his
mission to rid the world of Mormon polygamy with religious zeal, bringing indictments
against no less than Brigham Young, Daniel Wells, and George Q. Cannon. Rather than

\(^{47}\) Compiled Laws of Utah, (1866), 31.
\(^{48}\) In 1874 Probate Judges were made subject to direct election in the country concerned. See Compiled
Laws of Utah, (1876), 120.
\(^{49}\) Edward W. Tullidge, Life of Brigham Young; or, Utah and Her Founders, (New York: n.p., 1876), 420-421.
indicting the Church leaders under the Morrill Act, McKean used a Utah statute forbidding lewd and lascivious cohabitation—a statute never meant to be used against polygamous relations. While his reasons for not using the Morrill Act are unclear, Church Historian B.H. Roberts speculates that the prosecution chose to proceed under Utah law to avoid the difficulty of establishing both the legal and polygamous marriages of each defendant and to take advantage of the harsher penalties available under Utah law.50

By indicting the church’s leading figures, McKean endeavored to set a vivid example, to cow the rank and file, and to paralyze the Church’s leadership. During the proceedings against Brigham Young, the judge remarked:

It is … proper to say that while the case at bar is called *The People versus Brigham Young*, its other and real title is *Federal Authority versus Polygamic Theocracy*. … The one government arrests the other in the person of its chief, and arraigns it at his bar. A *system on trial in the person of Brigham Young*. Let all concerned keep this fact steadily in view; and let the government rule without a rival which shall prove to be in the right.51

McKean made no secret of his intention to bring put the entire Church—particularly the issues of theocracy and polygamy—on trial. His efforts emanated from the post-Civil War obsession to establish a unitary national cultural enshrined in an unequivocally supreme federal government. His plan failed, however, because the juries that indicted Young and the others had been improperly empanelled. In the 1872 case of *Clinton v. Englebrecht* the United States Supreme Court unanimously ruled that, in his effort to purge juries of Latter-day Saints and thereby secure the conviction of polygamists, Judge

51 *Deseret News*, October 18, 1871.
McKean had improperly ignored Utah’s jury selection procedures. The fallout from the *Englebrecht* decision was dramatic. In Utah, 130 people who had been indicted by improperly selected juries were released and the indictments quashed. The indictments against Young and the other leaders were similarly dismissed.

McKean’s inability to prosecute polygamists highlighted the need for more substantial anti-polygamy legislation. In a special message about polygamy in Utah given to Congress on February 14, 1873, President Ulysses Grant implored lawmakers “at the present session, pass some act which will enable the district courts of Utah to proceed with independence and efficiency in the administration of law and justice.” Something had to be done about the polygamous Mormons in Utah.

While Congress failed to act during that session, they were successful the next summer in passing the Poland Act of 1874. The proposed Poland Bill was only discussed for one hour in the house before being voted on and sent to the senate because much of it came from the Cullom Bill and had been discussed a few years earlier. Twenty days later the Senate discussed the bill. John A. Logan of Illinois gave an impassioned speech that helped smooth the way for the bill to pass the Senate:

> Has polygamy stretched out its arm until it fastens its power on every man in this Chamber? Is it true that the head of the Mormon church has more power in Congress than the morals of the whole country? Is it true that the

---

52 *Clinton v. Englebrecht*, 80 U.S. 434 (1871), 434.
55 *Congressional Record*, 43rd Cong., 1st sess., 3395, 4466-75, 5417-18. The Poland Act is found in chapter 469 of Statutes at Large 18 (1875), 253-56.
head of that theocracy, after boasting that he could control Congress, is able to say to the country that Congress is afraid to deal with him? … Sir, if the Congress of the United States is afraid to deal with such barbarism as this, it is not fit to represent the Republic that we do represent.\textsuperscript{56}

Ostensibly, the discussion was about polygamy, but really Logan was commenting on the power of Congress to control the religiosity of the American citizen. The federal government needed to extend its power to govern religion or else the nation could be overrun with barbarians like the Saints. The bill easily passed and was signed into law by President Grant.

Without including much of what had been opposed in the Cullom Bill, the Poland Act did resolve the rivalry between territorial and federal judicial officers by placing the judiciary firmly in federal hands. The Act gave district courts all civil and criminal jurisdiction over polygamy cases and limited the probate courts to matters of estate settlement, guardianship, and divorce. While the Poland Act struck at the heart of Mormon resistance to the Morrill Act, it did not result in polygamy prosecutions. Again, the fatal flaw of the Morrill Act required legal proof of multiple marriages. Because records of polygamous marriages were not kept, it was impossible to prove a man was married to more than one woman. Thus, while the Poland act did amount to a restructuring of the Utah legal system, it did not result in convictions for polygamy.

What the Poland Act did achieve was continued focus on Mormon polygamy by the American people. First, it directly aided bringing about the trials of the men associated with the Mountain Meadows Massacre. The trials brought about a renewed

\textsuperscript{56} Congressional Record, 43\textsuperscript{rd} Cong., 1\textsuperscript{st} sess., 5416.
interest in the massacre and resulted in more harrowing press for the Mormons. In his “confession,” John D. Lee, the man who was called the mastermind of the massacre and later convicted and executed for the role he played, claimed that Brigham Young knew about the plan to attack the Fancher party and gave the perpetrators his blessing. While the truthfulness of this statement and the role Young actually played in the massacre are still matters of hot debate among historians, what can be shown is that by linking the Church leadership to the massacre, Lee only helped damage the Latter-day Saint public image. The specter of the massacre hung over the Church throughout the 1870s. For example, in his closing statements for the government in the Supreme Court case that would decide the constitutionality of antipolygamy laws, U.S. Attorney General Charles Devens closed with what the New York Times called a “moving reference” to the Mountain Meadows massacre, implying that Mormons themselves had proven that their marital system so distanced them from civilized restraint that the slaughter of innocents was the inevitable consequence.\(^57\)

Less directly, the Poland act brought attention to the matter of Mormon immigration to the United States. As was mentioned in Chapter 2, part of the anti-Mormon hysteria that fueled the legislative fires of the 1860s, 70s, and 80s was the fear that the American Mormon population was growing exponentially because new converts were streaming over from Great Britain and Scandinavia. This fear reached its zenith in 1879 when Secretary of State William M. Evarts dispatched a lengthy circular to United

\(^{57}\) New York Times, 15 November 1878.
States diplomatic and consular officers in Europe directing attention to the growth of Mormon population in the United States through recruitment abroad. He instructed them to seek the aid of foreign governments in preventing the departure of “large numbers” of “prospective law-breakers,” and through the public press of the principal cities and ports of Europe to call attention to the subject and the “determined purpose” of the United States to eradicate polygamy. 58

Friendly powers, Evarts believed, would not willingly permit the United States to become a “resort or refuge for the crowds of misguided men and women whose offenses against morality and decency would become intolerable” in their own land, and he asked them to take steps to check “these criminal enterprises by agents who are thus operating beyond the reach of the law of the United States.” 59 What Evarts failed to envision, however, was how any government was going to recognize potential lawbreakers and under what pretext they could be stopped from emigrating before they had committed any crime. In addition, most foreign governments believed Mormon polygamy was an American problem. The American government permitted American Mormon missionaries to go abroad in the first place. If American leaders wanted to stop the flow of converts into their borders they should prevent Mormons missionaries from leaving the country. The London Times ridiculed the whole idea, while the London Examiner could

59 “Diplomatic Correspondence, Circular No. 10, August 9, 1879, Sent to Diplomatic and Consular Officers of the United States,” Papers Relating to the Foreign Relations of the United States 1879, 11.
not refrain from commenting on the “plaintive appeal” of Evart’s circular: “The morality of this circular is admirable; the logic is lamentable.”

Mormon population growth in Utah was, of course, of the utmost importance to the Church. Not only was the gathering of Saints in Zion theologically important to building the Kingdom of God, but in the more temporal realm, immigrant votes were crucial to maintaining Mormon control of the Territory. Church leaders emphasized the importance of practicing civil rights, making American citizenship an important part of being a Latter-day Saint in Utah. “Get clothed at once with all the rights of an American citizen,” Apostle George A. Smith urged the Saints in a sermon given in 1874 in Richfield, the heart of Utah’s Scandinavian country. Smith went on to tell the congregation not to shirk their duty if drawn on a jury; they should not lie before God or man but convict anyone indicted for polygamy entered into since 1862 if it were proved. “We know that law is unconstitutional, and we can beat them in their own courts. Don’t be nervous about it. Take a little valerian tea and put your trust in God.”

The Saints were ready to use their understanding of citizenship rights to fight Antipolygamy laws and rooted their defensive stance in their faith in the constitution.

With the introduction of each new law, church leaders augmented their preaching of the importance of plural marriage. For example, apostle Wilford Woodruff reminded a congregation that polygamy was a commandment and that they must obey it or be damned. “Now, which shall we obey, God or Congress? For it is God and Congress for

---

60 London Examiner, August 16, 1879, quoted in New York Times, August 30, 1879.
61 Quoted in John Codman, “Through Utah,” Galaxy, XX (November, 1875), 624.
“We will obey God!” They knew they were breaking the law of the land, yet Mormons continued to believe they were protected by the freedom of religion clause in the Bill of Rights, and continued to uphold the laws of their God. They placed their allegiance to God and His transcendent constitution rather than in the laws passed by a sinful Congress. Because Mormons and anti-polygamists had such differing views on the constitutionality of the anti-polygamy laws, it was only a matter of time until the Supreme Court of the United States would hear a polygamy case and put the issue to rest.

**The United States vs. George Reynolds and the Centrality of Monogamy to American Citizenship**

In terms of rights and individual relations to the state, recent histories have argued that rather than an overarching definition of what it meant to be an American citizen, legal status was the primary determiner of an American’s rights during the nineteenth-century. Whether an individual was free or enslaved, married or single, determined what rights, if any, a person was entitled to. Central to this legal definition of citizenship was marriage. Nancy Cott, Hendrik Hartog, Laura Edwards, and Linda Kerber all maintain that a person’s legal marriage status was fundamental to defining his or her civil and political rights. Additionally, Michael Grossberg, Dylan Penningroth, and Elizabeth Regosin have shown that legal familial relations were crucial to understanding the rights

---

of parents, children, guardians and wards. Race and gender were elemental to the ways all legal rights were protected and acted upon. Whether someone was legally a slave, freedman, husband, wife, son or daughter greatly affected that individual’s access to civil and political rights.

Missing in the histories listed above, however, is the inextricable link between religion and marriage. Marriage in the United States has been (and continues to be) both a civic and religious institution. This complicated intersection of legal and religious history is laid bare in the initial legal battles over polygamy and is examined at length in this and the next chapter. Those who fought against polygamy demanded the Saints follow the law of the land and take only one wife. Yet they did so from religious positions, attacking Mormons from the floor of the Senate and court benches that often seemed more like Protestant pulpits. Mormons were forced to choose between man’s law and God’s law. For several decades they chose to follow God’s law rather than acquiesce to the laws of the United States.

After the Poland Act became law, U.S. Attorney William Carey began bringing indictments against Church leaders. Although still hindered by the lack of proof that

---

plural marriages had been performed after 1862, he kept the Church leadership on their
toes with the threat of indictment. The legal battles were costly and draining. To bring an
end to the threatened indictments, Church leaders struck a deal with Carey: he would stop
his attempts to indict general authorities if, in return, the Church furnished a defendant
for a test case to be brought before the United State Supreme Court to determine the
constitutionality of the anti-bigamy laws. Brigham Young and John Taylor asked thirty-
two-year-old George Reynolds, their personal assistant who had recently married a
second wife, to be the test case Mormons would appeal to the Supreme Court. Reynolds
agreed. He provided prosecuting lawyers with numerous witnesses willing to testify of
his being married to two wives and was indicted for bigamy by a grand jury on October
23, 1874. In 1875, Reynolds was convicted and sentenced to two years hard labor in
prison and a fine of five hundred dollars. He continued to appeal. In 1876, the Utah
Territorial Supreme Court upheld the sentence. His 1878 his appeal went to the Supreme
Court.64

Reynolds’ defense centered on four key points. First, the defense argued that there
was no harm done to the women of polygamous marriages. The women of Mormon
polygamy knew “beforehand of the prior marriage. The woman, to whom a man already

64Linford, “The Mormons and the Law,” 333-334. There is some controversy concerning the Mormon
insistence that the government and Church made a bargain in the Reynolds case, and that the government
welshed on its part. The federal prosecutors maintained that the case was an honestly antagonistic contest
from beginning to end and denied that Reynolds supplied the evidence against himself. On the other hand,
there is persuasive testimony to the making of such a pact. A contemporary observer stated, “the jurors
were instructed, or at least advised, that there was no disposition to inflict punishment but merely a design
on the part of the Government’s representatives to make sure of their ground before going further” (Scipio
A. Kenner, Utah as it Is: With A Comprehensive Statement of Utah as it Was. Showing the Founding,
married is again married, is not deceived nor injured against her own will, or without her own knowledge.

Secondly, the defense argued “bigamy is not prohibited by the general moral code. There is no command against it in the decalogue.” The Mormons acknowledged that many Americans believed polygamy was prohibited by teachings found in the New Testament, but dismissed this argument against polygamy because a majority of the inhabitants of Utah did not recognize the binding force of that particular reading of the New Testament. Congress was therefore burdening the Mormons with an interpretation of the Bible they did not accept. This argument overlapped with the third put forward by the Reynolds team: that the passage of the Morrill and Poland Acts went beyond the constitutional powers of Congress. Congress should leave “the enactment of all laws relating to the social and domestic life of its inhabitants, as well as its internal police, to the people dwelling in the Territory.” The fourth, and most important part of Reynolds’ defense was that plural marriage is a religious belief, and therefore protected by the Constitution. The defendant maintained that plural marriage was of a divine origin, part of his religion, and thus immune from governmental interference. “One who contracts the relation forbidden by statute, in the belief that it is not only pleasing to the Almighty, but that it is positively commanded, cannot have the guilty mind which is essential to the commission of a crime,” the defense insisted. “He may make himself civilly responsible for the results of his act, because its effect upon others is altogether independent of motive. But he cannot be criminally responsible, since guilty intent is not

---

only consciously absent, but there is present a positive belief that the act complained of is lawful, and even acceptable to the Deity.”

The Court summarily disagreed with Reynolds on all four points. In response to the defendant’s claim that Congress had no right to legislate the domestic institutions of a federal territory, the Court ruled “the statute immediately under consideration is within the legislative power of Congress. It is constitutional and valid as prescribing a rule of action for all those residing in the Territories, and in places over which the United States have exclusive control.” Without statehood, Utah was at the mercy of Congress. Having ruled that Congress could pass laws dealing with domestic issues within a territory without the consent of those living in the territory, Waite went on to answer whether or not the First Amendment protects freedom of belief or conscience from prosecution. Finding no definition of religion within the Constitution itself, Waite quoted Thomas Jefferson, a source contemporary with the First Amendment, to the effect that “religion is a matter which lies solely between man and his God; that he owes account to none other for his faith or his worship; that the legislative powers of the government reach actions only, and not opinions.” Here, Waite located “the true distinction between what properly belongs to the Church and what to the State.” Legislative powers reach action only, not opinions, thus building “a wall of separation between Church and State.” Waite then quoted the preamble of the Virginia Statute on Religious Freedom, also

66 Ibid.
67 Reynolds v. United States, 98 U.S., 145
68 Ibid., 164
69 Ibid., 162.
penned by Thomas Jefferson: “[To] suffer the civil magistrate to intrude his powers into the field of opinion … is a dangerous fallacy which at once destroys all religious liberty. … [It] is time enough for the rightful purposes of civil government for its officers to interfere when principles break out into overt acts against peace and good order.” The question, then, was whether polygamy was a religious act that endangered the peace and good order of the nation.

If religious belief exempted Mormons from prosecution under the statute, Waite argued, this would introduce a new element into criminal law. “To permit [polygamy] would be to make the professed doctrines of religious belief superior to the laws of the land and in effect to permit every citizen to become a law unto himself. Government,” Waite insisted, “could exist only in name under such circumstances.” Thus, he concluded, “Laws are made for the government of actions, and while they cannot interfere with mere religious belief and opinions, they may with practices.” According to Waite, therefore, Mormons were free to believe whatever they chose, but they were not permitted to act on those beliefs if they ran contrary to the peace and good order of the nation.

Waite used two sensational examples of religious belief dictating dangerous and criminal behavior to exemplify his reasoning:

Suppose one believed that human sacrifices were a necessary part of religious worship, would it be seriously contended that the civil government under which he lived could not interfere to prevent a

70 Ibid.
71 Ibid., 167
72 Ibid., 166
sacrifice? Or if a wife religiously believed it was her duty to burn herself upon the funeral pile of her dead husband, would it be beyond the power of the civil government to prevent her carrying her belief into practice? 73

By likening polygamy to human sacrifice and the practice of suttee, Waite relied on tried and true tropes of comparing Mormon polygamists to murderers and Orientalizing the practice of plural marriage.

After determining that the First Amendment did not bar the criminalization of religiously inspired conduct, the Court then considered whether polygamy should be deemed “subversive of good order” and, hence, properly made a crime. The Court conceded that Marriage was “from its very nature a sacred obligation” and that “an exceptional colony of polygamists under an exceptional leadership may sometimes exist for a time without appearing to disturb the social condition of the people who surround it.”74 However, “polygamy has always been odious among the northern and western nations of Europe” and was an offense at common law.75 While marriage might be a sacred obligation, it was also a civil contract regulated by law. Indeed, it was an obligation in which the state had an intense interest since “out of its fruits spring social relations and social obligations and duties, with which government is necessarily required to deal.”76 To Waite, illicit sex was not the issue. The issue was illicit marriage. The state was built upon marriage, and whether monogamous or polygamous marriages were

73 Ibid.
74 Ibid., 165, 166
75 Ibid., 164-165
76 Ibid., 165
allowed would determine whether “democracy” could or could not exist. Thus, the importance of outlawing and eliminating the practice of polygamy could not be overstated.

Waite quoted Lieber in his decision, agreeing with the professor “that polygamy leads to the patriarchal principle, and when applied to large communities, fetters the people in stationary despotism, while that principle cannot long exist in connection with monogamy.” Here, Waite used the well-worn antipolygamist argument that polygamy, like slavery, was detrimental to democracy. At the same time, Waite implied that monogamy was the only marriage system that could exist in the United States. Monogamous unions entailed a sacrifice of the self on the part of both the husband and the wife that was intrinsically equal. Polygamy, on the other hand, required that the plural wives fully commit themselves to a single husband, who, as an individual, could not possibly match the level of their wives’ emotional involvement. This fundamentally asymmetrical exchange of affection could not sustain marriage, and without marriage, American democracy would disintegrate.

Through his decision, Waite declared the primary justification of the anti-polygamy law the proposition that polygamy was an evil that strikes not only at the foundation of American society but at the very center of western civilization. He maintained that by challenging traditional monogamous marriage, the bedrock upon which the nation was built, polygamy was a real and present danger to the peace and

77 Ibid., 166.
78 Ibid.
good order of the United States and its territories. He argued that government had the power of self-protection and could eliminate practices that threaten its life as a political system.

The Latter-day Saints, crushed by Reynolds’ defeat, responded to the Court’s decision as quickly as they could. The most extensive and scholarly Latter-day Saint reaction to Reynolds v. United States was Apostle and Utah’s Congressional Representative George Q. Cannon’s fifty-seven-page review of the Court’s decision.79 Cannon, who as both the most articulate Mormon spokesman and as the man responsible for Reynolds situation as a prisoner for polygamy, hastened to put pen to paper to explain why Reynolds had been decided incorrectly. He began with a veiled reference to Dred Scott to illustrate that the Supreme Court was not infallible and had made mistakes before concerning citizenship rights.80 A similar mistake, he maintained, had been made in the Reynolds case. To George Cannon’s mind, the Reynolds decision simply put “The Supreme Court of the United States on one side and the Lord on the other.”81 The U.S. government was forcing the Saints to choose between their God and the law.

Cannon’s main point was that as long as Mormon beliefs and practices did not interfere with the rights of their fellow men, the Saints should be allowed under the First Amendment to practice their beliefs no matter how nonconformist they might be. He

80 “[T]hat the decision of the Supreme Court have not always been infallible, the history of the nation clearly establishes. It requires no great age, no venerable experience, to remind citizens of this fact; men of middle age have but to contrast the present with the past, which they can recollect, to convince themselves of it.” Cannon, A Review of the Decision, 4.
81 Ibid., 6.
challenged the Court’s assumption that polygamy corrupted monogamy by espousing the advantages of polygamy. Plural marriage “take[s] women in honorable wedlock,” he argued, “and sustains them and their children respectably.” No one was wronged in this practice—neither the Mormon women nor their husbands—for they were not coerced. Nor were the polygamous children adversely affected, he wrote, for there was no approbrium placed upon them in the Mormon community. Nor had the nation been wronged, Cannon said, for Mormons are peaceable, industrious, frugal, thrifty and honest. “Our only fault,” Cannon remarked wryly, “is that we are too much married.”

In response to Waite’s comparison of polygamy to sutee, Cannon indignantly declared: “In the name of common sense, what possible analogy can there be between the destruction of life and the solemnization of marriage, between practices which extinguish life and an ordinance which prepares the way for life. … Because human sacrifice is wrong, does it necessarily follow that human propagation is wrong?” Cannon was not alone in his lamentation of this false analogy. Other Mormon apologists pointed to Waite’s comparison of polygamy to sutee as further evidence that Antipolygamy laws were based on popular prejudice instead of constitutional law.

Apostle and soon-to-be Church President John Taylor was not nearly as tempered in his response to the Court’s decision. In an interview he provided for the New York

82 Ibid., 52.
83 Ibid., 43.
84 Ibid., 34, n.17.
85 Latter-day Saints’ Millennial Star, February 3, 1879, 73. See also editorial Deseret News, January 7, 1879: “We regret the ruling more because it is an undignified submission to popular prejudices than from any apprehension of its effects upon our people.”
Tribune, Taylor went straight to what he saw as the heart of the matter: the pretense that monogamous marriage is a “sacred obligation” while at the same time a “civil contract,” and the disconnect the Court created between religious belief and action. Taylor maintained that if the state is not permitted to interfere with religious affairs, and marital relations were defined as religious, the government had no place governing marriage, monogamous or polygamous. More importantly, Taylor argued, “religious faith amounts to nothing unless we are permitted to carry it into effect. They allow us to think—what an unspeakable privilege that is—but they will not allow us the free exercise of that faith which the Constitution guarantees.” Here, Taylor makes his most salient point—one which had been overlooked by the courts that developed the belief-action distinction, the Supreme Court that adopted the doctrine, and even George Cannon: the common understanding of “exercise,” as in the “free exercise of religion,” includes action.

A petition bearing the signatures of thirty-two thousand people was sent to President Hayes, requesting executive clemency for Reynolds, on the grounds that his was a test case, submitted to the courts under an agreement which guaranteed the

88 This point was echoed in the Mormon Press days later: “Who does not know that exercise signifies activity, or practice?” Latter-day Saints’ Millennial Star, February 3, 1879, 73.
suspension of punishment if he were convicted. The petition was ignored. When released from prison, Reynolds was welcomed back by the Saints as a “living martyr.”

Without executive clemency or special favors, Elder Reynolds has paid the penalty our country has imposed upon her children, who desire to serve God as well as the Constitution. He has proved himself a man of God; though restricted in the exercise of citizenship, has maintained nobler qualifications for citizenship than have degraded themselves by persecuting him for conscience sake. … He emerges from the prison walls a living martyr to the cause of Zion, with a history hardly paralleled in the lives of the martyrs of olden or modern times. … All Israel honors him.

The Saints praised Reynolds as more than just a religious martyr. To them he was an outstanding American citizen, a martyr not only for his religion, but for American religious freedom and the nation for which it stands.

A Change in Course

During the antipolygamy battles of the 1870s the Latter-day Saints never ceased to remind the country that polygamy was central to their faith and therefore protected by the Constitution, despite what might be said of it in the press or by members of Congress. They expressed extreme discomfort with the choice that was forced upon them by the Reynolds decision:

What are we to do? God has given unto us a law. Shall we obey it? We are placed—not by acts of our own—in a position where we cannot help ourselves. We are between the hands of God and the hands of the Government of the United States. God has laid upon us a command for us

---

89 A copy of this handwritten petition can be found at the Utah Historical Society. Reynolds was released on January 20, 1881, with remission of one hundred and forty-four days of his original sentence for good behavior.

to keep; He has commanded us to enter into these covenants with each other pertaining to time and eternity, ... and we ... know for ourselves that these things are true. I know they are true, if nobody else does. ... I cannot help knowing it, and all the edicts of laws of Congress and legislators and decisions of courts could not change my opinion. I know it is from God, and therefore bear testimony of it. Now, can I help it? No. The question resolves itself into this: having received a command from God to do a certain thing and a command from the State not to do it, the question is what shall we do?91

Taylor and the Saints chose to obey God. They maintained that despite the legal setbacks, they would continue to carry the torch of freedom, no matter what Congress or the Courts ruled. “When the people shall have torn to shreds the Constitution of the United States the Elders of Israel will be found holding it up to the nations of the earth and proclaiming liberty and equal rights to all men, and extending the hand of fellowship to the oppressed of all nations.”92 The Saints understood themselves to be the protector’s of God’s constitution. The sinful federal government would destroy itself and in the end the Saints would be left to establish the Kingdom of God in its place, based not only on Mormon doctrine but the American constitution as well.

Reynolds, as the Saints understood it, trampled the Constitution and betrayed the promise of American liberty and equal rights to their only true defenders—the Latter-day Saints.93 Their disappointment is palpable in the speeches given by the leadership at the time. Their frustration was often expressed in words of anger and that anger that was directed at the people of a nation who were meant to uphold the promise of freedom.

93 “Unless the party imbibing and practicing principle of religion is left the sole judge as to what they shall constitute, farewell to religious toleration and liberty.” *Latter-day Saints’ Millennial Star*, January 13, 1879, 25.
Apostle Wilford Woodruff noted, “I will not desert my wives and my children and disobey thy commandments of God for the sake of accommodating the public clamor of a nation steeped in sin and ripened for the damnation of hell.” No Church leader was better at articulating this anger than John Taylor. During the October 1879 general church conference he thundered:

> God will lay his hand upon this nation … there will be more bloodshed, more ruin, more devastation than ever they have seen before. … We do not want these adjuncts of civilization. We do not want them to force upon us that institution of monogamy called the social evil. We won’t have their meanness, with their foeticides and infanticides, forced upon us.

And yet, despite all their talk of fire and brimstone, the Latter-day Saints knew that after the Reynolds decision their strategy of defense had to change. They could no longer rely on the freedom of religion clause to protect their practice.

---


95 Journal of Discourses 20:321 (October 6, 1879).
Chapter 4: The Political and Legal Reconstruction of Utah

This chapter demonstrates that although Reconstruction loomed large in debates over the Edmunds Act, by 1882 lawmakers were actively seeking ways to reconcile North to South in order to define a unified American “nation.” For many Republicans in the North, this meant ignoring the myriad ways white Southerners were ensuring their superiority by stripping blacks of their newly won freedoms and civil rights. For many Southern Democrats, this meant letting go of the tired states rights complaint against expanded federal intervention in the West. It was during this era of “Redemption,” when Republicans and Democrats were willing, if not eager, to turn a blind eye to the erosion of civil rights for blacks, immigrants, and workers, and accepting of federal intervention in nearly all areas of Western government, that legislators passed the Edmunds-Tucker Act of 1887. In much the same way Plessy v. Fergusson formally ended equal citizenship for blacks in the South, the Edmunds-Tucker Act marked the end of equal citizenship for Latter-day Saints in the West.

In a recent historiographical essay on Reconstruction, Heather Cox Richardson argues that what historians now call “Reconstruction” is being “redefined as the Era of Citizenship, when Americans defined who would be citizens and what citizenship

______________________________


2 Foner, Reconstruction, 564-601.
Richardson’s understanding of Reconstruction illuminates the importance of Sarah Gordon’s argument that the anti-polygamy laws of the 1880s can be seen as a second Reconstruction in the west. Peripheral to her study of constitutionalism, Gordon does not expand upon this fascinating observation. Adopting Richardson’s understanding of “Reconstruction” as the era during which modern American citizenship was defined and using Gordon’s observation about Reconstruction and anti-polygamy legislation as a starting point, this chapter explores the important role Reconstruction played in the anti-polygamy debates during the 1870s and 1880s and how the reconstruction of politics and marriage in Utah shaped evolving notions of acceptable religiosity and its relation to American citizenship.

The driving question of anti-polygamy legislation and judicial activism in Utah during the 1880s was whether the privileges of American citizenship—suffrage, protection of property, equality of opportunity—were the cause or the result of moral qualifications. Put in the context of anti-polygamy legislation, the question American lawmakers faced was whether exposure to American law and political institutions would rehabilitate the Saints or whether American law and institutions had to be actively reconstructed to provide a rehabilitative mechanism.

Throughout the 1870s and early 1880s, many Southern Democrats were not ready to implement Reconstruction methods in Utah because to do so would legitimate the Reconstruction methods they suffered at the hands of Radical Republicans immediately.

---

following the war. Those who did not want to see Latter-day Saints punished for polygamy in the same ways slaveholders had been punished for slavery, including moderate Republicans, held radical reconstruction in Utah in check until 1887, not because they tolerated polygamy, but because they disagreed with the expansion of federal governance over citizens of a territory. But as time marched on and the memory of Reconstruction faded and the importance of reconciliation became more pronounced, more and more Democrats and moderate Republicans were ready and willing to turn to Reconstruction methods to strip the Saints of citizenship rights and bring them in line with an idealized American citizen they were concurrently constructing.

The Cullom Bill and Radical Reconstruction

The Senate Committee on Territories reported out the first anti-polygamy bill of the postwar period in February 1867, just one month after Congress began crafting a new Reconstruction. Radical Republicans argued that polygamous wives were very much like the slaves who had only recently gained their freedom. New York Representative Hamilton Ward believed polygamy crushed the “great ambition” of the “true woman” to “make her home a paradise.” When you “break down that home,” he explained, “you crush her … you leave her at the mercy of every wind … that may assault her.” Thus, plural wives became “slaves to a system worse than death.” Senator Aaron Cragin of New Hampshire argued that the effects of polygamy of a woman’s character produced a

---

5 Congressional Globe, 41st Cong., 2nd sess., 2143.
6 Ibid., 2144.
form of enslavement: “degraded into slaves by this barbarism, they are … submissive and … miserable.” He believed Mormon men regarded women as “inferior being[s] and … slave[s],” and stated that Mormon husbands referred to their wives as “‘my women;’ about the same as … our Southern slave lords used to speak of their ‘likely young niggers.’” The women of Mormonism required emancipation from their polygamous marriages in much the same way Southern slaves had recently been emancipated. Radical Republicans saw the issues of slavery and polygamy as interminably linked.

While these radicals were unconcerned that plural wives were not legally or physically coerced into marriage the way black men and women had been forced into slavery, this was not how most Republicans saw polygamy. Anti-polygamists’ expansive definition of enslavement encompassed situations where women had merely been pressured into marriage by their communities. In contrast, mainstream Republican thought in the post-slavery era sharply distinguished compulsion and consent. The claim that social pressure alone could amount to slavery was, to most Republicans, untenable. Republican opponents of anti-polygamy legislation argued that if women were not physically or legally coerced to marry, polygamy was consensual and could not be categorized with slavery. The comparison of plural wives to chattel slaves did not serve the Radical Republicans well. For example, Thomas Fitch of Nevada noted the critical

---

7 Ibid., 3575.
8 Ibid., 3574.
9 Ibid., 3580.
11 See generally Amy Dru Stanley, From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation, (New York: Cambridge University Press, 1998), ix-xii. Stanley describes the rise of a contract worldview after the Civil War in which wage labor, contracts, and the market represented the ideal of freedom and the polar opposite of chattel slavery.
differences between Southern slavery and Mormon polygamy: “Slavery rested on compulsion and drew its vitalizing force from oppression; polygamy depends on persuasion and leans upon its own distorted interpretation of divine philosophy.” Dismissing the 1856 phrase “twin relics of barbarism” as merely a “good rallying cry,” he asserted that the two were simply “not equal in present importance or in possible consequences.”\(^\text{12}\) The majority of lawmakers no longer accepted the comparison of polygamy to slavery, and in 1870, most were unwilling to pass a law that would punish polygamists in the same ways Reconstruction had punished former slave-owners in the South.

Two provisions, both the subject of vigorous debate on the floor, were essential to the proposed Cullom anti-polygamy bill; the use of test oaths to exclude polygamists from voting, office-holding, and jury service, and the transfer of “marital” property from a polygamous husband to his several wives. By including test oaths to impose civil and political disabilities upon polygamists, the Cullom Bill was strongly evocative of Congressional Reconstruction measures. The bill barred “any person living in or practicing bigamy, polygamy, or concubinage” from holding “any office of trust or profit” in Utah, “voting at any election,” or claiming entitlement “to the benefits of the homestead or pre-emption laws of the United States. …”\(^\text{13}\) “No person … who believes

\(^{12}\) *Congressional Globe*, 41\(^{\text{st}}\) Congress, 2\(^{\text{nd}}\) Session, 1517-1518. Echoing this sentiment, Representative Austin Blair, Republican of Michigan, opposed the Cullom Bill, arguing that “we cannot forget the fact that [plural wives] went there voluntarily … if they are concubines, they are concubines voluntarily.” Representative Aaron Sargent of California commented that the “continuance of polygamy depends largely on the consent of the women there.” *Congressional Globe*, 41\(^{\text{st}}\) Cong., 2\(^{\text{nd}}\) sess., 2149 and 1520.

\(^{13}\) House Report, 1089 § 19, 41\(^{\text{st}}\) Congress (1870); *Congressional Globe*, 41\(^{\text{st}}\) Congress, 2\(^{\text{nd}}\) Session, 1371.
in, advocates, or practices … polygamy” would be allowed to serve on a jury in a
polygamy-related criminal trial.\textsuperscript{14} Finally, those elected to office would be required to
swear, “I am not living in or practicing bigamy, polygamy, or concubinage, and I will not
hereafter live in or practice the same.”\textsuperscript{15} The oath provision was analogous to the
“ironclad oath,” an oath of past and future loyalty to the United States that all federal
office holders were required to swear after 1862.\textsuperscript{16} Cullom even noted that Congress had
“already adopted” test oaths against “certain classes of men lately in rebellion against the
Government,” arguing that “wicked and vile” polygamists deserved similar treatment.\textsuperscript{17}

The Cullom Bill also proposed to hold polygamous husbands financially
responsible for the welfare of illegally married wives. The Bill would have compelled a
man convicted of “bigamy, polygamy or of any adulterous or incestuous marriage,” to
provide for his “wife … concubine or concubines” if they were “dependent in whole or in
part” upon his. In such cases, the bill empowered courts

To order the sale of so much of the personal property … as shall be
needed for the support and maintenance of the wife [or] concubines …
until such time when such persons can procure labor or means to support
themselves, and when the personal property is exhausted … [to] order the
sale of the real estate.\textsuperscript{18}

\textsuperscript{14} Ibid., 1369-70.
\textsuperscript{15} House Report, 1089 § 19, 41\textsuperscript{st} Congress (1870).
21-32.
\textsuperscript{17} \textit{Congressional Globe}, 41\textsuperscript{st} Congress, 2\textsuperscript{nd} Session, 1371.
\textsuperscript{18} House Report, 1089 § 30, 41\textsuperscript{st} Congress (1870).
A court could also liquidate a husband’s property if he fled the territory and left behind dependent wives or concubines.\(^\text{19}\) Further, the bill authorized the Secretary of the United States Treasury “to afford … temporary relief” to those “reduced to destitution by the enforcement of the laws against polygamy” if the husband’s assets were insufficient.\(^\text{20}\)

This provision mirrored both the structure and application of the Confiscation Act of 1862.\(^\text{21}\) The Confiscation Act authorized the federal government to seize the property of Confederates during the war. After the war, radical Republicans saw confiscation as a way to distribute the property of disloyal former slave owners to newly freed blacks. As it was initially imagined in March 1865, the Freedman’s Bureau would have relied upon the continued use of confiscation to generate revenue to aid freed black in their transition to freedom.\(^\text{22}\) In the summer of 1865 the Johnson administration halted confiscation and issued presidential pardons to ex-confederates, who then demanded the return of previously confiscated land.\(^\text{23}\)

Many members of Congress viewed the Cullom Bill’s property liquidation provisions as a form of “confiscation.” This particular parallel to Reconstruction turned out to be a serious liability. Only those at the very “outer limits of Radical Republicanism” had advocated the use of confiscation to transform the “whole fabric of Southern society” by replacing the aristocracy and the landless classes with a society

\(^{19}\) Ibid.
\(^{20}\) Ibid.
\(^{21}\) Phipps, “Marriage and Redemption,” 459.
\(^{23}\) Foner, *Reconstruction*, 159-162.
built on “free labor.” Including something as controversial as confiscation in the Bill so soon after Reconstruction proved fatal to the future of the bill. Those who opposed the bill argued that polygamists should not be treated as former slaveholders had. Fitch explained, “Slavery was incorporated into the civil, political, and social framework of fifteen States; polygamy is a pariah which has fled to the desert for a home. Slavery was the basis of a vast industrial system; polygamy is an excrescence upon a promising industrial experiment.” Because polygamy was not as widespread or integral to the civil, political and social framework of the nation, it did not require the extreme measures of Reconstruction that the Southern states did right after the war. Confiscation was used in the South to completely restructure the economic power structure of the region. This was not necessary in Utah. Fitch and others believed Latter-day Saints could be brought in line with the emerging American ideal of citizenship without such harsh measures as confiscation.

As was noted in Chapter 3, a much-amended version of the Cullom Bill passed the House, but it died on the Senate calendar. Some of the measures found in the Cullom Bill were incorporated in the successful Poland Act, but for the most part, the Reconstruction of Utah was abandoned until growing anti-Mormon sentiment throughout the country drove Congress to pick up the cause again in 1882.

24 Ibid., 235-236. In addition to linking confiscation of husband’s property to Reconstruction, these provisions were remarkable in the context of mid-nineteenth century family law. The Cullom Bill essentially recognized polygamous marriages for the sole purpose of dividing marital property among the wives. No jurisdiction recognized such property right for women who knowingly married a lawfully married man, and even monogamously married women generally had limited rights in their husbands’ property. See Michael Grossberg, *Governing the Hearth*, 344-345. Leslie Joan Harris, Lee E. Teitlebaum & June Carbone, *Family Law* (New York: Aspen Law and Business, 2009), 35-39, 430-431. 25 *Congressional Globe*, 41st Congress, 2nd sess., 1517-1518.
Anti-Mormon Hysteria

In the years following passage of the Poland Act, Anti-Mormon hysteria reached a fevered pitch. American Presidents regularly, and with increasing irritation, called on Congress to pass tougher anti-polygamy laws. In 1875, President Grant lectured Congress about the “anomalous, not to say scandalous, condition of affairs” in Utah, but he offered no specific legislation to remedy the situation. President Hayes was a dedicated opponent of polygamy. In his message to Congress on December 1, 1879, the chief executive made a statement prophetic of the course which the national government was soon to follow: “If necessary to secure obedience to the law, the enjoyment and exercise of the rights and privileges of citizenship in the Territories of the United States may be withheld or withdrawn from those who violate or oppose the enforcement of the law.” He also promised that Utah would not become a state so long as polygamy existed in the territory.

Hayes and his wife travelled to Utah in late 1880, and after returning he called for legislation to impose monogamy on Utah. He denied the claim that time and civilization were eroding polygamy and charged that plural marriages had inevitable and deleterious political consequences. He complained that “the political power of the Mormon sect is increasing. It now controls one of our wealthiest and most populous Territories, and is extending steadily into other Territories. Wherever it goes it establishes polygamy and

27 Ibid., 7:560.
sectarian political power.” He therefore recommended “Congress provide for the
government of Utah by a governor and judges, or commissioners, appointed by the
President and confirmed by the Senate—a government analogous to the provisional
government established for the territory northwest of the Ohio by the ordinance of 1787.”
If, however, this was not feasible, and Congress decided it was best to continue working
with the existing form of local government in Utah, Hayes wanted lawmakers to keep in
mind that polygamy “can only be suppressed by taking away the political power of the
sect which encourages and sustains it.” He therefore recommended “the right to vote,
hold office, and sit on juries in the Territory of Utah be confined to those who neither
practice nor uphold polygamy.” This is exactly what happened two years later when
Congress passed the Edmunds Act. President Hayes’ rhetoric added to the anti-Mormon
hysteria of the 1880s and eventually led to legislation that stripped the Saints of their
citizenship rights.

The President was not alone in his strident condemnation of polygamy. An
extreme example of growing anti-Mormon hysteria during the 1880s was the popular
allegation that Charles J. Giteau, the assassin of President Garfield, was a Mormon agent.
The Reverend T. DeWitt Talmage declared in Brooklyn Tabernacle on October 2, 1881,
that “I should not wonder if in the great day, when all such things are revealed, it should
be found that he was a paid agent of that old hag of hell who sits making mouths to

28 Ibid., 10:4458.
29 Ibid., 7:605-606
heaven between the Rocky Mountains and the Sierra Nevada.”

This link between Giteau and the Mormons, although not based in fact, was seized by the general public and even made it into the Congressional debates over the Edmunds Act. Because anti-Mormon hysteria painted such an ugly picture of the Saints in the minds of most Americans, it was, of course, conceivable to most people that a Mormon would be unpatriotic and disrespectful of the country enough to kill the President of the United States.

As had been the case from the very beginning of the anti-polygamy campaign, American women continued to bring attention to the horrors of polygamy and demand the government intervene in Utah. In the 1880s they did so by using the most successful reform tool of the nineteenth century: the lecture circuit. Kate Field was the most famous anti-Mormon lecturer. Field was a popular speaker, a political activist, an “arbiter of intellectual taste and fashion,” and perhaps the most outspoken woman on the topic of Mormon polygamy. She had a two-hour lecture called “The Mormon Monster,” during which she presented to “hundreds of large and enthusiastic audiences in England and America” in the 1880s. Her “Mormon Monster” lectures drew sellout audiences in the mid-1880s and included many of the powerful justices and national officeholders who

30 The sermon in full can be found in the New York Express, October, 1881.
31 Congressional Record, 47th Cong., 1 sess., 12 December 1881-13 March 1882, p. 1868.
32 For more discussion of Field’s influence on Protestant reformers see, Riess, Heathen in Our Fair Land, 130; and Gordon, “The Liberty of Self-Degradation,” 816. A recent biography summarizes Field’s cultural influence on hot-button topics of the 1870s and 80s, Gary Scharnhorst, Kate Field, The Many Lives of a Nineteenth-century American Journalist, (Syracuse: Syracuse University Press, 2008).
33 Chicago Tribune, June 6, 1886, 15.
would decide Mormonism’s fate under the law, including Supreme Court justices, a vice-president, and many members of Congress.34

In addition to anti-Mormon lectures, the number of anti-Mormon novels penned by women reached its zenith during the 1880s. The anti-Mormon best seller of the 1880s was Cornelia Paddock’s massively popular *The Fate of Madame La Tour*. The publisher ran 100,000 copies in its second printing.35 The title page of *The Fate of Madame La Tour* predicted that the book would find an eager audience among “the true-hearted American women who honor their sex.”36 These novels were culturally important because, as Peggy Pascoe argues, “women’s novels transformed the anti-Mormon genre, which had earlier functioned as a proto-pornographic expose of the sexual practices of Mormon families, into a call for middle-class women to eradicate polygamy.”37 Women were called to take action against Mormons and their marital practice through these novels. They no longer served as just titillating tales of heart-break and bondage, the anti-polygamy novels of the 1880s were a call to action, tools used by reformers to demand government action against the Saints.

36 “Fate of Madame La Tour,” *New West Gleaner* (March 1885), 52.
Not only the work of women authors but the writings of anti-Mormon Protestant missionaries also reached its peak during the 1880s. Missionary literature blatantly attacked Mormon American belonging, expressing moral indignation that Mormonism could so desecrate American soil and that polygamy could be practiced in an allegedly Christian land. The writers claimed that Mormons threatened the construction of America as a “Christian”—by which they meant Protestant—nation. As a result, Missions to Mormons acquired greater urgency because Mormons threatened Protestant hegemony in the United States. For example, in their writings, Protestant missionaries claimed that Mormon children deserved education more than boys “of Timbuctoo” required clothing because the Mormons constituted a dire threat to civilization right within America’s own borders. As such, they required rehabilitation as the first order of Protestant business.

By drawing upon colonialist discourse and depicting the Mormons as culturally different and inferior, American Protestants were constructing their own American identity. Latter-day Saints were the antithesis of that American identity.

**Edmunds Act of 1882**

Congress was not immune to the anti-Mormon hysteria and the Edmunds law of 1882 was passed concurrently with the tremendous nation-wide anti-Mormon boom. During the first session of the 47th Congress, 1881-1883, over 150 anti-polygamy

---

38 Riess, *Heathen in Our Fair Land*, 84.
39 Ibid.
memorials and petitions were noted in the Congressional Record.\(^{41}\) The same Congress saw twenty-three bills and constitutional amendments introduced during the first session alone.\(^{42}\) On February 15, 1882 debate began on an anti-polygamy bill submitted by Senator F. Edmunds of Vermont. The purpose of the bill, Edmunds claimed, was “to endeavor to redeem this Territory [Utah] from the absolute domination that 2,000 polygamists there have over everything that is done by law and without law in that Territory.”\(^{43}\) Previous bills had failed to deter Mormons from practicing plural marriage and as the anti-polygamy hysteria in the country grew, the time seemed ripe to pass a law that would finally extinguish the practice.

The Congressional debates considering the Edmunds Bill expose just how fluid the idea of American citizenship was at this time. American senators and congressmen held conflicting beliefs about the rights and responsibilities of citizenship—mostly due to the Civil War and Reconstruction. Through discussions of the proposed bill, Mormon polygamy and religious identity became central to the on-going debate about American citizenship.

When introducing his bill, Senator Edmunds made it clear that the urgency of extinguishing polygamy and ending Mormon political control in Utah was too great for

\(^{41}\) The complete list is printed in the *Congressional Record Index*, 47\(^{th}\) Cong., 1\(^{st}\) sess., XIII, 328. Typical organizations to submit memorials and petitions included: Conference of the Church of Christ, Alabama citizens, American Baptist Home Mission Society, Wilmington (Del.) Conference M.E. Church, General Assembly of the Presbyterian Church, Omaha Ministerial Association, Ministers Union of Buffalo, citizens groups from many states, the state legislatures of Michigan, New Jersey, and Wisconsin, etc. For a full list of all anti-polygamy bills, including those introduced at the first session of the 47th Congress, their authors, and legislative history see, Richard D. Poll, “The Twin Relic” (Unpublished Master’s Thesis, Dept. of History, Texas Christian University, 1939), 393-394.

\(^{42}\) Poll, “The Twin Relic,” appendix J.

\(^{43}\) *Congressional Record*, 47\(^{th}\) Cong., 1\(^{st}\) sess., 1155-1156.
Congress to spend time quibbling over technicalities of justice and law: “We come back to the question of whether the Congress of the United States is willing to deal with the fact of a polygamous government in a Territory of the United States over which I assume—because I cannot go into this constitutional or so-called constitutional argument—the United States has supreme control as to its political character.” He went on to state that if Congress does indeed have the control over the territory, “then the question is whether, saying all of us that we are against the practice of polygamy and do not believe that a polygamous community ought to be entitled to carry on the government as a polygamous government, we shall put the offices of that community into the hands of those who are not polygamists. That is all there is to it.”

Edmunds wanted to strip the polygamous Church leadership of political control in Utah. To do so, Congress had to pass a law that would finally be effective in ending polygamy.

The proposed bill contained nine sections, most of them meant to overcome the fatal flaw of the Morrill Act: the impossible task of proving that a man had married more than one woman. In order to convict polygamists, the Edmunds Bill defined a new offense, “cohabitating with more than one woman,” and barred those who believed in the godliness of plural marriage from serving as jurors in cohabitations cases. The most egregious sections of the bill tread very heavily upon the religious freedom of the Saints and were those that were the most debated in the Senate and the House. Section five, which stated “it shall be sufficient cause of challenge to any person drawn or summoned

---

44 Ibid., 1213.
as a juryman or talesman first, that he is or has been living in the practice of bigamy, polygamy, or unlawful cohabitation … or second that he believes it right for a man to have more than one living and undivorced wife at the same time,” penalized a citizen because of his belief rather than his action. Section eight provided the political penalties of the law by barring any “polygamist, bigamist, or any person cohabiting with more than one woman, or any woman cohabiting with any of the … the aforesaid,” from voting at any election or holding any office or place of public trust, either with the government of the United States of within any territory over which the United States had full control. This provision gave statutory authority for the exclusion of all polygamists from public office and from the exercise of the right of franchise.

The defense of the bill, put forward by Dudley C. Haskell of Kansas, Julius C. Burrows of Michigan, Richard W. Townshend of Illinois, and several other representatives, derived its major strength from the prevailing anti-Mormon hysteria. These legislators continued the practice established in the 1860s of denying that Mormonism was actually a religion and was therefore protected by the Constitution. Representative George W. Cassidy, of Nevada voiced their shared opinion when he stated: “I deny…that the Mormon religion, so called, as advocated by the lecherous element in Utah, is a religion of any kind, within the true meaning of the word…And it must be constantly borne in mind that there are two classes of Mormons in Utah—knaves and dupes.”

45 To the accompaniment of applause from his Republican colleagues, Haskell

declared that the purpose of the bill was “to legislate out of office every one of that infamous Mormon priesthood.”

Townsend charged that both the Latter-day Saints and Charles J. Guiteau—implying that the assassin was a Mormon—acted “in obedience to an inspiration.”

By denying that Mormonism was a religion and equating Mormons with murderers, these Congressmen were able to push through legislation that trampled the civil and religious rights of American citizens. In doing so, they were able to define who could be called an American based on religious belief and what civil rights those who did not fit their definition could and could not hold.

By early 1882, anti-polygamy sentiment was so universal that even former officers of the Confederacy counted themselves among the ranks of Congressional antipolygamists. John Morgan of Alabama (a brigadier-general in the Confederate Army), Wilkinson Call of Florida (adjutant general), George Graham Vest of Missouri (member of the Confederate Senate), and even the notoriously unreliable Joseph Brown of Georgia (advocate of secession, troublesome governor of Georgia during the rebellion, on-time Republican and now in the Senate as a Redeemer), all declared that they supported increased federal intervention in Utah. And yet, they all opposed the suffrage provision of the bill, which disqualified polygamists, both male and female, from voting or holding office. The way the bill linked suffrage to domestic relations and loyalty

---

46 Ibid., 1873.
47 Ibid., 1868.
dictated from Washington struck too close to home for the former confederates. Many Southerners believed the bill smacked of Reconstruction.\textsuperscript{48}

Section nine of the bill, which provided that “all registration and election offices of every description” in the Territory of Utah be immediately vacated, that control over elections be removed from the residents of Utah, and that a five man commission assigned the responsibility of filling the vacated election offices and of supervising Utah elections be created. This commission, because it reminded many of similar electoral commissions found in the South during Reconstruction, was the most controversial part of the bill. The former confederates opposed what they saw as a replay of radical Reconstruction and violation of the principles of states rights, while at the same time they denounced polygamy as evil and un-American.

Those who opposed the bill often called it unconstitutional. John H. Reagan, of Texas, stated: “There are a few of us who do not want to abolish the Constitution while we are endeavoring to abolish polygamy.”\textsuperscript{49} Similarly, Senator Vest claimed: “While I abhor polygamy, while I have denounced it… I revere the Constitution of my country and the rights of personal liberty guaranteed to every American citizen.”\textsuperscript{50} He could not permit himself to vote for a proposal he believed subverted the “highest and dearest right of every American citizen”—the right to vote.\textsuperscript{51} Florida’s Wilkinson Call characterized the bill this way:

\begin{flushright}
\textsuperscript{48} Phipps, “Marriage and Redemption,” 435-487.
\textsuperscript{49} Congressional Record, 47th Cong., 1st sess., p. 1858.
\textsuperscript{50} Ibid., 1200.
\textsuperscript{51} Ibid., 1156.
\end{flushright}
The bill now under consideration by the Senate is in my judgment the most extraordinary bill that has ever been presented in the history of this country. Whether it is regarded in the whole or in its details, it is a bill I think, that will long stand as a monument of the invasion upon time Constitution, of the disregard of personal rights, of the violation of every essential principle contained in our form of government and in our institutions.  

Call stated that he had no objection to stamping out polygamy and would “join hands in that very gladly.” But he declared that it would be much better to allow the federal courts to decide who was qualified to vote and hold office in Utah. He concluded: “I am willing to see the disqualification of polygamy made a condition of electoral capacity, but I do not think that the power of the courts should be taken away and the whole of this reconstruction vested in a board of five persons appointed by the President and confirmed by the Senate.”

Similarly, Senator Morgan of Alabama, called polygamy the “band of all civil society,” which cast “the pall of destruction and despair” over Utah. But he also maintained that the franchise could only be revoked if polygamists had been tried “according to the due process of law and through the judicial tribunals of the country.”

During the debate, bitter memories of Reconstruction in the South rose to the surface, resentments thinly veiled burst into the open as southerners charged northerners with oppression, duplicity, and deceit. Wilkinson Call hammered Senator Edmunds:

[H]ere is the Constitution of the United States, and here is the fourteenth amendment which the honorable Senator from Vermont was himself largely instrumental in passing, which declares that every person subject

52 Ibid., 1207 (emphasis in the original).
53 Ibid., 1156.
54 Ibid., 1198.
to the jurisdiction of the United States is a citizen and entitled to the equal protection of the laws. What equal protection of the laws is it between those men in Utah when five men say that ‘We believe, without evidence, without trial, without notice, without hearing, that you have been guilty of an act of impropriety with a female, and we deny you the right to franchise that eligibility to office which you now possess.’

Call pointed out the hypocrisy of the Republicans who were so fervently in favor of the bill. Just a decade before, those same lawmakers went to great lengths to ensure the citizenship rights of recently freed slaves. They were now all too ready to deny Latter-day Saints those same guaranteed rights of citizenship in the name of stamping out polygamy.

In both houses of Congress the opposition to the bill came almost exclusively from Democrats, who did not hesitate to question the motives of the sponsors of the bill, arguing that Republicans sought to gain political control in Utah, just as they had done in the South after the war. Section nine of the proposed Edmunds Bill, which established the five-man Utah Commission, empowered the board to appoint all election officials and to control all electoral processes in Utah. This electoral board was of the utmost concern to southern lawmakers, which they considered to be the ultimate in “carpetbag” rule.

“Whenever it is necessary to make a Republic State out of a Democratic Territory, the most convenient machinery for that purpose is a returning board,” declared Senator Brown, referring to the Utah Commission. “It stinks in the nostrils of honest men.”

George H. Pendleton, of Ohio added: “I cannot shut my eyes to the fact that this bill, if it

55 Ibid., 1156 and 1205.
56 Ibid., 1211.
57 Ibid., 1203.
becomes a law, will transfer the political power of this Territory to the Republican party—a party which has 1,500 votes out of 15,000, and its friends know that fact full well.”

Democrats believed Republicans would use the reconstruction of Utah to take political control of the Territory and strengthen their power in Washington.

Senator Edmunds denied the charge that the Republicans were attempting to take over the Territory, but frankly admitted the political aspect of the bill, stating that aside from its rather minor provisions the bill “proposed one single thing”—to take the political power in the Territory of Utah out “of the hands of this body of tyrants” and put it “into the hands of those who are not polygamists.” He highlighted his remarks by asserting that the President of the Mormon church “controls in every respect every step in the Territorial operation” of Utah, and that the purpose of the bill was to remove from the Mormon church and its hierarchy the control of Utah affairs and return that Territory to a republican status.” If that resulted in Utah becoming a Republican state, then so be it.

Senator Brown wanted to make sure the Republicans could not politically hijack Utah the way they hijacked the South during Reconstruction. To prevent that from happening he drafted the only amendment attached to the finalized bill. His amendment stipulated that two seats on the Utah Commission would always be filled by the minority political party and that the Utah Commission could not exclude any person from the polls, nor refuse to count any vote, because of any opinion such voter may entertain on the subject of bigamy or polygamy. He apparently sensed the possibility that the

58 Ibid., 1211.
59 Ibid., 1213.
Commission would attempt to disfranchise not only all polygamists but also those non-polygamist Mormons who, while not practicing polygamy, believed such practice to be right. To support his point he read from Webster’s unabridged dictionary the definition of the word polygamist as “a person who practices polygamy, or maintains its lawfulness.”

Senator Edmunds replied the Burrill’s law dictionary gave the proper legal definition of a polygamist as being “he who has had two or more wives at the same time,” and that the Committee intended such a definition. Senator Brown, however, insisted that Webster was as good authority as Burrill and that in order to make the point entirely clear his amendment should be adopted. This was done by voice vote after Senator Edmunds had indicated that he had not objection to it “since it simply says what the present bill provides.” The limitations of this amendment had great influence of the work of the Utah Commission. Had it not been included, it is certain that very heavy pressure would have been exercised upon the Commission to disfranchise all Mormons in Utah under the theory of the Webster definition. This would have been especially likely following the adoption, in 1884, of a law in Idaho, which denied the privilege of voting and holding public office to any member of the Mormon church—an issue that will be discussed at length in Chapter 5.

Many opposing senators charged that the Edmunds Act imposed penalties on polygamists without benefit of trial by depriving them of the right to hold office, vote, or serve as jurors. Power to impose this penalty lay solely in the hands of the commission.

---

60 Ibid., 1203.
61 Ibid.
62 Ibid., 1214.
The Utah Commission would be, Senator Vest argued, a “star-chamber of five men, responsible to nobody, governed alone by their own prejudices.” Senator Wilkinson Call of Florida counseled: “I think you can find better means of stamping out polygamy than one which stamps out the institutions of the country, the rights contained in the Constitution, the distinction between judicial, legislative, and executive powers, and which by a plain enactment here gives to five persons nominated by the President and confirmed by the Senate, all of whom except one may be of one political party, absolute power not only of deciding who shall be voters, but also of deciding what votes are cast and who shall be eligible to hold office.” He pointed out that the provision would almost certainly result in packed, biased juries in polygamy cases: “It imposes a religious test upon the jurors which is in violation of that cardinal provision of the Constitution of the United States, that when a man is charged with a crime he shall have a fair and impartial trial.” He went on to evoke notions of American freedom: “If there be anything sacred in the history of American jurisprudence and American liberty it is that a person charged with crime shall have a fair and an impartial trial by a jury of his peers, and not by a packed jury selected of men known to be opposed to him and prejudiced against him, and a religious test imposed upon them for their qualification as jurors.” Notions of religious freedom and jury by a trial of one’s peers were the building blocks of American freedom and liberty.

---

63 Ibid., 1201.
64 Ibid., 1156
65 Ibid., 1156. Similarly, Senator Graham Vest of Missouri protested: “It is the very essence of good government and of freedom and of constitutional right that every man should be tried and convicted before punishment. The seventh section of this bill takes away from a citizen of the United States the right to vote or hold office before conviction by his peers of any crime” (Congressional Record, 47th Cong., 1st sess., 1157).
citizenship, and those like Vest who opposed to the Edmunds bill used them as rallying
cried in defense of the Latter-day Saints citizenship. Stripping citizenship rights from the
Mormons because of their religious beliefs was a dangerous precedent that gave the
federal government further control over who could and could not be a fully participating
American citizen.

Senator Pendleton pointed out that the bill stripped men of their citizenship rights
for not only being practicing polygamists but for having ever been polygamists. “Did you
ever know a jury law which went back to the whole course of a man’s life and
disqualified him for sitting upon a jury unless he would swear that he is not now, and
never has been guilty of any of the acts defined as crimes in the laws? … according to
this bill he is forever deprived of the right of sitting upon a jury in these cases. … you
deprive him of the inducement to abandon that which you define as a crime.”66 Not only
was the political right taken away for matters that were “judicial,” as opponents of the bill
labeled them (that is, polygamists were disfranchised whether or not they had been tried
and convicted of the underlying crime), but the problem was “impropriety with a
female,” was an act of marriage, not of politics. Morgan of Alabama elaborated on this
point. “A man who has been guilty of polygamy or bigamy may still have large
proprietary interest in the country; he may have and ought to have a very numerous
family to protect by his ballot. … It is scarcely to be supposed that a man by a course of
conduct of this character has disqualified himself in any essential way from casting an

66 Ibid., 1210.
intelligent vote. …”

Using a man’s private relations with women to disqualify him from the franchise seemed, to Morgan, a gross misstep on the part of the federal government. Vest proposed an amendment he believed would make the bill more palatable to southerners. The Vest amendment to section 8 stipulated that no bigamist or polygamist would be barred from voting or holding office unless duly convicted “in a court of competent jurisdiction.” The amendment was defeated.

Another common complaint voiced by those who opposed the bill was that it amounted to little more than a bill of attainder and was therefore unconstitutional because it inflicts a punishment, in the language of the Supreme Court of the United States, without trial by a judicial tribunal. … He who says it is not a punishment to deprive a man of office, gainsays and contradicts the decision of the Supreme Court of the United States, which I have just read. If an office is taken from me of honor, of trust, of profit, I am disgraced and degraded; and yet I am told it is no punishment! No punishment to take bread from my family! No punishment to stamp my name with infamy! No punishment to exclude me from the ranks of honorable association with my fellow men! It is an outrage to tell me that in this country of constitutional guarantees. What is this, if not a bill of attainder? Alabama’s John T. Morgan believed the bill was not only an ex post facto law, punishing a man for bigamy or polygamy entered into before the enactment of the statute in question, but also a bill of attainder. By giving the five-member commission the authority to declare who was eligible to vote and to hold office in the territory, the measure would enable that body to punish citizens without the benefit of a trial. This would violate not only constitutional guarantees, but also the right that “belonged to American civilization

67 Ibid.,
68 Ibid., 1217.
69 Ibid., 1200.
and law long before the Constitution was adopted.” These senators believed “that the deprivation of the right of suffrage is intended only as a punishment.” The proposed bill too closely mirrored what took place in the South just after the war. Stripping polygamists of their right to vote was too similar to the disfranchisement of confederates for these Southern senators to support such a measure.

The debate was not limited to the Senate. Two southerners, John H. Reagan and Roger Q. Mills, both Texans and former Confederates, played a notable part in the discussions which followed on March 14th in the House. Reagan charged that the current bill, if passed, would be both a bill of attainder and an *ex post facto* law. To avoid this problem, he offered amendments, similar to those proposed in the Senate earlier, stipulating that no one could be denied the right to vote or hold office until convicted in a court of law of the crimes listed in the measure. His colleague, Mills, went even further and proposed an amendment to strike sections 8 and 9 from the bill completely. Mills insisted that there were three groups in league against the Mormons—the religionists who were “trying to propagate the doctrines of Christ with the instrumentalties of Mahomet,” those who were “incensed against the people of Utah because they were Democrats,” and those who opposed polygamy because the Mormons had property which they wanted for themselves. He also called the proposed five-member board an “imperial commission … empowered to carry at its girdle the keys of death and hell.” In an obvious reference to the experiences of the South during Reconstruction he added: “This venal instrument of

---

70 Ibid., 1197.
71 Ibid., 1198.
72 Ibid., 1862.
oppression is not wholly unknown to fame. It has left a record as indelible as infamous on the pages of our recent history. For a few dark and melancholy years it wielded an unchallenged scepter in the Southern States. It filled the legislative halls with its own creatures, and the complacent slaves without murmur registered the decrees of their masters.” 73

While most opposition to the Edmunds Bill came from Southern lawmakers, it is impossible to say that there was a clear southern position on the measure. Those who did oppose the bill continued to speak out against polygamy and the Latter-day Saints. They never wanted to appear either lenient or sympathetic toward the Mormons, even though they defended the Saints’ civil rights as white Americans. For example, Senator Morgan emphasized that no one in the Senate had more “profound abhorrence” of the Mormon hierarchy in Utah than he, nor was anyone more convinced than he of the necessity of taking all proper and legitimate steps to deal with polygamy, “this bane of all civil society,” which threatened to overwhelm the West with “the pall of destruction and despair.” 74 But he was unwilling to persecute Mormons at the expense of the States rights and personal freedoms.

What is clear from the Edmunds debate is that Reconstruction still cast a long shadow for southerners in Congress. And yet, while the sting of Reconstruction was too sharp in 1870 for Congress to pass the Cullom bill, by 1882 it had begun to dull enough that even the defense of States rights could not bring some southerners to oppose the

73 Ibid., 1862.
74 Ibid., 1199.
Edmunds Act. Their views were probably best summarized by Congressman Otho R. Singleton of Mississippi. He conceded during the debate on the Edmund’s Bill that the measure was far from perfect. Yet, whatever his reservations, he intended to support the measure even if all efforts to amend it failed. “So strong are my convictions against the doctrine of polygamy that I prefer to stand to these convictions and my duty to the people I represent rather than vote against a bill which, though objectionable in some of its provisions, does not in my opinion conflict with any provision of the Constitution of the United States.” If there was one issue both Republicans and Democrats could agree upon in 1882, it was that polygamy in Utah had to go.

In spite of the heated discussions on the floor of the Senate and the painful memories of Reconstruction the proposed bill resurrected, most members of the Senate were prepared to strike at polygamy through the means at hand. When voting on the Edmunds Bill began late on the afternoon of February 16th, all Democratic efforts to amend the bill were defeated but one. Brown’s amendment to section 9 stipulating that not more than three of the five members of the presidentially appointed commission were to be from the same party passed. In short, the Edmunds Act lessened the burdens of proof for polygamy prosecutions, criminalized non-marital cohabitation, required potential jurors in polygamy cases to swear a test oath that they were not a polygamist nor did they “believed polygamy to be right” (making the elimination of most Mormons almost automatic), disqualified any man convicted of a polygamy offense or any woman

75 Ibid., 1871.
cohabitating with a polygamist from voting or holding office, allowed the joining of counts for polygamy, bigamy, or unlawful cohabitation in one information or indictment, and required federal supervision of elections in Utah.

What the Congressmen who debated the Edmunds Act failed to do was explain why polygamists were incompetent to serve as voters or as elected officials. It appears that the Saints’ faith in plural marriage, a practice so abhorrent to lawmakers, made them unfit to participate in the franchise. Their religious convictions made them unrecognizable as American citizens and therefore not worthy of participating in civic affairs guarantees of civil liberties.

Once the bill was passed and President Arthur signed it into law in March, it immediately produced chaos in Utah’s government. The Utah Commission was not organized in time to conduct the 1882 territorial election, but according to the new law, without its oversight no elections could be held. As a result, elective territorial offices fell vacant, and government in the territory ceased to function. Congress was forced to repair the damage by adopting the Hoar Amendment on August 7, 1882, which allowed Utah’s governor to appoint successors to the vacant offices until elections were held.76

The civil disqualifications imposed by section eight of the Edmunds Act were extreme:

That no polygamist, bigamist, or any person cohabiting with more than one woman, and no woman cohabiting with any of the persons described as 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

Not only did the Act strip thousands of Latter-day Saints of their right as American citizens to vote, it struck at the general political power of the church by denying the vote and the right to hold any elective or appointive public office to polygamists and those unlawfully cohabitating. To ensure further that the Mormons’ electoral power was broken, Congress declared Utah’s registration and election offices vacant and provided for their replacement.

The Latter-day Saints were incensed. As was often the case, the intensity of the Saints’ defense of plural marriage varied in direct proportion to the enthusiasm of the opposition. At the beginning of the 1880s, the Tabernacle again rang with denunciations of corrupt governments and hypocritical reformers, and the leaders of the church went up and down the territory rallying the Saints to the cause of freedom of religious belief and action. As the Edmunds Act was pending in Congress, Apostle Erastus Snow declared with the ardor reminiscent of the Utah War period:

it will be sons and daughters of polygamous Utah, that will be found the true friends of human liberty, the true friends of that heaven-born freedom that has come to us through the fathers of our nation. The love of liberty is born in them, and human liberty is a part of the everlasting gospel; and God Almighty has decreed - and let Judge Edmunds and Congress and all the world hear it - that the gospel of the kingdom is established, never more to be thrown down or given to another people, that its destiny is to grow and increase and spread abroad until it shall fill the whole earth, and no power in earth or hell can stop it. ‘O, but,’ say they, ‘we are going to

---

77 Edmunds Act (1882).
imprison you polygamists and disfranchise you.’ Supposing you do stop our voting, will that stop our tongues? ‘O, but we'll imprison you.’ Imprison and be damned. [Amen, by voices in the congregation] for you will be damned anyhow. 78

The Latter-day Saints continued to believe they were the most American of Americans. That their love of freedom and country outstripped those of the men making anti-polygamy laws in Washington. Their faith in the truthfulness of plural marriage and that God would bless them for enduring earthly trials in order to fulfill his commandments kept them from abandoning the practice even when their rights as American citizens were threatened.

**Political Reconstruction of Utah**

The Utah Commission, the five-member board chosen by the President to oversee elections in the territory, played a significant role in limiting the Saint’s citizenship rights as voters and their ability to participate as jurors. Remnants of Reconstruction can be seen throughout the first years of the Commission’s work.

Hailing from all over the United States, the first five men to serve as commissioners were lawyers, three were Republicans and two were Democrats. Alexander Ramsey, A.B. Paddock, J.F. Godfrey made up the majority, while A.B. Carlton and J.R. Pettigrew were the minority members. 79 The members of the commission had heard the same stories about the Mormons the rest of the nation had.

79 *Salt Lake Tribune*, June 17, 1882.
They were unsure how the Saints would greet them and what, if any, dangers would accompany their new positions. A.B. Carlton described his reaction to his assignment and new home this way:

When I first learned that I was to go on an official mission to the Mormon-land I knew but little about the people of that Territory. I had heard of the ‘Mormon War,’ the ‘Mountain Meadows Massacre,’ the ‘Danites’ and the ‘Avenging Angels,’ and I had read some pages in sensational books like the ‘Crimes and Mysteries of Mormonism.’ I had read some accounts more favorable to the ‘Saints,’ but on the whole I had the same ill opinion of them that is generally entertained by the ‘Gentiles.’ However, I determined to divest myself as far as possible of all prejudice and investigate for myself.⁸⁰

Recognizing the Commissioners preconceived notions about the Saints is important to understanding why the Commissioners set about their work in the ways they did during their first days in Utah. The Commission members saw themselves as missionaries—bringing lawfulness to an unlawful people and converting the Saints into good American citizens. Within the first year of its work the Utah Commission established itself as a full-scale regulatory agency exercising executive, legislative, and judicial function. It established patterns of operation, which were followed in subsequent years and started a practice that developed into its most effective function—the practice of recommending to Congress action to be taken with respect to the Utah problem.

The laws that were in force in Utah before the Commission came to the territory gave full control of the electoral process to the dominant Mormon majority by providing supervision of elections at the county municipal level. To overcome the Mormon rule of

---

elections, the Commission determined that “insofar as it was practicable to do so” non-Mormons would be appointed to the registration offices. Thus, Gentiles, comprising approximately ten percent of the population, were appointed to supervise registration in counties containing forty-four percent of the people; and apostate Mormons, while aggregating only five percent of the population, controlled registration for forty-seven percent. In spite of frequent Mormon objection, the Commission continued the policy of appointing non-Mormon registrars until the abandonment of polygamy in 1891.

The next important electoral rule implemented by the Commission was its interpretation of the disfranchisement clause of the Edmunds Act. Just weeks after the Commission had begun its work, the commissioners received a letter from Mr. William C. Bryan, Registration Officer for Juab County, asking the Commission if any man should be registered if he had at any time “violated the laws of the United States prohibiting bigamy or polygamy but at the time he may apply to be registered is not actually living with two or more wives?” After due consideration the Commission determined that no persons who had ever lived in polygamy since 1862 could vote or hold office. A few days later it extended its ruling to prohibit anyone from voting who had ever entered into polygamy, regardless of the time such relationship began or ceased. By this judicial ruling of “once a polygamist, always a polygamist” the Commission took an ex post facto view of the provisions of the Edmunds Act and had

---

81 Utah Commission Minutes, A, p.34.
83 Utah Commission Minutes, A, 32.
84 Ibid., 53.
judicially determined the meaning of that law to exclude any person who had ever entered a polygamous relation, in spite of the fact that the person involved may have been living monogamously, or even as a widow or widower, for many years. Evidently, the Board could find no way of permitting those to vote whose polygamous relationships had genuinely ceased, while at the same time excluding those who had merely ceased cohabiting polygamously since the passage of the Edmunds Act but retained a polygamous marriage relationship. This ruling not only disfranchised thousands of Latter-day Saints, but also many who had apostatized from the Church, had given up polygamy, and had taken up the Liberal-Gentile cause.85

To ensure that no past or present polygamists cast a ballot, the Commission adopted a provision that demanded that every prospective voter must, prior to being registered, subscribe an oath. Reminiscent of the Iron Clad oath implemented in the South after the Civil War, the oath required all male voters to swear that they were not polygamists, and all female voters to swear that they were not wives of polygamists. Anyone who would not swear to the exact wording of the oath was automatically denied the vote. Importantly, the oath contained a phrase excluding all persons who cohabited with more than one woman “in the marriage relation,” but said nothing of those who cohabited outside the marriage relation.86 The Commission, by adopting this wording for the oath, had determined that the intent of the Edmunds law was that only Mormons who lived in the polygamous relationship of marriage were to be excluded from the franchise.

85 Salt Lake Tribune, September 2, 1882.
86 Utah Commission Minutes, A, 19.
The law, as they understood it, was meant to target only those who adhered to Mormon faith. These two doctrines, cohabitation “in the marriage relation,” and “once a polygamist always a polygamist” remained as the Commission’s basis for exclusion of polygamists until overthrown in *Murphy v. Ramsey* in 1885, discussed at length below. Under them, the Commission successfully prevented approximately twelve thousand Utahns from registering and voting.87

The Commission’s interpretation of the Edmunds law was vigorously criticized by the Mormon press as legislative action grossly in excess of the Commission’s power. The wording of the oath was proof to the Saints that, as they had contended, the Edmunds law was not aimed at the immorality of polygamy at all, otherwise the Commission would have prohibited from the polls all persons who cohabited with more than one woman whether in or out of the marriage relation.88 Instead the oath reinforced the Mormon conviction that the law was aimed at the religious beliefs of the Latter-day Saints and at their political influence, which if destroyed would leave the Gentile minority in political control.89

Let us look at the effect of this provision. It will exclude from the registry lists, and consequently from the polls, all persons who cohabit with more than one woman *in the marriage relation*, but let in the libertine, the whoremonger, the adulterer and the seducer; it will also exclude every woman in the marriage relation, whether by her consent or not, and let in prostitutes and harlots, however vile and polluted. A married man who consorts with the denizens of the lowest haunts of vice, or keep any number of mistresses, or leads a astray other men’s wives, or betrays and seduces innocent girls, is, under this provision of the Commissioners,

87 Mess. and Docs., Int. Dept., II (1882-1883), 1005.
89 *Deseret News*, August 29, 1882.
competent to be registered and to exercise the suffrage; but a man who has
married two or more wives ad lives with them in the marriage relations, is
not permitted to register and vote. 90

The provision was attacked as an unwarranted act of legislation performed without legal
basis in law. 91 This point was well taken, for there are no restrictions similar to that
enacted by the Commission in the provisions of the Edmunds Act. The Commission had,
therefore, enacted legislative function just as effectively as if it had been done by
Congress. Its decision to adopt such a provision had been reached “by giving due regard
to the evident intention of Congress” and interpreting that intent to give the Commission
wide latitude for action in discriminating between legal and illegal voters. 92 The
Commission understood Congress’ intent to be the disfranchisement of Mormons only.

The Commission, within the first few months of its work, had made two critically
important interpretations of the Edmunds Act: that as a body, the Utah Commission

---

91 Deseret News, August 29, 1882
92 Mess. and Docs., Int. Dept., II (1882-1883), 1004. The attitude of the Commission in arriving at the oath
provision was stated in its annual report:

“In the absence of instruction or judicial decisions to aid us in the interpretation of the law
prescribing our duties, we were obliged to construe it for ourselves, and in doing so we endeavored to
conform to the well-known canons for the construction of states, having a due regard for the evident
intention of Congress in this act, construed with other acts of Congress, in pari materia.

“‘Polygamists and bigamists,’ and persons ‘cohabiting with more than woman,’ are, by section 8,
to be excluded from voting and holding office.

“Immediately upon addressing ourselves to the discharge of our duties, we were obliged to
consider the scope and extent of this exclusion.

“Did Congress intend that those only should be excluded, who at the very time of the registration
or election, were then living in polygamy, or in ‘unlawful cohabitation with more than one woman?’ If so,
such a construction would render this section a perfect nullity. The means of evasion are patent to the
dullest comprehension. We, therefore, concluded that neither the letter nor the spirit of the statute required
such a narrow construction, and, in our published ‘rules and regulations,’ we gave the exclusion a wider
scope and application. …

“Were we to exclude only those who had been convicted of the crime of polygamy in the courts?
This construction would have been derided by everybody in this Territory. … We concluded that it was the
intention of Congress to leave it largely to the discretion of the Commission, to determine the means of
discriminating between legal and illegal voters.”
possessed full administrative and supervisory power over all election personnel appointed by it, and that it would administer the provisions of the Edmunds law to discriminate only against Mormons who cohabited in the polygamous relationship of marriage. The Latter-day Saints attacked both of these assumptions in the courts, and three years later, in 1885, they were declared by the United States Supreme Court to be in error.\footnote{Murphy v. Ramsey, 114 U.S. 44 (1885).}

Not surprisingly, the provisions of the Edmunds law, as administered by the Utah Commission, failed to weaken Mormon political control throughout the Territory, but instead strengthened it, at least for several years. Instead of decreasing voting by the disfranchisement of polygamists, it resulted in a net increase in votes cast. As previous anti-polygamy laws had done, the Edmunds Act and the Commission’s interpretation of the law served as a rallying cry for the faithful. The institution of the Utah Commission stimulated the political activities of the Saints. Overall voting increased, even though approximately 12,000 polygamists were disfranchised in 1882.\footnote{Mess. and Docs., Int. Dept., II (1882-1883), 503.} In the 1883 election, both houses of the Assembly were still solidly Mormon. The only major change that had occurred was the elimination of all polygamists.\footnote{Mess. and Docs., Int. Dept., II (1883-1884), 503.}

The most convincing evidence that the operation of the Edmunds law and the activity of the Utah Commission did not accomplished the removal of Mormon political power in the territory is found in the reports of the Commission itself. Anxious to show Congress the good results of its work, the Commission consistently had to admit its failure to strip the Church of its political control. In its 1882 report, after having been on

\footnote{Murphy v. Ramsey, 114 U.S. 44 (1885).}
\footnote{Mess. and Docs., Int. Dept., II (1882-1883), 503.}
\footnote{Mess. and Docs., Int. Dept., II (1883-1884), 503.}
the job for only a few months, the Commission optimistically reported that the law had been “a decided success in excluding polygamists from the exercise of suffrage; and … the steady enforcement of the law will place polygamy in a condition of gradual extinction.”96 By 1883, however, the Commission was somewhat less optimistic but still convinced that the Edmunds law would have a major effect on the political power of the polygamists and on the abandonment of polygamy. It reported that “the act must necessarily have a strong influence in that direction. The very existence of the law disfranchising the polygamists must tend to destroy their influence whenever it is understood that this is to be a permanent discrimination.”97 By the close of its activities in 1884, the Commission had lost its optimism and most of its faith in the efficacy of Edmunds law to accomplish the purpose intended. The Commission sadly reported that after more than two years of work it must inform the nation that, “although the law has been successfully administered in respect to the disfranchisement of polygamists, the effect of the same upon the preaching and practice of polygamy has not been to improve the tone of the former, or materially diminish the latter.”98 It then told Congress that during 1884 there had been a polygamic revival and that “the institution is boldly, defiantly defended and commended … and plural marriages are reported to have increased in number.”99 The Commission recommended stronger action on the part of Congress, a request that would be granted the next year when federal marshals were sent

96 Mess. and Docs., Int. Dept., II (1882-1883), 1007
97 Ibid., 501-502.
98 Mess. and Docs., Int. Dept., II (1884-1885), 517-518.
99 Ibid., 518.
to the territory to hunt down polygamists and anti-polygamist judges were appointed to seats throughout the territory.

The Latter-day Saints did not wait long to challenge the constitutionality of the test oaths implemented by the Utah Commission. The Saints hired Senator Graham Vest of Missouri to speak on their behalf. Vest had forcefully spoken out against the Edmunds Act during the debates prior to its passage and was a passionate advocate of states rights. His arguments in defense of polygamy, both on the Senate floor and in the Supreme Court, were based on a combination of states rights and libertarian views. In his arguments, he relied heavily on *Dred Scott*, maintaining that Congress may establish a territorial government but could not directly interfere in territorial affairs. The Edmunds Act, Vest argued, was a violation of the principle of self-government that underlies the Constitution. Taney’s opinion of *Dred Scott* was unequivocal on this point, and Vest used it to make his own: “The recognition of plenary power in Congress to dispose of the public domain or to organize a Government on it, does not imply a corresponding authority to determine the internal polity, or to adjust the domestic relations, of the persons who may lawfully inhabit the Territory in which it is situated.”

During the debates over the Edmunds Act, Vest had argued on the Senate floor that Taney’s opinion was written in “letters of gold; letters which declare the essence of the Constitution and rights of every American citizen.” He maintained that the Constitution did not grant the federal government authority over internal matters, even in the territories. The Edmunds

---


Law, he argued, relegated the territory of Utah to the status of a colony, “curs[ing] the whole people of Utah with political slavery.”102

As for the oath implemented by the Utah Commission, Vest maintained that it was a replication of the test oaths imposed on the inhabitants of the former confederate states, oaths that were deemed unconstitutional in *Cummings v. Missouri* and *Ex parte Garland*. Known popularly as the “test oath cases,” these cases involved state and federal oaths of loyalty for Southerners after the Civil War. In both cases, the claimant was required to swear that he had never been hostile to the Union as a condition for restoration of full citizenship rights, including the privilege of serving as a clergyman, corporate officer, or state official in *Cummings*, and to practice law in the federal courts in *Garland*. The decisions, written by Justice Field for a narrow 5-4 majority, held that the oaths were unconstitutional, both as bills of attainder, and on *ex post facto* grounds.

The five Latter-day Saints who brought the case to the Supreme Court had not been allowed to vote because, according to the election rules established by the Utah Commission, the plaintiffs had lived as polygamists and had not officially ended those marriages they were ineligible to vote. The plaintiffs complained that the law was an *ex post facto* law—they no longer lived as polygamists but were stripped of the franchise because they had been polygamists in the past. The trick for the government’s case and the Supreme Court was how to square antipolygamy legislation with the invalidation of test oaths designed to weed out former rebels. Writing the decision for the court, Justice

Matthews distinguished the test oath cases by holding that “the disfranchisement [of polygamists in Utah] operated upon the existing state and condition of the person, and not upon a past offence. It is, therefore, not retrospective.” Here, the court undid the Utah Commission’s adoption of “once a polygamists always a polygamist” rule.

Writing for the court, Justice Matthews went on to define the status of marriage:

It is not, therefore, because the person has committed the offense of bigamy or polygamy at some previous time, in violation of some existing statute and as an additional punishment for its commission, that he is disfranchised by the Act of Congress of March 22, 1882, nor because he is guilty of the offense, as defined and punished by the terms of that act, but because, having at some time entered into a bigamous or polygamous relation by a marriage with a second or third wife while the first was living, he still maintains it, and has not dissolved it, although for the time being he restricts actual cohabitation to but one. He might in fact abstain from actual cohabitation with all, and be still as much as ever a bigamist or a polygamist. He can only cease to be such when he has finally and fully dissolved in some effective manner, which we are not called on here to point out, the very relation of husband to several wives which constitutes the forbidden status he has previously assumed. Cohabitation is but one of many incidents to the marriage relation. It is not essential to it.

In other words, the act of marrying created a status that had an effect that continued on in time until it was dissolved in some unspecified way. A man, according to the Court, for the purpose of disfranchisement, was a “polygamist” if he had married another woman while he had another wife living and the plural relations still existed as a “status which the fixed habit and practice of his living has established,” even though “he restricted actual cohabitation to but one.” Here, the Court was narrowly interpreting to the term

---

103 Murphy v. Ramsey 114 U.S. 43.
104 Ibid.
“cohabitation” and expanding the meaning to “polygamy.” This was a potentially dangerous argument, for the recognition of multiple marriages as creating a status, rather than as simply the commission of a crime, implied that at some level the court recognized that there was a marriage at the heart of the problem. Recognizing plural marriages as marriages had many legal implications. During the criminal prosecutions under the Edmunds Act, discussed at length below, the Territorial and Supreme Courts would do just the opposite: “polygamy” came to have a restricted application, and “cohabitation” came to include something akin to the “status which the fixed habit and practice of his living has established,” – a considerably more inclusive kind of cohabitation than the one recognized in Murphy v Ramsey.105

As for Vest’s arguments that the federal government could not interfere with the internal matters of a territory, the Court brushed this matter aside quickly. The Matthews Court had no doubts about the ability of Congress to disfranchise polygamists. Congress, possessing supreme legislative power over the territories, had conferred suffrage upon the residents of Utah and could take it away. It was within congressional authority to dictate who could exercise the right to vote and under what circumstances.

Notably, the freedom-of-religion question did not enter into the decision of Murphy v. Ramsey and the case was decided on nonconstitutional grounds. However, since the power of Congress to extirpate polygamy had been established in Reynolds over first amendment objections, it was easy to invoke congressional power over the right to

vote as a justification for the means prescribed in the Edmunds Act to accomplish this objective.

For certainly no legislation can be supposed more wholesome and necessary in the founding of a free, self-governing commonwealth, fit to take rank as one of the coordinate states of the Union, than that which seeks to establish it on the basis of the idea of the family, as consisting in and springing from the union for life of one man and one woman in the holy estate of matrimony; the sure foundation of all that is stable and noble in our civilization; the best guarantee of that reverent morality which is the source of all beneficent progress in social and political improvement. And to this end, no means are more directly and immediately suitable than those provided by this act, which endeavors to withdraw all political influence from those who are practically hostile to its attainment.\(^\text{106}\)

Congress, in enacting the anti-polygamy legislation, was promoting the progress of the territories to self-government and statehood and the foundation of self-governing commonwealths in the United States was monogamy. In withdrawing political power from polygamists, Congress was withdrawing it from elements hostile to the kind of morality necessary for the social progress and political improvement, which marked American civilization.

The findings of the Court made a new set of registration rules necessary. Essentially, the Commission had to define the ways a polygamous marriage could be ended so the former polygamists could vote. Death or legal divorce were the only ways a person could separate his or herself from the label “polygamist.” The Commission formulated and circulated to the registrars April 15, 1885, advising them that:

\(^{106}\) *Murphy v. Ramsey* 114 U.S. 45.
1. Registration officers are required to exclude from the registry lists, every man who is a polygamist or bigamist, and every person cohabiting with any of the persons described as aforesaid.

2. A bigamists, (or polygamist) in the sense of the eighth section of the Edmund’s law is a man who has entered into the state of plural marriage at any time in the past, and still maintains that relation—if not having been dissolved by death, divorce, or ‘other effective manner,’—and he is still a polygamist even though he restricted his cohabitation.

3. If a man has married several women and he has died, the surviving women (if otherwise qualified), are entitled to be registered.

4. If in such a case, all the wives, or all but one, have died or been divorced, the man is entitled to be registered.

5. The first or legal wife is not entitled to be registered, if at the time she offers to register she cohabits with a bigamist or polygamist, (unless the other wives are dead or divorced,) nor is she to be registered if she cohabits with a person cohabiting with more than one woman.

6. The disfranchisement operated upon the existing state and condition of the person, and not upon a past offense. It is, therefore, not retrospective. He alone is deprived of his vote, who, when he offers to register is then in the state and condition of a bigamist or polygamist, or is then actually cohabiting with more than one woman.\(^\text{107}\)

They also wrote a new oath, which was meant to restore the franchise to a number of persons who had been disfranchised under the Commission’s “once a polygamist, always a polygamist” ruling. Until the passage of the Edmunds-Tucker Act, which disfranchised all women, the interpretations of the law as outlined in Murphy v. Ramsey determined the eligibility of voters.

**Legal Reconstruction of Marriage**

The suggestions of the Utah Commission with respect to the courts in Utah were widely accepted. Just months after submitting its recommendations in April 1884,

\(^{107}\) *Utah Commission Minutes*, B, 29-39.
Charles S. Zane was appointed Chief Justice of Utah’s Supreme Court. A crusade against polygamists began in full force when Zane arrived in Salt Lake City later that summer when he launched a holy war against the “cohabs.” There were very few acquittals for Edmunds Act violations during Zane’s tenure; to be tried was, in effect, to be convicted. The success of the crusade depended on four major achievements under Judge Zane: development of a definition of “unlawful cohabitation” which was sufficiently broad to permit easy conviction, the development of a process which assured non-Mormon or anti-Mormon jurors, securing evidence and consequently issuing indictments against a large number of polygamists, and the application of the doctrine of segregation.

Once the Edmunds Act became law, the definition of “cohabitation” assumed immediate importance. Mormons who wanted to comply with the law were forced to guess what relations with their plural wives and families were permitted. Judges were likewise called on to decide whether Mormon efforts to put their plural wives behind them fell outside the domain of cohabitation. Understanding what was meant by cohabitation and how the court would understand a man’s efforts to live by the intent of the law was of paramount importance.

The Supreme Court, in the case of Murphy v. Ramsey, defined polygamy far more broadly than it did “cohabitation.” Judge Zane’s court would do just the opposite. Zane endeavored to provide an exceedingly broad understanding of cohabitation to ensure

108 Mess. and Docs., Int. Dept., II (1884-1885), 521.
110 Ibid., 364.
more convictions in the territory because cohabitation, as he understood it, was easier to prove than plural marriage. The purpose of the Edmunds Act, according to Zane, was “to protect the monogamous marriage by prohibiting all other marriage, either in form or appearance only, whether evidenced by a ceremony, or by conduct and circumstances alone.”\(^{111}\) Since actual polygamous marriages were difficult to prove, Zane believed Congress prohibited the form or appearance of such marriages.

Zane’s efforts began in earnest during the trial of Angus Cannon in 1885. During his trial, Cannon attempted to prove that after the Edmunds law had passed both Houses of Congress, and before it was signed by the President, he announced to his second and third wives and their children that “he did not intend to violate that law, but should live within it so long as it should remain a law.” He claimed that from that day forward and during the times alleged in his indictment, he “did not occupy the rooms or bed of or have any sexual intercourse with the witness [his plural wife, Clara], and to this extent, by mutual agreement, separated from the witness. … and, also, that the defendant was financially unable to provide a separate house for witness and her family.”\(^{112}\) The Court, however, ruled this evidence inadmissible, as irrelevant. During Cannon’s trial, Judge Zane instructed the jury:

If you believe from the evidence, gentlemen of the jury, beyond a reasonable doubt, that the defendant lived in the same house with Amanda Cannon and Clara C. Cannon, the women named in the indictment, and ate at their respective tables one-third of his time or thereabouts, and that he held them out to the world by his language or his conduct, or by both, as his wives, you should find him guilty.

\(^{111}\) *United States v. Musser*, 4 Utah 154, 157, 7 Pac. 389, 391.

\(^{112}\) *United States v. Cannon*, 116, 65.
It is not necessary that the evidence should show that the defendant and these women, or either of them, occupied the same bed, or slept in the same room, neither is it necessary that the evidence should show that within the time mentioned, he had sexual intercourse with either of them.\textsuperscript{113}

Cannon was convicted, and then appealed to the territorial supreme court.\textsuperscript{114} The major objection raised on appeal was to the trial court’s definition of “cohabit.” Cannon maintained that sexual intercourse was a necessary element in the crime. Justice Boreman, for the territorial supreme court, rejected this interpretation, maintaining that cohabitation did not necessarily include even occupying the same bedroom: “Had it been the intention of Congress to include the common sexual vices in this provision, it appears unreasonable that it should not have done so.”\textsuperscript{115} Further, if sexual relations were a necessary element in the crime, as the defendant asserted:

\begin{quote}
[T]hen the prosecution might have shown that the defendant and these women lived together, in the same house and company, that they were continually walking, talking, acting as husband and wife, treating each other so before their neighbors and the public generally, calling each other husband and wife respectively, having all their dealings before the world as husband and wife—he might be providing for all her wants of clothing, food, house and household affairs, and claim the women as his wives, and doing many more like things, and yet if the prosecution did not prove that defendant had sexual intercourse with these women, the prosecution would have to fail. The prosecution would have to prove adultery when adultery was not charged, would have to prove fornication and lewd and lascivious cohabitation when none of these charges had been made.\textsuperscript{116}
\end{quote}

\footnotesize
\begin{footnotes}
\item\textsuperscript{113} United States v. Cannon. 4 Utah 122, 149-150, 7 Pac. 369, 386-387.
\item\textsuperscript{114} Ibid.
\item\textsuperscript{115} United States v. Cannon, 4 Utah 133 7 Pac. 375.
\item\textsuperscript{116} United States v. Cannon, 4 Utah 136-137 7 Pac. 378.
\end{footnotes}
The court was establishing a very important precedent. The anti-polygamy crusade was not about sex. The anti-polygamy crusade was about protecting monogamy and reigning in religious practices of American citizens.

According to Boreman, the congressional intent in enacting this statute was to be an aid in breaking up polygamy and the pretense thereof. The well recognized difficulty of reaching the polygamy cases, by reason of having to prove marriage, and by reason of the fact that the statute of limitations bars prosecution after three years, no doubt led Congress to pass the act. It was sought to break up the polygamic relation. It was necessary in effect to make polygamy a continuous offense, without requiring proof of marriage. Whether marriage took place or not, the pretense of marriage—the living, to all intents and purposes, so far as the public could see, as husband and wife—a holding out of that relationship to the world were the evils sought to be eradicated. … It was living and dwelling together under the appearance of being married.117

The law protected monogamy. Who slept in whose bed made no difference in the eyes of the Court. Whether a man and a woman held out their relationship to the world as one of man and wife was the matter at hand.

In May 1885, Church leaders instructed bishops and stake presidents: “We do not think it advisable for brethren to go into court and plead guilty. Every case must be defended with all the zeal and energy possible.”118 Adhering to these directions, Cannon appealed to the Utah Supreme Court. The case went to the United States Supreme Court on a writ of error, and the decision of the territorial supreme court was affirmed on

118 Minutes of the Lesser Priesthood Quorum of St. George, February 5 – March 5, 1885, quoted in Anderson, Desert Saints, 332n. A stake is an administrative unit composed of multiple congregations, which are headed by bishops.
December 14, 1885.\textsuperscript{119} Adopting much of the reasoning of the Utah court, the Supreme Court concluded that cohabitation was established “if he [Cannon] lived in the same house with the two women, and ate at their respective tables … and held them out to the world, by his language or conduct, or both, as his wives.”\textsuperscript{120} The Court dismissed Cannon’s agreement to abstain from sexual relations with his plural wives: “Compact for sexual non-intercourse, easily made and easily broken, when prior marriage relations continue to exits, … is not a lawful substitute for the monogamous family which alone the statute tolerates.”\textsuperscript{121}

After further justifying its interpretation of “cohabit” by establishing it as consonant with the ordinary, contemporaneous understanding of the word as “to dwell with,” “reside in the same place,” and “live together as husband and wife,” the Court revealed its real reason for taking a view so contrary to the most accepted legal definition of the term: “Bigamy and polygamy might fail of proof, for want of direct evidence of any marriage, but cohabitation with more than one woman, in the sense proved in this case, was susceptible of the proof here given; and it was such offence as was here proved that section 3 of the Act was intended to reach—the exhibition of all the indicia of a marriage, a household, and a family, twice repeated.”\textsuperscript{122} This law was meant to bring about an end to polygamy. Because marriage was almost impossible to prove, the Courts

\textsuperscript{119} United States v. Cannon, 116, 55.
\textsuperscript{120} United States v. Cannon, 116, 77.
\textsuperscript{121} United States v. Cannon, 116, 72.
\textsuperscript{122} United States v. Cannon, 116, 75.
had to establish a broad definition of cohabitation to bring Latter-day Saint polygamists to justice.

The second achievement, that of trying polygamists in front of juries that were either non-Mormon or anti-Mormon, came about by an adopted measure, also a recommendation made by the Utah Commission, that Congress authorize the use of the “open venire” method of securing jurors. The measure was never enacted into law, but became part of the procedure in Utah’s courts. One Latter-day Saint observer described a scene of jury selection in graphic terms:

‘Are you citizens of the United States?’ was asked of each man in the latest lot brought in.
‘Yes,’ was the answer.
‘Are you members of the Mormon Church?’
‘No.’
‘You’ll do,’ said the interrogator, and finally the Grand Jury was complete…The packing of the Grand Jury—for packing is the only word that properly describes the work of grinding out indictments, was at once begun.123

The constitutionality of this procedure was challenged by the Saints in the case

Clawson v. The United States.124

The conviction of Rudger Clawson was the first case tried in front of a jury in which those who practiced or believed in polygamy had been struck from the jury for cause. The Edmunds Act allowed challenges to jurors who could not swear that they were not living in polygamy and did not believe in the rightfulness of polygamy. During the Clawson trial, the challenge for cause exhausted the jury list provided under the Poland

Act. Judge Zane, who conducted the Clawson trial, issued an open venire. The court marshal brought in six men off the street to complete the jury. Clawson’s first trial ended in a mistrial. The jury could not agree because the witnesses in the case resorted to their forgetful ways and both Clawson’s mother and his plural wife, Lydia Spencer, could not be found before the trial. Shortly after the mistrial, deputies found Spencer by following Clawson to her rooms in a boarding house. During the subsequent trial Clawson was convicted on two counts; one of unlawful cohabitation and one of polygamy.\(^{125}\)

At his sentencing, Zane asked Clawson whether he knew any reason why the judgment should not be pronounced. Clawson answered:

> I very much regret that the laws of my country should come in contact with the laws of God, but whenever they do I shall invariably choose the latter. If I did not so express myself, I should feel unworthy of the cause I represent. The Constitution of the United States expressly states that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. It cannot be denied, I think, that marriage, when attended and sanctioned by religious rites and ceremonies, is an establishment of religion. The law of 1862 and the Edmunds Law were expressly designed to operate against marriage as practiced and believed by the Latter-day Saints. They are therefore unconstitutional, and of course cannot command the respect that a constitutional law would. That is all I have to say, your honor.\(^{126}\)

Clawson relied on the failed constitutional defense of polygamy. He pitted his faith against the laws of the United States, and lost.

> Zane’s response was what one would expect from an anti-polygamist. He answered that the laws had been found constitutional by the Supreme Court and that the


practice of polygamy was detrimental to all of civilization. He then sentenced Clawson to a total of four years in prison and fines of $800—among the most severe sentences imposed by during the Zane’s tenure. Zane said he made the sentence harsher because Clawson openly claimed it his right to violate the law.\(^{127}\) Clawson appealed his case to the Supreme Court, claiming the Edmunds Act only permitted petit jurors to be dismissed because of belief about the rightfulness of polygamy, not grand jurors. The Supreme Court unanimously upheld the legality of the religious challenge for both petit and grand jurors in all unlawful cohabitation and polygamy cases.\(^{128}\)

The third achievement of the judicial crusade, securing evidence and consequently indicting large numbers of polygamists, came about through “the Raid.” After the Edmunds Act became law, dozens of federal marshals descended on Utah and Idaho. They broke into homes in the middle of the night, questioned children about their parents’ marital arrangements, and paid bribes to a network of informants. Congress, at the behest of the Utah Commission, appropriated a sum of money which became known as the “spotter’s fund.” Spotters or informers were reportedly paid an average of twenty dollars for each polygamist whose arrest they brought about. “Hunting cohabs” became a favorite pastime and a source of income for a large corps of informers.

Polygamous Saints were presented with a difficult decision after the Cannon and Clawson decisions were rendered and once the raid began in force: religiously and


\(^{128}\) *Clawson v. United States*, 114 U.S. 477.
morally, they were obligated to associate with their polygamous families to the extent necessary to provide for their welfare, but because the boundaries of legally permissible conduct were undefined, any contact potentially left polygamists open to prosecution. Contemporary observer Orson Whitney explained it this way: “But even had he been able to give each wife, with her children, a separate home; had he made a hermit of himself and remained utterly apart from his family and fellow men, it would not have protected him from the operations of the crusade. So long as he was reputed to have more than one living and undivorced wife, he was in danger, regardless of how he conducted himself.”

129

Church leaders decided that running rather than fighting was their best option. They directed polygamists to evade the marshals and avoid conviction rather than confront the law. Church leaders and polygamists went on the “underground.” The Underground was a series of safe houses and hiding places other Mormons provided for fugitive polygamists. When one was on the “underground” he or she used an assumed name, spent days, months, and even years in hiding, and often dressed in disguise. To avoid prosecution, men lived under assumed names and traveled away from their families. Women were either imprisoned if they would not testify, or had do go into exile separate from their husbands. The Raid invaded nearly every Mormon settlement by

1886, sent hundreds to Mexico or Canada, and put most of the Church leadership into hiding.\textsuperscript{130}

The underground was a terrible blow to anti-polygamists strategy. Just as they were securing legal avenues to imprison almost the entirety of the Church leadership, the leadership disappeared. The archives are filled with indictments against leaders, followed by arrest warrants that document the inability of the authorities to locate the accused. Most of the Church leaders remained on the underground for several years.

An exception was Apostle Lorenzo Snow, who was captured in November of 1885. The marshal found him hiding in a specially constructed room concealed by a trap door underneath the living room carpet. Snow’s trial records include the testimony of the Deputy Marshal who found him:

We had made inquiries of Minnie Snow [the youngest of seven wives, and the one who lived with Snow at the time of his arrest] before discovering the trap door, as to whether he was there. We had previously made a thorough search of the house from garret to cellar, going through it room by room … we noticed the carpet was ripped, and underneath it found this trap door. When I called to him to come out … he says, ‘All right, I am coming out;’ and when he came out he says, ‘That is all right, boys, you have done your duty, come and take a drink with me,’ or something to that effect.\textsuperscript{131}


\textsuperscript{131} Territorial court, case file #2237 as found in Gordon, \textit{Twin Relics}, 313.
Snow was tried and convicted for three separate indictments for the same offense, unlawful cohabitation, each count for a calendar year. His trial would be the one that defined segregation.

Finding that few would “obey the law,” court officials determined the penalties for cohabitation were too light and set about to frame an interpretation that would increase their severity by adopting the doctrine of “segregation.” Segregation determined that unlawful cohabitation was not a “continuous” crime that could be punished only once, but that it was a crime that could be segregated into various periods, such as several months, several weeks, or several days. This doctrine permitted a large number of indictments to be brought against individuals in the first instance, and re-indictments any number of times. Judge Powers, of the Utah Supreme Court, summarized it this way: “An indictment may be found against a man guilty of cohabitation, for every day, or other distinct interval of time, during which he offends. Every day that a man cohabits with more than one woman … is a distinct and separate violation of the law, and he is liable for punishment for each separate offense.”¹³²

The severity of punishment under such a rule knew practically no bounds. The Deseret News caustically pointed out that the way had been opened to have polygamists indicted, tried, and convicted daily. “Thus they would be fined $93,900 in one year, and during the same period be sentenced to imprisonment for 156 years and six months.”¹³³

¹³² 4 Utah Reports, 280.
¹³³ Ibid.
Judge Powers of the First District instructed his grand jury that an indictment could be found against a man guilty of cohabitation for every day that he offended.\textsuperscript{134}

This was known as segregation.

The doctrine of segregation was first enunciated in 1885, during the trial of Apostle Snow. The grand jury found three indictments against him for unlawful cohabitation. They were identical, except for the fact that each covered a different period of time: the first, from January 1 to December 31, 1885; the second, from January 1 to December 31, 1884; and the third, from January 1 to December 1, 1883. They were issued and tried in inverse chronological order so that on the second and third indictments, Snow could not claim that he was being tried for the same crime supposedly committed previously to the one at hand. All three were based on the testimony of the same witnesses and on one oath and examination. Substantially, the same testimony was given by the same witnesses at all three trials. Snow was convicted on all three indictments and received the usual “six months and three hundred” on each. At the second and third trials, he pleaded his previous convictions as a bar to prosecution. Each time, the court upheld the government’s demurrer to the plea. Snow appealed all three convictions to the territorial Supreme Court and then to the United States Supreme Court.

George Ticknor Curtis argued eloquently on behalf of Snow and religious freedom during the first appeal. He maintained that plural marriages were acts “of a kind that could not have been dictated by anything but a religious obligation and duty”:

These duties are natural; they spring from the law of nature.
They are of moral obligation.
They are of perpetual obligation.
They are of sacred obligation.\^{135}

Such acts were not only harmless, but indeed, they were laudable, Curtis contended.

When courts construed harmless acts of attention, the expression of consideration, and
the provision of the necessities of life, performed in satisfaction of an obligation imposed
by religious duty and assumed before the act was passed, as “unlawful cohabitation,”
they infringed upon the religious beliefs of American citizens. He went on: “Are we so
dull that we cannot discriminate between that conduct which the law may prohibit and
that which it may not, when the religious constitutional rights of our fellow citizens are
involved?”\^{136} It would seem that the only way that a polygamist could dispose of a plural
wife to the satisfaction of the courts was to either publicly drive her and her children into
the streets with a whip or to bring about her demise. Of this latter alternative, Curtis said:
“[A]nd when the death-bed scene comes, and the husband stands there for the last
farewell, and when all is over for this life, he follows her remains to the grave, and writes
on the grave-stone, Harriet, wife of Lorenzo Snow—that, too is unlawful
‘cohabitation.’”\^{137}

The first Snow appeal, Snow v. United States, U.S. 118 was dismissed for want of
jurisdiction. It was not until 1887, after the Supreme Court heard a second appeal, In re
Snow, U.S. 120, the Court overthrew the territorial courts decision, ruling that

\^{135} Snow v. United States, 118 U.S. 346, 19-20.
\^{136} Ibid., 32.
\^{137} Ibid., 20.
cohabitation was a continuous offense. This was a small victory for the Latter-day Saints. The Raid raged on in Utah, Church leaders were in hiding, and the Utah Commission was redrawing the political landscape of the territory.

The prosecution of polygamy and federal attempts to simplify and expedite the conviction of polygamists denied Mormons due process of law. In violation of the Fourth Amendment’s restrictions on unreasonable searches and seizures, Mormon homes were raided and Mormon families terrorized by federal marshals and their deputies. Mormons were denied their right to vote and kept could not be tried by a jury of their peers because faithful Latter-day Saints could not sit on a jury. Long after more sparsely settled territories with weaker social structures were granted statehood, Utah remained a territory governed by officials appointed by a hostile federal government. By denying Utah’s repeated petitions for admission into the Union as a state, Congress denied Utah’s citizens the republican form of government to which they were entitled. And yet, the Mormons continued to resist. The only solution, as Congress and other antipolygamists saw it, was to bring the Church to its knees. The Edmunds-Tucker Act of 1887 would do just that. The battle over polygamy was hurtling towards its climax.

138 For an overview of the Supreme Court decision and the briefs in the case, see Ken Driggs, “Lorenzo Snow’s Appellate Court Victory,” Utah Historical Quarterly 58 (1990): 81-93.
Chapter 5: Building a White, Monogamous, Protestant Nation

Building on the theories of Benedict Anderson and Antoinette Burton, and reading across the growing number of whiteness studies in the 1990s, historian Gary Gerstle argues, “the nation is itself a structure of power, that, like class, gender, and race, necessarily limits the array of identities available to Americans seeking diversity.”¹

Nationalism, Gerstle maintains, demands that boundaries against outsiders be drawn, that a dominant national culture be created or reinvigorated, and that “internal and external opponents of the national project be subdued, nationalized, vanquished, and even excluded or expelled.”² Rather than seeing Americanization as an emancipation, Gerstle insists scholars consider the coercive nature of the process. As part of the larger nation-building project of the late nineteenth-century, the Edmunds-Tucker Act of 1887 can be understood as an expression of the coercive power of the state to Americanize the Mormons. For the rest of the nation to permit Mormons to become part of the body politic, the Saints would need to Americanize—a process that required the end of plural marriages. By 1887, Congress and many Americans were ready to issue the Saints an ultimatum: abandon polygamy or risk the annihilation of your religion.

By the time Congress began debating the Edmunds-Tucker Act, Reconstruction had been dead for ten years. There was a growing spirit of segregation and a willingness to limit the rights of those who did not fit into the idealized citizenship categories of race,

---

Congress and a great number of Americans found common ground on issues like polygamy, anti-Chinese legislation, Native American relocation and Jim Crow laws, all of which were central to creating the mold of what a modern American Citizen could be. Present in the final and crushing anti-polygamy law are the same issues of race, immigration, marriage, and suffrage. The Saints, however, presented a difficult problem to those who wanted to list them among the ranks of unfit citizens. While blacks were stripped of their civil rights, Native Americans driven from their lands, and Chinese banned from immigrating primarily because of their race during the 1880s, Mormons did not fit so cleanly into the racialized category of “unfit” citizen. Mormons were white, productive members of society. The desert of Utah had bloomed under the dedication and hard work of the Latter-day Saints. Their contribution to the economic development of the American West was undeniable. And yet, the faith of the Latter-day Saints was so abhorrent to those who wished to see it annihilated, that antipolygamists stretched the ever-flexible categories of race, class, and gender to include Mormons among those already deemed unfit to be Americans.

During the 1880s, legislators and activist judges in Utah and those on the Supreme Court forced limitations on Latter-day Saints, not because of their race, class or gender—although antipolygamists would use these categories to bolster their attacks on

---

the Saints—but because of their religiosity. While race was the primary determinate for many of the prerequisites for citizenship that arose at the end of the nineteenth century, the final battle over Mormon polygamy ensured that religion was also essential to the shape modern American citizenship would take.

**Edmunds-Tucker Act**

In 1886, Congress began debating further legislation to reign in the power of the Church in Utah. The resulting Edmunds-Tucker Act nakedly attacked a religious institution and imposed civil punishments on an entire group of people solely for their religious beliefs. Over the course of the anti-polygamy campaign, those who opposed the practice slowly shifted gears from attacking polygamy as an evil that should be outlawed to deciding that because Mormons practiced polygamy, the entire Mormon system was evil and should be dismantled. Senator Morgan expressed this frame of mind when he thundered, “whenever you promote Mormonism you promote polygamy; whenever you promote the power of that church, you promote polygamy. They are one and inseparable.” In the finals years of the 1880s, anti-polygamists and their supporters concluded that Latter-day Saints were not worthy of constitutional protections. Their marital practices placed them too far afield of what lawmakers believed a good American citizen should be. In the end, the Latter-day Saints would have to give up their belief in plural marriage or watch as the federal government outlawed their faith altogether.

---

4 *Congressional Record*, 49th Cong., 1st sess., 17.
Much of what would be included in the Edmunds-Tucker Act was based on recommendations of the Utah Commission. As we saw in Chapter 4, the federal government adopted many of the Commission’s recommendations during the years immediately following the Commission’s inception. Congress fulfilled the board’s call for judicial activism, funds to pay informers, and manpower in the form of federal marshals sent to Utah to hunt down polygamists. The continued insistence on the need for additional legislation shows that the Commission felt its existing powers and past performances had not been adequate to make a substantial contribution to the break-up of either the political power of the polygamists or the institution of polygamy itself.

In its 1886 annual report, the Commission urged Congress to act and to act quickly, adding fuel to the already raging fire of animosity lawmakers held against the Saints:

We wish to impress upon the Government and the people of the United States the magnitude of the evil with which we have to contend, and the difficulties in the application of a remedy… In such a condition there is no remedy that would be immediate in its effects except military force, and this cannot now be applied, because no civilized government in this age will wage a war of extermination against unarmed men, women, and children. But the evils existing in Utah cannot be ignored by the Government. Devoted as the American people are to religious liberty, by education, tradition, and constitutional sanction, they will never allow this principle to be subverted by the toleration or sanction of crime. Here we may say that while we recognize the obligation of the Government of the United States to protect the personal and property rights of the Mormon people, collectively and individually, and to deal with them as equals before the law, yet it is equally the duty of the Government to punish crime committed within its jurisdiction; and religious liberty cannot be
pleaded as a bar to punishment for criminal acts in violation of the laws of the land and of social order.\textsuperscript{5}

Barring extermination of the Latter-day Saints, the Commission could conceive of nothing less than stripping the Saints of their rights as Americans to deal with the Mormon menace of polygamy.

The Commission was obviously disillusioned by their failure to end polygamy in Utah. They submitted a “decisive plan to reduce the power of the polygamic element” in Utah, and to increase Federal authority in the government of the Territory.\textsuperscript{6} The Commission included recommendations that exemplify the anti-Mormon hysteria of the time. Perhaps the most extreme recommendation was that the Territorial legislature be dismantled and Utah governed by a legislative commission “composed of nine or thirteen members, to be appointed by the President and in whom all legislative authority should be vested.”\textsuperscript{7} The Commission recognized the “unrepublican” nature of this recommendation, but answered that “all of these civil officers are now chosen by the dictation of the church authorities with the view chiefly of strengthening and maintaining the polygamous system there existing.”\textsuperscript{8} The Commission also recommended stripping all Latter-day Saints of their right to vote and advised Congress to begin work on a constitutional amendment outlawing polygamy.\textsuperscript{9} While Congress did not adopt these

\textsuperscript{5} Annual Report of the Department of the Interior, Volume 2 (1885-1886), 886.
\textsuperscript{6} Ibid., 889.
\textsuperscript{7} Ibid., 889-890.
\textsuperscript{8} Ibid., 890.
\textsuperscript{9} Ibid.
extreme measures, it did heed many of the recommendations made by the Commission—the result was the Edmunds-Tucker Act of 1887.

Throughout the evolution of what was to become the Edmunds-Tucker Act, there were some who persistently objected to the entire premise upon which it was based. In 1886, former Confederate General Senator Wilkinson Call of Florida declared: “I am opposed to this entire bill … because it ignores and denies the power of our system of civilization and of morals to overcome error, whether secular or religious; because it proposes to revive the practices of the Dark Ages, and to substitute for the freedom of the press, for the power of religious thought, for the teaching of the gospel the sword of civil justice, the power of the secular arm, the force of criminal law to punish thought and create opinions by law.”

He urged an entirely different approach: “However great may be our detestation of polygamy, let us recognize the power of a Christian civilization … which will surely make polygamy disappear in the further development of these people under the influence of a public opinion and a public policy adverse to it, unless we unwisely give to it the force and energy which persecution and severe laws will create.”

In spite of such protests, the Edmunds-Tucker Act satisfied all but the wildest demands of the anti-Mormon antagonists, and included all but the most outrageous features of the anti-polygamy proposals of the past. The law contained twenty-six

---

10 Congressional Record, 48th Cong., 1st sess., 5287.
11 Ibid., 5289 Call later vigorously attacked the compromise bill that was finally enacted, alleging that while each provision was defensible as within the letter of the Constitution, since each provision was aimed exclusively at the Mormon Church and that Mormons because they were Mormons, it violated the spirit of the Constitution. It was, he claimed, a “law respecting an establishment of religion,” and to deny this was hypocrisy. Congressional Record, 49th Cong., 2nd sess., 1900-1903.
sections—all aimed at eradicating polygamy, crushing the Church, and shaping what a good American citizen should be. The sections most pertinent to this chapter and to the construction of modern American citizenship can be divided into four categories: those that policed marriage and sexuality; those that limited immigration; those that eliminated civil and political rights; and those that sought to destroy the corporation of the Church of Jesus Christ of Latter-day Saints.

**Sexuality**

The legal battles discussed in the previous chapter demonstrate that the Territorial and Supreme Courts, when interpreting the Edmunds Act, cared very little whether a man was having sex with his plural wives. Instead, the court placed primary importance on the appearance of marriage. The Saints complained that rather than being a law to protect morality, the Edmunds Act was clearly a law meant to punish Mormons and Mormons alone. This complaint was not lost on all legislators. During the Edmunds-Tucker Act debates, Senator Joseph Brown of Georgia denounced what he saw as the hypocrisy of those who attacked the morality of polygamy:

Doubtless there may be some who are called very respectable Gentiles there, each of whom has one wife and one or more mistresses not in the marriage relation. And as the votes of such were needed, the commissioners were careful to reserve to them the right to vote not—withstanding the plurality of women with whom they may cohabit. But the Mormon who has the same number of women, and claims that he lives in the marriage relation with all of them, though he is guilty of precisely the same practice as the Gentile, is carefully excluded from the right to vote or hold office. And I suppose if the Mormons would drop what is called the marriage relation, as recognized by their church and cohabit with the same number of women they now keep as they are kept in other parts of the
Union, we might find fewer public men and public journals denouncing them and crying, ‘Crucify them!’ I certainly do not justify their illegal practices, but I have no stronger words of condemnation for the Mormon who cohabits with more than one woman, calling each his wife, than I have for the Gentile in the States or Territories who cohabits with a like number, calling but one of them his wife. It is simply the same crime under a different name, the Mormon having the advantage of position in this, that he claims and holds himself bound to support all his children, while the man with one wife and one or more mistresses denies his obligation to support the children of the latter. So much for polygamy as contrasted with prostitution.\textsuperscript{12}

To answer criticisms like those expressed by Senator Brown and the Latter-day Saints, sections three through six of the Edmunds-Tucker Act dealt directly with issues of sexual morality. Section three made adultery punishable by as much as three years in the penitentiary. Section four prohibited incest, which was defined as marriage, cohabitation, or sexual intercourse between two people related within the fourth degree of consanguinity, and made it punishable by from three to fifteen years in prison. Section five set the penalty for fornication at up to six months imprisonment and a fine of up to one hundred dollars. And section six annulled the territorial law that provided that prosecutions for adultery could be initiated only upon the complaint of the spouse.\textsuperscript{13}

The policing of Mormon sexuality must be read as part of the larger national effort to morally reconstruct the nation at the end of the nineteenth century. Legislation against Mormon polygamy fits nicely into the existing historiography that examines the ways middle-class reformers attempted to control expressions of sexuality that did not conform to a marital, reproductive framework and the hegemonic binary of

\textsuperscript{12} Congressional Record, 48th Cong., 1st sess., 4556.
\textsuperscript{13} An act of the Utah Territorial Legislature had provided that “no prosecution for adultery can be commenced but on the complaint of husband or wife.” Utah Laws, 32, at 122.
homosexual/heterosexual. By looking at the sexual practices of those who did not conform to the Victorian sexual ideal of sex being located in marriage, for reproduction, and between a man and woman, historians have uncovered how the increased surveillance and policing of sex constructed new ideas about what was normal and acceptable for Americans near the turn of the century. Through the battle with Mormons over the legality of polygamy at the end of the nineteenth century, the U.S. government began to establish a very strict standard of what constituted an acceptable marriage and thus what constituted acceptable sexuality among its citizens.

Federal intervention into the inheritance rights of children produced outside a legally contracted marriage, can also be read as further policing of Latter-day Saint sexuality. Provisions of the federal anti-polygamy laws had long raised questions regarding the right of polygamous children to inherit from their fathers. In 1852, the Utah territorial legislature provided that: “Illegitimate children and their mothers inherit in like

manner from the father, whether acknowledged by him or not, provided it shall be made to appear to the satisfaction of the court, that he was the father of such illegitimate child or children.”

In 1862 the federal anti-polygamy act nullified all territorial laws “which establish, support, maintain, shield, or countenance polygamy.”

The Utah legislature tried to get around this by writing new laws stating that every child, whether legitimate or illegitimate, as long as he is acknowledged by his father is an heir. But, section eleven of the Edmunds-Tucker Act annulled acts of the Utah territorial legislature which provided that illegitimate children could inherit from their fathers.

When interpreting the Edmunds-Tucker Act, the courts continued to emphasize the importance of the “appearance” of marriage—in fact it became almost impossible for a known polygamist to separate himself from his previous marriages enough to satisfy prosecutors in the years after it became law. In 1887, the Territorial Supreme Court ruled in *United States v. Harris* that an alleged separation agreement between a polygamist and his lawful wife did not alter the presumption of cohabitation: “It is often in these cases, as in other criminal cases, that direct proof cannot be made, but circumstances can be shown from which the ultimate facts can be inferred.”

Under this standard even the remotest contact between a man and his legal wife constituted cohabitation. In the *Harris* case the defendant, John Harris, had agreed to separate from his legal wife, who lived in a house

15 *Utah Laws 1851*, 71-72.
17 The U.S. Supreme Court eventually overturned a territorial ruling that nullified the right of polygamous offspring to inherit for the human reason that it harmed only children, “not the pluralists for whom such policies were intended” (*Cape v. Cape*, US 137, 682 (1891)).
18 *United States v. Harris*, 5 Utah 441, 17 Pac. 77-78.
nearby. He had been seen, however, in her yard watering his horses at her well, and “he sends her provisions; and, whenever she has wanted a sack of flour, he would take it to her and put it in her flour-bin.” These “contacts” justified a conclusive presumption that Harris cohabited with his lawful wife. Indeed, the court suggested that Harris’s very act of agreeing to separate from his wife, accompanied by a conveyance of property to her, constituted cohabitation.

In some ways, however, the Harris ruling provided some relief to polygamists. The court made it clear that the presumption of cohabitation created by a lawful marriage was not conclusive and could be rebutted by evidence. The little interaction Harris had with his legal wife was evidence enough to convict him, but it signaled that some evidence was required. If cohabitation with one’s lawful wife was strongly presumed, “when you come to cohabitation with the illegal wife, the presumptions are all against it.” By this standard, the federal government strongly pressured the Saints not only to adopt monogamous marital relations, but to adopt them only with wives the state recognized as lawful.

This reprieve was short lived, however. In 1889, in a second case involving Joseph Clark, the court changed its mind, overruling its decisions in the Harris case:

We think that when a polygamist has a lawful wife living within the jurisdiction of the court, known and understood to be such, and lives and cohabits with another woman as his wife, he is guilty of a violation of the statute; that the presumption that he cohabits with the legal wife is a legal one, and is conclusive, if it is a presumption at all. His status in relation to

19 United States v. Harris, 5 Utah 441, 17 Pac. 78.  
20 United States v. Harris, 5 Utah 441, 17 Pac. 76.
each of the two women, in our opinion, is such that, as a matter of law, he cohabits with them within the meaning of the statute.\(^{21}\)

In other words, the presumption could no longer be rebutted by evidence. This was the doctrine of “constructive cohabitation.” Justice Henderson, for the court, declared that if cohabitation was made a matter of fact, then a man who ceased living in polygamy could abandon his lawful wife in favor of a plural wife; such a construction would place lawful and plural marriages on equal ground. Since the protection of the monogamous home was the object of congressional action, the court had to construe it in the manner that would give the most protection to monogamy. The conviction was upheld, in spite of the fact that Clark’s lawful wife had testified that he had abandoned her without her consent three years previously and had called at her house only once or twice during the time covered by the indictment.\(^{22}\)

**Immigration**

The federal government’s push to control the sexuality of the people of Utah can also be seen in the sections of the Edmunds-Tucker Act that limited the immigration of Latter-day Saints to the United States. According to Nancy Cott “immigration

---

\(^{21}\) *United States v. Clark*, 6 Utah 120, 21 Pac. 463.

\(^{22}\) Section One of the Edmunds-Tucker act made the lawful husband or wife of the accused in a bigamy, polygamy, or unlawful cohabitation prosecution a competent witness. The original bill had provided that such testimony could be compelled; however, the compulsion feature was eliminated, and it was provided that the spouse would not be permitted to testify about confidential communications between husband and wife during the marriage. This was meant to supersede an act of the Utah Territorial Legislature that provided: “A husband cannot be examined as a witness for or against his wife, without her consent; nor a wife for or against her husband, without his consent; nor can either, during the marriage or afterward, be without the consent of the other, examined as to any communication made by one to the other during the marriage, but the exception does not apply to a civil action or proceeding by one against the other, not to a criminal action or proceeding for a crime committed by one against the other.”

---

226
promised—or risked—the creation of new citizens.” When considering immigration, the positive and hopeful view that “the newcomer will soon be one of us,” meant not only assimilating into the economy but also marrying and having children. “Marriage bore on the shape of the body politic just as immigration policy did. Together the two had dynamic potential to create new kinds of citizens for the United States, because children born on American soil would be U.S. citizens regardless of their immigrant parents’ own capacity for naturalization.”

Policing who could marry whom went hand in hand with laws about immigration because both directly affected the racial makeup of the polity.

Public policies concerning marital laws and norms, Cott argues, were deployed as “tools of class hegemony and cultural regulation, as well as of racial formation.” Citing the Page Act as a piece of legislation meant to support the government’s insistence on monogamous morality, Cott shows that congress created laws to limit Chinese women immigrants because they were typed as prostitutes. Congress took the opportunity to exclude “immoral” women from entering the body politic and further racialized the Chinese as people who do not adhere to the model of normal American sexuality. The Latter-day Saints were often lumped in with the Chinese and racialized as something other than white because of their sexuality.

As we saw in Chapter two, antipolygamists in the 1850s and 1860s racialized Latter-day Saints as something other than white in order to protect their white, middle-

---

23 Cott, *Public Vows*, 132. See also, Gardner, *The Qualities of a Citizen*.
24 Cott, “Giving Character to Our Who Civil Polity,” 121.
class hegemony while attacking the predominantly white Saints. During the late 1880s, efforts to racialize the Saints as non-white redoubled. In political cartoons, Mormons were often depicted alongside Chinese, blacks, and Native Americans. The blending of ethnic imagery between Mormons and other minorities in mass-produced prints expressed the view that all such groups were troubling ethnic, racial and sexual subjects of the United States. Mormons were often thrown in with the Chinese whose citizenship and right to call themselves Americans was also being challenged at this time. Blacks’ right to full citizenship, once guaranteed during Reconstruction, was being repealed by the U.S. Supreme court through cases such as Slaughter-House Cases and later Plessy Ferguson. The Chinese right to citizenship was being determined by the California Supreme Court in such cases as People v. Hall and federally legislated against

26 Chapter 2, 28-33. Sarah Gordon has drawn the connection between the racialization of the Saints and the state’s policing of their sexuality through her examination of the ways antipolygamists linked Latter-day Saints to the supposedly licentious sexual practices of Asian and African people (Gordon, The Mormon Question, 192-193 and 205; and “The Liberty of Self-Degradation,” 815-847). Building on Gordon’s work, Bruce Burgett highlights the association between antipolygamy and antislavery movements to show how antipolygamy discourse contained racializing intertexts and to demonstrate “the ways in which discourses of sex and race are produced and reproduced through the conjuncture in the mid-nineteenth century of the deployment of monogamous conjugal norms on the one hand, and the imperial consolidation of the nation-state on the other.” Sexuality and race were tied up together in the ways the state categorized people, particularly the Mormons. Polygamy racialized the primarily white Saints as non-white Burgett argues, and as a result made them both sexually and racially troublesome imperial subjects (Burgett, “On the Mormon Question,” 77).

in the immigration laws of 1882. Calls for similar embargoes on the citizenship rights of Mormons were often linked to the prohibitions placed on the Chinese.

The Saints were not only linked to the Chinese as sexually troubling subjects, but as a group whose immigration should be severely limited. Legislation prohibiting Chinese immigration was passed the same year as the Edmunds Act. Antipolygamists used growing anti-Chinese sentiment and limitations put on Chinese immigration to call for stricter control of Mormon immigration as well, claiming that Mormon polygamy fed on a constant diet of “fresh victims” from overseas. In 1886 the Utah Commission made the connection between the Latter-day Saint immigration problem and that of the Chinese explicit by recommending “[t]hat the laws with reference to the immigration of Chinese … be so amended as to prevent the immigration of persons claiming that their religion teaches and justifies the crime of polygamy, as this would cut off the chief source of supply to the Mormon Church.”

By linking Latter-day Saints to the Chinese through the issue of immigration, middle-class Americans, reformers caste Mormons as not only sexually but also racially suspect.

---


As was mentioned in Chapter 2, anti-polygamists had long charged that Mormons wrested control over immigration from the national and state governments through the Perpetual Emigrating Fund.\textsuperscript{30} Anti-polygamists claimed that the converts, who were more devoted to the Church than to their newly adopted country, were involving themselves in U.S. politics. One anti-polygamist complained that Mormon immigrants “with no other naturalization than that of a Mormon baptism, being permitted to vote,…were even admitted into the Legislative body to make laws to govern free-born Americans.”\textsuperscript{31} “It is clear,” maintained \textit{Harper’s Magazine} in 1881, “that the Mormon Kingdom in Utah is composed of foreigners and the children of foreigners. … It is an institution so absolutely un-American in all its requirements that it would die of its own infamies within twenty years, except for the yearly infusion of fresh serf blood from abroad.”\textsuperscript{32} Reverend A. S. Bailey, addressing all the denominational workers in the Territory, believed that a traveler visiting Utah would find not simply “more that is European than American,” but “a spirit foreign to the spirit of American, … a system indeed, but hostile to American ideas.”\textsuperscript{33}

Anti-polygamists were also concerned with the class of immigrating Latter-day Saints. Many believed that Mormon men were scouring Europe to bring the poor and hopeless to Utah to add them to their harems. It was charged in Congress that the church

\textsuperscript{30} In 1850, the Church established The Perpetual Emigrating Fund (PEF), which managed and financed the gathering of the faithful in Utah. Tens of thousands of European converts used the fund to immigrate to the United States. The PEF provided loans to converts to travel from Europe to Utah, whose repayment then financed the immigration of future converts. Also see, Gordon, \textit{The Mormon Question}, 195.

\textsuperscript{31} Belisle, \textit{Mormonism Unveiled}, 233.


was “devoted to gathering the most ignorant and degraded of all classes of community in
all the States and in all other countries [to Utah] for the purpose of imposing upon them
the doctrines and the practice of polygamy. These were not the kind of people members
of Congress wanted making up the American citizenry.

President Cleveland, a Democrat far less inclined to press the anti-polygamy
campaign than most in Washington—refused to sign the Edmunds-Tucker bill in 1887
because he seriously doubted its constitutionality—was persuaded that immigration
“reinforced the people upholding polygamy” and called upon Congress in 1883 to pass a
law “to prevent the importation of Mormons into the country.”34 Unlike the toothless
epistle sent out by the Secretary of State in 1879 pleading that foreign governments
prohibit Latter-day Saints from emigrating, Congress found an effective way to stop the
flow of Mormon immigrants from Europe to Utah. Section fifteen of the Edmunds-
Tucker Act dissolved the Perpetual Emigrating Fund Company and made it unlawful for
the legislative assembly “to pass any law for the purpose of or operating to accomplish
the bringing of persons into the said Territory for any purpose whatsoever.”35 The
following section directed the United States Attorney General to start proceedings against
the Perpetual Emigrating Fund, the property and assets of which were to escheat to the
United States. It was made the duty of the Secretary of the Interior to dispose of such
property for the benefit of the common schools.

________________________

34 Richardson, Messages and Papers of the Presidents, XI, 4947.
35 The Perpetual Emigrating Fund was created by an ordinance of the provisional State of Deseret on
September 14, 1850. See Deseret News, Sept. 21, 1850, p. 118-19, 114. The purpose of the Fund was to
make loans to impoverished Saints who could not finance their own way to Zion.
The dissolution of the PEF did not go far enough to satisfy the Utah Commission. The Commission recommended that Congress pass a law “as to forbid the immigration of all aliens into the United States who are polygamists, or who uphold polygamy by their profession.”36 The Act of March 3, 1891 added the specification “polygamists” to the federal list of classes excluded from immigration and remains as part of immigration law today.

While the federal government prevented immigration through the dissolution of the PEF and later the Act of 1891, federal district court judges in Utah denied naturalization to aliens who were members of the Mormon Church. One of the objects of such action, no doubt, was to prevent a swelling of the ranks of Mormon voters and jurors. As early as 1870, federal judges limited Mormon naturalization. Anti-Mormon activist and territorial judge James McKean ruled that a mere belief in the righteousness of polygamy was sufficient grounds for refusing to naturalize an alien regardless of whether the applicant was involved in the practice are not.37 McKean did not cite any precedent for his arbitrary holding, basing his decision on his interpretation of the naturalization statutes. His ruling required more of applicants than was required of natural-born citizens—an open denial of belief in polygamy. After the Edmunds-Tucker Act became law, judges felt free to deny an immigrant citizenship simply because he or she was a member of the Church.

36 Report of the Utah Commission to the Secretary of the Interior (U.S. Govt. Print. Office, 1886) p.6  
37 Deseret News October 19, 1870 and Roberts, Comprehensive Church History, 5:386-387.
In 1889 Judge Anderson held special sessions of his district court to examine applications for citizenship in order that persons might be qualified in time to vote in the coming elections. Mormon applicants were asked about their opinions regarding plural marriage, and if they admitted belief in it, they were rejected as “men of immoral character.” Anderson defended his position with a lengthy discussion of the defiant spirit of the church leaders during the “Utah War” period and the more recent refusal of those leaders to accept the laws against polygamy. He concluded:

The evidence in this case establishes unquestionably that the teachings, practices and aims of the Mormon Church are antagonistic to the government of the United States, utterly subversive of good morals and the well being of society, and that its members are animated by a feeling of hostility towards the government and its laws, and therefore an alien who is a member of said church is not a fit person to be a citizen of the United States.\(^{38}\)

This was in accordance with the view urged by attorneys of the Liberal Party (Gentile) who were interested in preventing the qualification of more Latter-day Saints for the February 1890 election.\(^{39}\)

After the Church formally renounced polygamy in 1890, judges abandoned the practice of denying naturalization to Latter-day Saint immigrants. One of the first to recognize the sincerity of the Saints to obey the laws was Judge Zane. On October 7, 1890, during a naturalization proceeding, he stated, “Hereafter, I will not make the

\(^{38}\) The Inside of Mormonism: A Judicial Examination of Endowment Oaths Administered in all the Mormon Temples, by the United States District Court for the Third Judicial District of Utah, to Determine Whether Membership in the Mormon Church is Consistent With Citizenship in the United States, (Utah American, 1903), 92-93 and reprinted in Salt Lake Tribune, December 1, 1889.

\(^{39}\) Linford, “Mormons and the Laws,” 559.
simple fact that an applicant is a member of the Mormon Church a bar to his admission to citizenship.\footnote{Whitney, Utah History, 3:749.} The other judges followed suit.

**Civil Rights**

Much of the debate over the Edmunds-Tucker act in Congress was on the section repealing woman suffrage. As was alluded to in Chapter 3, the Utah territorial government extended the right to vote to women in 1870. The notion to extend the vote to women in Utah was not homegrown. George Julian, a Radical Republican, universal suffragist, and antipolygamist representative from Indiana introduced a bill during the forty-first Congress “to discourage polygamy in Utah by granting the right of suffrage to the women of that territory.” Hamilton Willcox, president of the Universal Suffrage Association, testified in Congress that the franchise for the women of Utah would be the demise of polygamy. The *New York Times* echoed his sentiments, editorializing that the franchise for women would most likely end polygamy and perhaps even Mormonism.\footnote{New York Times, December 17, 1867.} The bill was referred to the Committee on the Territories on March 15, 1869, but it died there.\footnote{Congressional Globe, 41st Cong., 2nd sess., 72.}

Brigham Young and others knew that giving Utah women the vote would not mean the end of polygamy, but believed it could change the predominant national image of Utah women as downtrodden and oppressed. They hoped that by empowering women with the franchise they could potentially stem the tide of antipolygamy legislation.
Moreover, the new Liberal Party was disconcerting to Church leaders. Although the party was small, it was a vocal critic of the Church. By giving women the vote, the Saints could easily double their number of voters and eliminate any threat the Liberal Party posed to Mormon political dominance in Utah. With no dissenting votes, the territorial legislature passed an act giving the vote—but not the right to hold office—to women on February 10, 1869. Utah thus became the second territory to give the vote to women; Wyoming had passed a women’s suffrage act earlier that year.

Given the widespread correlation between polygamy and slavery, and the presumption that the franchise was the most important of all rights denied to women, providing polygamous wives a political voice denied monogamous women in the East a way to call the bluff of reformers. For example, the editor of the *Phrenological Journal* opined: “[T]hat the women of Utah, who have been considered representatives of womanhood in its degeneration, should suddenly be found on the same platform with John Stuart Mill and his sisterhood, is truly matter for astonishment.”43 The spectacle of wives, the presumed slaves of polygamous bashaws, actively participating in electoral contests seemed a conundrum to antipolygamist reformers.

Suffrage, as Eric Foner argues, was broadly understood in the Civil War era as the key to political identity and inclusion within the ranks of freedom. Consent to government, as manifested through the ballot, was among the most precious liberties of

---

the American political community.\textsuperscript{44} By giving Mormon women the right to vote, the Utah legislature was bestowing upon them the most sacred right of American citizenship and providing them with a means by which they could free themselves from the slavery of polygamous marriages. Therefore, most Americans were shocked when Mormon women did not vote against the Church or polygamy. They voluntarily endorsed polygamy by voting for polygamous Church leaders—politically supporting a type of marital relationship that was widely condemned as the negation of marriage and American ideals. Here again, lawmakers’ failure to understand the religious faith of the Latter-day Saints in the sanctity of plural marriage resulted in a colossal misreading of how Mormon women would act politically.

When the women of Utah did not vote against the Church or polygamy, the view of Mormon women began to shift from one of sympathy to one of distrust. Rather than being perceived as victims, Mormon women were refashioned, “condemned as at best no better than the men, unwitting dupes in their own enslavement, at worst zealots willing to abet persistent, recalcitrant lawbreaking.”\textsuperscript{45} On November 7, 1878, a mass meeting of non-Mormon women in Salt Lake City petitioned the wife of President Hayes and the womanhood of the United States to support the fight against polygamy. By April 1880, these women had organized the Ladies’ Anti-Polygamy Society of Utah, which soon expanded into a national movement, and begun publication of the \textit{Anti-Polygamy}


\textsuperscript{45} Gordon, “‘The Liberty of Self-Degregation,’” 830.
Standard. The Standard led the way in demonizing the plural wives of Utah and acted as an eye-witness to the horrors of polygamy for the rest of the nation:

Strange as it may seem, it is nevertheless true that the women are the strongest supporters of Mormonism. ... The Mormon women with one hand clasped the forged revelation of Joseph Smith, and with the other drew the monster polygamy to their breasts, and all the while their bosoms were streams of blood from the poisoned fangs of the monster.

The fact that Mormon women were active in their own defense was also turned against them. As national antipolygamist lecturer Kate Field put it: “Mormon women hold mass-meetings in Salt Lake City that are engineered by the church and assert that they are perfectly satisfied with their condition. Before the abolition of slavery the world was assured that negroes were happy in their chains, and individual slaves may have said as much.”

And yet, Mormonism’s leading women had always been outspoken in defense of polygamy. Sarah D. Rich, wife of Apostle Charles C. Rich, wrote, “Many may think it verry strainge that I would consent for my dear husband whome I loved as I did my own life and lived with him for years to take more wives.” She argued that never could have done it if she “had not believed it to be right in the Sight of god, and believed it to be one principal of his gospel once again restored to earth.” She had faith that by obeying the

---

46 Anti-Polygamy Standard, April, 1880. The paper was published in Salt Lake City for three years, beginning with this issue.
47 Anti-Polygamy Standard 2, no.7 (October 1881), 49.
48 For Field’s statement see Chicago Tribune, June 6, 1886, p.15.
49 The “leading sisters” were the daughters, sisters, and wives of the leading men of the Church, who “constituted a small, visible elite, recognized and looked up to by Mormon women generally. Most of them were plural wives.” Anne Firor Scott, “Mormon Women, Other Women,” Journal of Mormon History (1987): 3.
order of plural marriage she would “attain to a higher glory in the eternal world.”\(^{50}\) In these women’s eyes, they were not passive victims. They allowed their husbands to take additional wives so that they would reap the highest rewards God could offer in the hereafter. Annie Clark Tanner, a plural wife who recorded her experiences in an autobiography, echoed Rick’s sentiments: “Women would never have accepted polygamy had it not been for their religion. The principle of Celestial Marriage was considered the capstone of the Mormon religion. Only by practicing it would the highest exaltation in the Celestial Kingdom of God be obtained.”\(^{51}\) Plural wives were following the commandments of the gospel they held so dear, and believed they would be rewarded after death for any suffering they endured in life.

When anti-Polygamists portrayed Mormon women as degraded and voiceless, many Mormon women appropriated the protestant-generated language of Victorian womanhood to defend polygamy. They argued that they were protecting their polygamous homes because it was their divinely ordained responsibility as women to do so. They used the same language as the protestant women of the east who attacked polygamy.\(^{52}\) Former wife of Joseph Smith and member of the Mormon elite, Eliza R. Snow, maintained that,

> Here in Utah, through his servants and handmaidens [God] is establishing a nucleus of domestic and social purity, confidence and happiness, which will, so far as its influence extends, eradicate and prevent, in future, all


\(^{52}\) Riess, “‘Heathen in Our Fair Land,’” 195.
those blighting evils…God loves purity and he has introduced the principle of plurality of wives to restore and preserve the chastity of woman…It is truly woman’s cause—a cause which deeply involves, not only her present but her eternal interests.  

Statements such as these were meant to exculpate Mormon women from anti-polygamous accusations. Snow and others tied polygamy to Victorian models of domesticity and virtue and argued against the idea that plural marriage led to female degradation.

Much of Mormon women’s defense of polygamy was written by Emmeline B. Wells, editor of the Woman’s Exponent. The Woman’s Exponent, founded in 1872 for women of the LDS church, was one of the earliest periodicals for women in the United States. While the Exponent was not an official voice for the church, it remained loyal to church leaders and policies. The Exponent had several purposes, announced at its inception and adhered to throughout its forty-two-year run. The paper discussed “all subjects interesting and valuable to women,” reported Relief Society meetings and other matters connected with the workings of that organization. Most importantly, it furnished to the world “an accurate view of the grossly misrepresented women of Utah.” The paper served as a means through which Mormon women could respond to the accusations that they were victims, helpless and brutalized by their husbands; cruel, brutal, and depraved like their husbands; harlots and hussies, unfit to act as moral guardians; or

54 Sherilyn Cox Bennion, “The Woman’s Exponent: Forty-two Years of Speaking for Women,” Utah Historical Quarterly 44, no. 3 (1976): 223. The Relief Society is an auxiliary organization of adult women within the church. The purpose of the Relief Society is “to work for the temporal and spiritual salvation of all the women of the Church. Under the direction of its executive heads, as aided by general and stake boards, the Relief Society operates unites in all the wards and branches of the Church. Many of its charitable works are coordinated with and operated as part of the Church Welfare Plan.” (Bruce R. McConkie, Mormon Doctrine, (Salt Lake City: Bookcraft, Inc. 1966), 625).
insane, mentally deficient, or debauched for entering into polygamy. The *Exponent* was meant to cultivate a positive image of Mormon women in their own minds at a time when they were threatened by negative portrayals of their religious practices and beliefs.\(^{55}\)

Emmeline B. Wells contributed to the *Exponent* from its inception and served as editor from 1877 to 1914.\(^{56}\) Her writings for the *Exponent* focused on supporting woman suffrage, defending polygamy, and providing theological reasons why others should do the same. She lead the way in changing the Church’s defense of polygamy from that of a matter of faith to that of a polygamy as a superior form of marriage for social reasons.

According to Wells, polygamy was the ideal marriage arrangement for women because it allowed them time to pursue education and to engage in social action. “Plural marriage,” she wrote, “makes woman more the companion and much less the subordinate than any other form of marriages.” Plural wives have to learn “to be self-reliant and self-sustaining, and comprehend that in marriage there is a higher purpose than being a man’s

\(^{55}\) Gail Farr Casterline, “‘In the Toils’ or ‘Onward for Zion’: Images of Mormon Woman, 1852-1890” (M.A. thesis, Utah State University, 1974), 94 as found in Bennion, “The Woman’s Exponent,” 226.  
pet or even housekeeper.” In one of her first articles for the *Exponent* Wells took up the pen in defense of polygamy, claiming that plural marriage neither demeaned nor subjugated women:

I cannot bear to hear those women, who have in all purity of heart and soul, helped to establish this holy order, instituted by divine revelations, spoken reproachfully of, without lifting my voice to attest to their without lifting my voice to attest to their truthfulness, earnest sincerity and virtue. And I feel myself justified in saying, no woman who is not innately pure and strictly virtuous and moral, will live in Polygamy any length of time.

She believed many of the attacks made on polygamy were demeaning to women because they were couched in the belief that a woman is not a true wife if she does not receive abundant attention from her husband. Those who attack polygamy, she argued, must believe that the “poorest of all creatures” is an unloved wife. “I know that we are looked upon as weak-minded and half-witted if we do not receive a certain amount of attention from a man.” For Wells, this argument was unacceptable. “All honor and reverence to good men; but they and their attentions are not the only sources of happiness on the earth, and need not fill up every thought of woman…I believe in women, especially thinking women.” Plural wives, Wells argued, had more to live for than the caresses of their husbands. Wells’ editorials created a distinct vocabulary of women’s rights based on citizenship and marriage. She was able to bridge women’s suffrage and citizenship rights and her defense of polygamy.

In spite of protestations from Mormon women like Wells, supporters of the Edmunds-Tucker Act argued that the ballot should be taken from the women of Utah.

57 “Mormon Woman’s View of Marriage,” *Woman’s Exponent*, 1 September 1877.
because they were coerced by the Mormon priesthood into voting for the very institutions
which were oppressing them. Senator Call expressed the reasoning of the other side: “The
Senator from Vermont makes a new definition of servitude, and freedom, and says the
women of Utah are in a condition of voluntary servitude (note the words ‘voluntary
servitude’), and therefore he proposes by law to put them into a condition of—what? Of
involuntary freedom from their own will by subjugating them to his and our opinions,
and to new and strange and prohibited instrumentalities and agencies of government.”

Despite loud protestations from many in Congress, and from women Mormon women in
Utah, section twenty of the Edmunds-Tucker Act made it unlawful for women to vote in
the Territory of Utah.

The women of Utah protested their disfranchisement using the language of
patronism and citizenship. They held a mass rally on March 6, 1886 to protest against
“the tyranny and indecency of Federal Officials in Utah, and against their own
disfranchisement without cause.” Mrs. Prescinda L. Kimball used her Yankee heritage
to emphasize the injustice of the loss of the franchise:

59 Congressional Record, 47th Cong., 2nd sess., 3172.
60 Much has been written about women’s suffrage in Utah. Beeton, Beverly. “Woman Suffrage in
Territorial Utah,” Utah Historical Quarterly 46, no. 2 (1978): 100-120; Carol Cornwall Madsen, “‘The
Power of Combination’: Emmeline B. Wells and the Nation and International Councils of Women,” BYU
Studies 33, no. 4 (Winter 1993): 646-673; Joan Iversen, “The Mormon Suffrage Relationship: Personal and
Political Quandaries,” Frontiers 11, no. 2 (1990): 8-16; Joan Iversen, The Antipolygamy Controversy in U.S.
61 Church of Jesus Christ of Latter-day Saints. “Mormon” Women’s Protest. An Appeal for Freedom,
Justice and Equal Rights. The Ladies of the Church of Jesus Christ of Latter-Day Saints Protest against the
Tyranny and Indecency of Federal Officials in Utah, and against Their Own Disfranchisement Without
Cause. Full Account of Proceedings at the Great Mass Meeting, Held in the Theatre, Salt Lake City Utah,
Saturday, March 6, 1866. (Salt Lake City: Deseret News Co., Printers, 1886).
I stand before you a native born citizen of the United States. My grandfather fought in the revolutionary war to establish a free government on this continent, and my father fought in the war of 1812 to secure and perpetuate a free government and to protect the rights and liberties of the citizens of the republic. I, their descendant, now stand up before this assembly to protest against the oppression of those who would take from us the rights and liberties which our fathers risked their lives to obtain.62

The women also decried their loss of freedom of conscience:

We are here, not as Latter-day Saints, but as American citizens—members of that great commonwealth which our noble grandsires fought and bled to establish—legal heirs to those rights and privileges bequeathed to that heaven-inspired document—the Constitution of the United States. Yes, legal heirs, yet illegally, unconstitutionally deprived of that dearest, most cherished of all rights—freedom to worship God according to the dictates of our own consciences.63

The women of Utah had been stripped of their right to vote because of their religious beliefs. They had a clear understanding of their civil rights and constitutional guarantees, and used the language of citizenship to dispute their loss of the franchise.

The new law went further than simply disfranchising all women in the Territory. Section twenty-four of the Edmunds-Tucker Act legally required that, as a prerequisite to registration or voting in the Territory of Utah, every eligible male was required to make a statement under oath before a registrar. While the Utah Commission had implemented this practice since 1885, it was not law. After 1887, a voter was required to swear that he possessed the necessary age, residence, and citizenship qualifications and to give his full name, place of business, and, if married, the name of his lawful wife. Further, he was

62 Ibid.
63 Mrs. H.C. Brown in “Mormon” Women’s Protest, 11.
required to swear that he would support the Constitution and laws of the United States, especially the anti-polygamy acts, and that “he will not, directly or indirectly, aid or abet, counsel or advise, any other person to commit any of said crimes.” The oath was likewise a prerequisite to holding public office or serving as a juror in the Territory. Further, no person who had been convicted of any crime under either the act of 1882 or this act, or who was a polygamist or cohabited polygamously, was entitled to vote, hold office, or to serve on a jury.

This was as close as the federal government came to disfranchising all Latter-day Saints simply for being Mormon. Over the course of the 1880s Congress had, however, permitted individual territories to do just that. Idaho was the first to ban all Latter-day Saints from voting. Although practicing polygamists were denied the right to vote by the Edmunds Act, anti-Mormons in Utah, Idaho, Arizona and Nevada wanted to go much further. They wanted to disfranchise all Mormons, regardless of individual belief or action with respect to polygamy. While anti-Mormons in Utah obviously lacked the political strength or numbers to pass such a law, enough anti-Mormons were elected to the Idaho Territorial Assembly in 1884 to pass radical anti-Mormon legislation. Idaho’s anti-Mormon Governor urged the newly elected representatives to be swift in their action against Latter-day Saints. He raged:

Polygamous and treasonous Mormonism stalks wantonly, insolently, and blatantly through this Territory. … Crime under the guise of religion is a hundred fold worse than under the banner of Satan. The leaders, owners, and bidders of this unholy, licentious and treasonable institutions are saints to glut their own vile and selfish purposes. I conjure you to do your utmost toward destroying the polluting practices of this seditious organization. Suppress these licentious saints with their plural marriages,
and so wipe away the fetid blotch upon this Territory, that is a stench upon
the nostrils of all honest humanity within our borders.64

In December of 1884 an Idaho government council formulated an initial test oath
act designed to bar Mormons from all political functioning. To prevent the Saints from
 contesting the act on constitutional grounds, members of the council studiously omitted
any specific mention of the Mormon faith. The key provision was that no member of
“any order, organization, or association which teaches, advises, counsels, or encourages
its members or devotees, or any other persons, to commit the crime of bigamy or
polygamy, or any other crime defined by law, either as a rite or a ceremony of such
order” was to be permitted to vote, hold office, or serve on a jury.65

Arizona passed a similar law just a month after Idaho adopted its test oath. It
disfranchised any “member of an order, sect or organization which teaches … polygamy
… as a duty or privilege resulting or arising from the faith or practice of such order.”66 In
1887, the Nevada State Legislature avoided the circuitry of its neighboring territorial
legislatures and flatly declared that “No person shall … vote … who is a member of the

64 Biennial Message of William M. Bunn, Governor of Idaho, to the Thirteenth Session of the Legislative
Assembly of Idaho Territory (Boise, 1884), 20-21.
65 Idaho Session Laws, 1884-1885, pp. 106107. The oath that was used looked slightly different and
included some language about religion: “I do further swear that I am not a bigamist or polygamist; that I am
not a member of any order, organization, or association which teaches, advises, counsels or encourages its
members, devotees, or any other person to commit the crime of bigamy or polygamy, or any other crime
defined by law, as a duty arising or resulting from membership in such order, organization or association,
or which practices bigamy or polygamy, or plural or celestial marriage, as a doctrinal rite of such
organization; that I do not, and will not, publicly or privately, or in any manner whatever, teach, advise,
Counsel [sic], or encourage, any person to commit the crime of bigamy or polygamy, or any other crime
66 Arizona Laws (1885), No. 87, Sec. 2, p.214.
‘Church of Jesus Christ of Latter-day Saints’ commonly called the Mormon Church…”

The Arizona law was repealed in 1887 without being tested because it was assumed to be unconstitutional. A year later the Nevada Supreme Court found it violative of the state constitution.

The Idaho test oath was vigorously enforced to disfranchise the Latter-day Saints in several elections. The Mormons again turned to the Courts to plead their case and hoped that the Supreme Court would find the test oaths unconstitutional. The Idaho law was challenged in the case of *Davis v. Beason*.

In April of 1889, Samuel D. Davis and others were indicted in the territorial district court for “conspiracy to unlawfully pervert and obstruct the due administration of the laws of the Territory,” by attempting to register to vote in Oneida County and taking the oath prescribed by the territorial law before a registrar, when they allegedly were not entitled to vote—under the provisions of the law. They were not accused of practicing or teaching polygamy, but were denied registration because they were members of the Church of Jesus Christ of Latter-day Saints.

On appeal, Davis claimed that the legislature could not take the right to vote and hold office away from a person who had never committed a crime, simply on the ground that he belonged to an organization, when membership in that organization was not a

---

67 *Nevada Laws* (1887), Ch. CX, Sec. 1, p. 107.
crime. Such action, his attorney said, was an infringement of the constitutional guarantee of religious freedom:

It will not do to say he is disfranchised, not because of his belief, but because of his membership in the church. That would be sticking in the bark, because some reason must be found for saying that he shall not belong to such a church, and that reason, as cannot be disguised, is belief in its doctrines as to bigamy and polygamy. Therefore this is disfranchisement on account of belief.\textsuperscript{70}

This kind of interference had been condemned in the \textit{Reynolds} case. Moreover, according to \textit{Reynolds}, the first amendment protected not only religious opinion, but also those religious practices which were not overt acts against the peace, good order and morals:

This free exercise of religion must embrace his right to enjoy the benefits of a church, to worship according to its forms and ceremonies, to participate in its ordinances and partake of its sacraments, and this he could not do without being a member of the church organization. \ldots If he cannot, he is deprived of the free exercise of religion. This must be so, otherwise the words of the Constitution, ‘or prohibiting the free exercise thereof’ are surplusage and without meaning. It requires no such declaration as this to secure only freedom of opinion and belief.

The appellant violated no law, he did not practice bigamy or polygamy, nor did he advise anyone else to do so. It does not appear that he even believed in these practices, and certainly he repudiated them by this oath. He simply belonged to the Mormon Church and claimed his right to worship in that church. This act undertakes to say that he shall not do this without forfeiting his franchise, one of the most sacred rights of citizenship.\textsuperscript{71}

\textsuperscript{70} Brief for Appellant, p.14, \textit{Davis v. Beason}, 133 U.S. 333 (1890). Davis also claimed as violation of the fourteenth amendment, asserting that, while it was directed at the \textit{states}, its provisions also had become fundamental concepts of American constitutional law and protected whatever rights a citizen had under the Constitution, p.39-50.

\textsuperscript{71} Brief for Appellant, p.13-14, \textit{Davis v. Beason}, 133 U.S. 333. Davis further alleged that, since the terms of disqualification also operated as a bar to holding public office, the statute violated the constitutional provision that no religious test should ever be required for holding an office under U.S. authority. It was, he charged, such a religious test because the disqualification did not operate unless the organization in which membership was held taught polygamy as a doctrinal right. Ibid., p.50-53.
Despite the seemingly overwhelming force of this argument, the Court unanimously affirmed the judgment of the district court and upheld the constitutionality of the statute. The bulk of the opinion, written by Justice Field, was a rehash of the justification for governmental action to extirpate polygamy established in *Reynolds v. United States* and restated in *Murphy v. Ramsey*. Bigamy and polygamy, said Justice Field, were crimes in all civilized and Christian countries: “They tend to destroy the purity of the marriage relation, to disturb the peace of families, to degrade woman and debase man. Few crimes are more pernicious to the best interests of society and receive more general or more deserved punishment. To extend exemption from punishment for such crimes would be to shock the moral judgment of the community.”

Field argued that the constitutional protection given to freedom of religion “was never intended or supposed…as a protection against legislation for the punishment of acts inimical to the peace, good order and morals of society.” He overlooked the fact that Davis had never been a polygamist. In his enthusiasm to attack polygamy, Justice Field also overlooked Davis’ argument that the *Reynolds* case supported his position. “Whilst legislation for the establishment of a religion is forbidden, and its free exercise permitted, it does not follow that everything which may be so called can be tolerated. Crime is not the less odious because sanctioned by what any particular sect may designate as religion.”

While Field was primarily issuing a restatement to the now-familiar formula designed to test the constitutionality of governmental regulation of religion, he did

---

73 Ibid., 342.
74 Ibid., 345.
something that the Court had consistently maintained that it was not competent to do.

Justice Field presumed to define what qualified as religion: “The term ‘religion’ has reference to one’s views of his relations to his Creator, and to the obligations they impose of reverence for his being and character, and of obedience to his will. It is often confounded with the cultus or form of worship of a particular sect, but is distinguishable from the latter.”75 Therefore,

The first amendment to the Constitution … was intended to allow every one under the jurisdiction of the United State to entertain such notions respecting his relations to his Maker and the duties they impose as may be approved by his judgment and conscience, and to exhibit his sentiments in such form of worship as he may think proper, not injurious to the equal rights of others.76

As stated here, it seems that Justice Field’s ideas of the limits of legitimate “religion” were coterminous with the doctrinal boundaries of Christianity as he understood it.77 He then pronounced that Mormon polygamy could not be a part of religion: “To call their advocacy a tenet of religion is to offend the common sense of mankind.”78

The effect of this decision was to make it criminal to be a Mormon as long as the tenets of the church required plural marriage. Davis was not a practicing polygamist, nor did he preach the importance of polygamy. The only charge against him was that he was a member of the Church of Jesus Christ of Latter-day Saints. In legal historian Leo Pfeffer’s estimation, “This meant that no one could be a Mormon unless he believed in polygamy. It meant further that no one could be a Mormon without either practicing or

75 Ibid., 342.
76 Ibid.
counseling polygamy, and therefore no one could be a Mormon without *ipso facto* committing a crime. This was guilt by association with a vengeance.” At the same time, it is difficult to reconcile the court’s statement that the constitution protects beliefs but not actions, “with its affirmance of a conviction based exclusively on membership in the church. … In *Davis vs. Beason* there was no charge other than that the defendant was a member of the Mormon Church.”79 The ruling was blatantly unconstitutional and yet the Saints had nowhere else to plead their case.

While the Supreme Court was considering the case of *Davis v. Beason*, the Territory of Idaho was petitioning for statehood with a proposed state constitution that contained an irrevocable provision disfranchising all Mormons. When the petition for Idaho statehood reached Congress, both House and Senate committees held hearings on what had become known as the anti-Mormon test oath. Fred T. Dubois, Idaho’s territorial representative to Congress, told the Senate committee, “there is no desire on my part to deny the fact that this law was intended to disfranchise the Mormons, that is the plain intention of the law.”80 The committee hearings proceeded with that understanding. Congress accepted Idaho’s petition for statehood and permitted the Mormon test oaths to remain part of its state constitution in 1890.

Concurrent with the discussion of the Idaho test oath and *Davis v. Beason*, the Territorial Committees of the House and Senate were considering whether a law similar to that found in the Idaho state constitution be applied to Utah in the Cullum-Strubble

80 U.S. Congress, House Committee on the Territories, February 8, 1890, 51st Congress, 1st Session, p. 4. Only the House Committee Hearing was printed.
Bill. The Cullum-Struble Bill was reported out of committee with recommendation for passage. The Senate version provided that: “No person who is … a member of, or contributes to the support, aid, or encouragement of, any … organization … which teaches, … any person to enter into bigamy, polygamy, or such patriarchal or plural marriage, … shall either vote, serve as juror, or hold any civil office in the Territory of Utah.” By 1890, Congress was preparing to strip every Latter-day Saint of their right to vote based solely on their belief in the sanctity of plural marriage—regardless of whether they acted on that belief of not.

Property and Faith

As Sarah Gordon describes it: “The Edmunds-Tucker Act recognized the connections between faith, marriage, and property in Mormon culture; then it set out to destroy them.” Section thirteen of the Edmunds-Tucker Act directed the United States Attorney General to institute proceedings to forfeit and escheat to the United States property held by corporations in violation of the act of 1862, the proceeds to be applied to the common schools of the territory involved. Section seventeen dissolved the corporation of the Church of Jesus Christ of Latter-day Saints and annulled the territorial laws regarding it.

---

83 This corporation was also created by the General Assembly of Deseret. See Laws and Ordinances of the State of Deseret, Compilation 1851 66 (Shepard ed. 1919). This charter, as well as that of the Perpetual Emigrating Fund, was adopted by the territorial legislature when it declared in force all laws of the State of Deseret not inconsistent with the organic act. Utah Laws 1851, p. 205.
Two aspects of the corporate charter of the Church of Jesus Christ of Latter-day Saints were particularly bothersome to legislators. The first was that the Mormons had set up a legal entity, the corporation, empowered to own unlimited amounts of personal and real property. Second was the perceived connection linking mandatory tithing paid by all faithful Mormons, the wealth of the church corporation, and the practice of polygamy. Anti-Mormons argued that the Church’s ability to acquire property combined with its apparent power to exact contributions from its members marked the religious corporation as a front for the aggrandizement of Mormon leaders.84

To remedy the situation, the Edmunds-Tucker Act would strip the Church of its corporation status and confiscate the wealth it had accumulated over the years. In doing so, Congress would repeat what it had done earlier that year with the Native Americans through the Dawes Act. The Dawes Act mandated the allotment of American Indian reservation land away from tribes to individual members. This was seen as a way to assimilate Native Americans. Antipolygamists drew a connection between the corporate communalism of the Church and the tribal structures that controlled the land base for many Indians. In the House of Representatives, John Randolf Tucker drew the parallel between citizenship and property in Utah. For Mormons, as for Indians, he insisted, “[w]e dissolved tribal relations of the Indians in order to make the Indian a good citizen; so we shatter the fabric of this church organization in order to make each member a free citizen

84 Gordon, The Mormon Question, 189-191. Gordon argues that the connections between distrust of corporate privilege and manipulation of markets in the broader economy and Antipolygamy theory were powerful and multilayered by the 1880s. For more on the territorial statute incorporating the Church, see Dale Morgan, “The State of Deseret,” Utah Historical Quarterly 8(1940): 223-225.
of the Territory of Utah.” By dissolving the corporation of the Church and taking possession of all its lands and wealth, antipolygamists like Tucker believed they would be able to make good citizens out of Latter-day Saints.

Critical to transforming Latter-day Saints into good American citizens was the second part of the escheatment plan—the forfeited property of the Church would fund public education in the territory. Most Mormons did not support public education until the 1890s, seeing it as a way for the state to deploy Protestant morality against their faith. Mormon leaders insisted that they were not opposed to private education, merely to taxation in support of public schools. Taking their lead from Brigham Young who stated: “I am opposed to free education as much as I am opposed to taking away property from one man and giving it to another who knows not how to take care of it. … Would I encourage free schools by taxation? No! That is not in keeping with the nature of our work.” Latter-day Saints who did go to school were primarily educated in private schools. The majority of Mormons, however, did not attend school until the 1890s. Throughout the territorial period, most Latter-day Saint leaders were self-taught. Antipolygamists believed that public, “secular” education was essential to preparing children to be American citizens. Because the Saints were not given such an education, they were unfit for citizenship.

85 Congressional Record, 49th Cong., 2nd sess., 694. For more on the comparison of the Edmunds-Tucker Act to the Dawes Act see Gordon, The Mormon Question, 204.
86 Journal of Discourses, 8:357.
Senator Edmunds and other supporters of the bill argued that public education would rehabilitate the population of Utah. Edmunds predicted that the residents of Utah would be transformed by public education into an “industrious, thrifty, and economical people,” freed from the constraints of polygamy and trained to be self-sufficient, self-reliant citizens.88

There was some question about whether Congress could take private property for a public purpose, the schools, without giving just compensation. Missouri Senator George Graham Vest labeled it “naked, simple, bold confiscating, and nothing else. It is taking the money subscribed, I care not for what purpose, by individuals, and applying it in the discretion of Congress to an object which was not contemplated by the corporators.”89 Opponents conceded the power of Congress to outlaw the practice of polygamy, but denied that it had the right to abolish the church that embraced it, infringing upon freedom of thought and belief. Senator Call claimed that the provision “declares . . . that this form of heretical belief, that this false religious establishment, shall be suppressed and destroyed, to the end that true religion, as we, conceive it to be, may be maintained.” He warned: “Sir, we cannot indirectly legislate for the purpose of destroying any religion, whether false or true. We can not take away its chartered rights which have-been given to it by law, selecting it as one out of many to the end that it- may be destroyed, without

88 Congressional Record, 49th Cong., 1st sess., 504.
89 Congressional Record, 49th Cong., 2nd sess., 1897.
violating not only the principles of the Constitution, but the essential principles of the religion of Christ.”  

In answer to these objections, proponents used the well-worn argument that they did not see Mormonism as a religion and that the Church was a corporation contrary to public policy, and that the Congress had a right to abolish a trust fund established for an illegal and immoral purpose. Senator Morgan of Alabama remarked: “In dealing with this corporation or with its associated ecclesiastical organization I do not feel that I am dealing with a religious establishment. I feel that I am dealing with something that is entirely irreligious, that has no just pretension at all to be called a religion in a Christian country. It would be a very fair religion in China or in any Mohammedan country; it would do very well for the Congo Free State perhaps; but in Christian America this can hardly be rated as an establishment of religion.”  

In response to the claim that the bill amounted to little more than religious persecution, Senator Cullom, of Illinois argued that Mormons had set themselves on a track of “outrage, one of disregard of law, one of disregard of the public or private rights of the surrounding people, and such course has made it absolutely necessary that they should be driven from the communities or localities in which they had settled. There has been no persecution of them. … [A]s the Senator from Alabama has said, I do not regard their conduct as in any way involving a question of religion.”  

Explaining his new advocacy of the bill, Senator Maxey of Texas

90 Congressional Record, 49th Cong., 1st sess., 507.
91 Congressional Record, 48th Cong., 1st sess., 4564 (Remarks of Senator Hoar).
92 Congressional Record, 49th Cong., 1st sess., 509.
93 Ibid., 512.
contended that “polygamy is against public morals. The practice of polygamy is an abuse of religion and not a use of it. It is covering licentious practices under the pretended cloak of religion.”

Once the law was enacted, the Church sought to recover its charter and property in a case that again went to the Supreme Court. If the decision of the Reynolds case can be seen as marking the beginning of the end of the Saints’ hope to maintain polygamy based on constitutional law then the decision of the Court of the _Late Corporation of the Church of Jesus Christ of Latter-day Saints v. United States_ was the decisive blow that ended the Saints’ resistance.

Relying on the landmark case of _Dartmouth College v. Woodward_ for the proposition that the charter of a private corporation was a contract between the state and the corporation, the Mormons argued that their right to acquire and hold property was a vested, contractual right that could not be impaired. The Saints did not mount a defense based on the freedom of religion clause, as it had failed to persuade the Court in the past. Instead, they argued for the sanctity of contract. In a 6-3 decision issued in May 1890, the Court rejected this argument, suggesting that a legislature could not properly delegate so broad a range of powers as the Mormon church was granted in it charter. Justice Joseph Bradley, in his majority opinion, held that the church’s legal charter and property rights constituted government support of a corporate monopoly that propagated polygamy—“a crime against the laws, and abhorrent to the sentiments and feelings of the civilized

---

94 Ibid., 561.
world.” Bradley went on to state that “[t]he organization of a community for the spread and practice of polygamy is, in a measure, a return to barbarism. It is contrary to the spirit of Christianity and of the civilization which Christianity had produced in the Western world.”95

Bradley addressed the free exercise defense, even though the Church had not mounted it, only to reject it.

One pretense for this obstinate course is, that their belief in the practice of polygamy, or in the right to indulge it, is a religious belief, and, therefore, under the protection of the constitutional guaranty of religious freedom. This is altogether a sophistical plea. No doubt the Thugs of India imagined that their belief in the right of assassination was a religious belief; but their thinking did not make it so. The practice of Suttee by the Hindu widows may have spring from a supposed religious conviction. The offering of human sacrifice by our own ancestors in Britain was no doubt sanctioned by an equally conscientious impulse. But no one, on that account, would hesitate to brand these practices, now, as crimes against society, and obnoxious to condemnation and punishment by the civil authority.96

Bradley closed with a final reference to the threat posed by the corporate form in the hands of the undeserving. The Mormon Church, he said, had no respect for law, and no respect for civilization—the Mormons, in Bradley’s estimation, were deceitful, dishonest, and dangerous.

Chief Justice Filler, joined by Justices Lamar and Field, argued in a brief but heated dissent that Congress had exceeded its authority in the “arbitrary disposition [of the Church’s property] by judicial legislation.”97 The dissenters maintained that legislative incursions into equity, a judicial power, cut into the powers of the judiciary. In

95 Late Corporation v. United States, 136 U.S., 48, 49.
96 Ibid., 49-50.
97 Ibid., 67-68.
addition, the openly redistributive mandate of the Edmunds-Tucker Act, Filler argued, could as readily be turned against a lay corporation as it was against a religious one. Congress had the power to create or abolish a corporation, and therefore the dissolution of the Church corporation was valid, Filler conceded. But the distribution of corporate assets after dissolution was domain of the courts. At this particular moment in history, bankruptcy filings dominated the life of many industries and the power to distribute corporate assets created possibilities for considerable judicial influence. The dissenters bristled at what they saw as a congressional appropriation of judicial influence to distribute corporate assets. Importantly, the dissenters did not advocate protection of the Church corporation or even oppose the notion that the public schools were the best beneficiary of the forfeiture. Instead, they opposed the idea that Congress could instruct the Supreme Court how to distribute the proceeds of the dissolution.

Dreams of Statehood

Unbelievably, amidst all the restrictions and coercions inflicted on them through the Edmunds-Tucker Act, the Saints organized a sixth effort for Utah statehood in 1887. Leading Latter-day Saints, although scattered throughout the territory, drafted another state constitution and directed the People’s Party (the Mormon political party of Utah) to hold public meetings devoted to the cause of statehood. The Liberal (Gentile) Party and the embryonic Democratic and Republican organization of Utah were invited to join the

movement, but all three declined to participate in the constitutional convention. The non-
Mormon parties believed the Church was only motivated to gain statehood so that it
would not need to capitulate on the issue of polygamy and so that it could continue to
maintain political control. 99 The move for statehood went forward as a one-party effort.

Viewing it as a way to obtain independence from federal control, Church leaders
had been obsessed with obtaining statehood since the Saints settled the Great Basin.
Between 1847 and the year of the Manifesto in 1890, Utah made six formal requests for
admission to the Union—these were in 1849, 1856, 1862, 1872, 1882, and 1887.100 By
the 1880s, Utah’s population was larger than that of any territory until that time in
American history. The continued practice of polygamy kept Utah from statehood and
Congress had made it clear in no uncertain terms that plural marriage had to cease before
it would consider Utah’s admittance to the Union as a state.101

In order to acquire full parity with other states in the union and remain faithful to
the commandment of plural marriage, some Church leaders suggested temporarily
suspending plural marriage as a way to win acceptance.102 That would not happen until
1891, but the late 1880s saw a marked decline in the number of Church publications
defending the principle. While Church leaders continued to protest the restrictions and
sufferings imposed upon them, publicly stated arguments extolling plural marriage nearly

99 House Reports, no. 1811, April 29, 1890.
100 Note that three of the formal requests were issued the same year Congress passed anti-polygamy
legislation.
101 For a study of the statehood efforts, see Jerome Bernstein, “History of the Constitutional Conventions of
102 Wilford Woodruff’s Journal, November 27, 1882, 8:133.
disappear after the passage of the Edmunds-Tucker Act in 1887. In fact, some leaders began to acquiesce to the pressures inflicted on the Church membership and state publicly that plural marriage was no longer encouraged. For example, when asked by a reporter for the *New York Herald* that attitude of the Church toward the law prohibiting polygamy, President Woodruff answered without the slightest hesitation:

> We mean to obey it of course. We have no thought of evading or ignoring this or any other law of the United States. We are citizens of this government. We recognize its law as binding upon us. I have refused to give any recommendation for the performance of plural marriages since I have been president. I know that President Taylor, my predecessor, also refused. Since the Edmunds-Tucker law we have refused to recommend plural marriages, and have instructed that they should not be solemnized.  

This was categorically untrue. Both Taylor and Woodruff sanctioned many plural marriages after 1887 and many more would be sanctioned by other high-ranking Church officials in the future. The only difference was new plural marriages made after 1887 were kept secret. After the Edmunds-Tucker Act, Church leaders were willing to say (not do) almost anything to obtain statehood.

> Although much of the proposed constitution submitted in 1887 could be found in the memorials that had preceded it, this version contained clauses outlawing polygamy and prohibiting any union of church and state. Few of the Church’s opponents found such posturing convincing. Everyone observing the scene in Utah knew that plural marriage

---

104 “Mormon Abandon Polygamy, President Woodruff Says the Church Means to Obey the Law,” *New York Herald*, October 13, 1889.
105 This strategy of posturing surrender while secretly solemnizing polygamous unions established a pattern that continued for years—an issue will be examined at length in the next chapter.
had simply been taken underground. Referring to the Church’s claims that plurality was being discontinued as “the wooden horse of Mormonism,” both the Utah Commission and the territorial governor successfully recommended against the 1887 request for statehood.\footnote{106}

The Senate Committee on Territories rejected Utah’s memorial for statehood on the basis that the Antipolygamy clauses could not be trusted. The Church had made no official abandonment of polygamy, and there could be no statehood for Utah as long as her politics were dominated by a polygamous Mormon priesthood.\footnote{107}

\footnote{106} Annual Report of the Utah Commission 1888, 3:669.  
\footnote{107} U.S. 50\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., House Committee on Territories, The Admission of Utah. (Washington, D.C., 1889).
Chapter 6: Becoming American

The Church took its first steps toward Americanization between 1890 and 1903. As this chapter will demonstrate—the first thirteen years of accommodation were mostly in word, not deed. By 1890, the Church was in such a state that leaders would say almost anything to get the government to remove its boot from their neck. Church leaders promised to cease teaching the rightfulness of polygamy and cease performing plural marriages. They did not always keep those promises. The principle of polygamy was far too engrained in the theology and culture of the Latter-day Saints for it to disappear due to half-hearted promptings from Church leadership. After the turn of the century, however, it became clear that the Mormons had to conform to the idea of what an ideal American citizen should be if they hoped to participate in the nation as Americans. The Reed Smoot hearings, which took place between 1904-1907, heralded the end of resistance. The words and deeds of President Joseph F. Smith, once a stalwart for the defense of plural marriage, altered the theological and ecclesiastical structure of the Church to fit what America required of its religious citizens.

By 1890, the federal government had succeeded in barring polygamists from the enjoyment of every important privilege of citizenship—the suffrage, public office, and jury service. A test-oath was employed and those who believed in the rightfulness of polygamy, which included all conscientious Mormons, were excluded from juries. The privilege of becoming a citizen of the United States was denied to anyone who belonged to the Mormon Church, on the grounds that Mormons were not of “good moral character.” The vote was taken away from the women of Utah, on the theory that they
cast their ballots whatever way the polygamist-dominated Church hierarchy told them to. The plural families of a deceased man were excluded from a share in his estate. The Utah Commission had governed elections in the Territory of Utah for fourteen years. The federal government had done all it could to break the political and social control of the Church in the name of bringing an end to polygamy.

In the face of all these coercive measures meant to bring the Latter-day Saints in line with the rest of white, monogamous America, the Mormons remained dedicated to the doctrine of plural marriage. Explaining the situation this way, one Utah Latter-day Saint said:

The abandonment of polygamy, that is considered by some to be so easy of accomplishment, is more untenable even than fighting. However much the people might desire to do this, they could not without yielding every other principle, for it is the very key stone of our faith, and is so closely interwoven into everything that pertains to our religion, that to tear it asunder and cast it away would involve the entire structure.¹

The centrality of polygamy to the Mormon system of faith and identity during the late nineteenth century cannot be overstated. Plural marriage was at the heart of the doctrine of salvation and exaltation. Without it, men and women could not progress to Godhood—the ultimate goal of human existence.

In answer to the question, why not simply abandon the Principle, President John Taylor and George Cannon emphasized the divine nature of the commandment to practice polygamy:

Well-meaning friends of ours have said that our refusal to renounce the principle of celestial marriage invites destruction. They warn us and implore us to yield...they say it is madness to resist the will of so overwhelming a majority...But they perceive not the hand of that Being who controls all storms, whose voice the tempest obeys, at whose fiat thrones and empire are thrown down—the Almighty God, Lord of heaven and earth, who has made promises to us, and who has never failed to fulfill all His words.

We did not reveal celestial marriage. We cannot withdraw or renounce it. God revealed it, and He has promised to maintain it, and to bless those who obey it.²

Plural marriage was God’s law. It was not for men to challenge or renounce. God demanded it and only God could bring it to an end.

No one was more determined to preserve both the doctrine and practice of plural marriage than President John Taylor. At the end of the 1880s, an “alleged revelation” given to Taylor on September 17, 1886 circulated among the Saints. The revelation spoke in no uncertain terms of the eternal nature of the commandment to practice plural marriage:

My son John. You have asked me concerning the New & Everlasting covenant how far it is binding upon my people.

Thus saith the Lord: All commandments that I give must be obeyed by those, calling themselves by my name unless they are revoked by me or my authority, and how can I revoke an everlasting covenant; For I the Lord am everlasting my everlasting covenants cannot be abrogated nor done away with; but they stand forever. ... I have not revoked this law nor will I for it is everlasting & those who will enter into my glory must obey the conditions thereof, even so Amen.³

³ Quinn, “LDS Authority and New Plural Marriages,” 28-29; Fred C. Collier, Unpublished Revelations of the Prophets and Presidents of the Church of Jesus Christ of Latter Day Saints (Salt Lake City, Utah: Collier's Pub, 1981), 177 and 180-206. It is called “an alleged revelation” because it is “one of the most controversial revelation in the history of Mormonism,” (VanWagonen, Mormon Polygamy, 186-187). The FLDS Church uses this revelation as the basis for its continued practice of plural marriages.
From the time of the first anti-polygamy legislation, Church leaders told the Saints that it would be an apostasy to renounce the principle of plural marriage. Church periodicals bombarded the Latter-day Saints with the message that stopping the practice was impossible. In April 1885, the Deseret Evening News editorialized concerning “the demand that plural marriage relationship be abolished,” and stated, “Were the Church to do that as an entirety God would reject the Saints as a body. The authority of the Priesthood would be withdrawn … and the Lord would raise up another people of greater valor and stability.” ⁴ In May 1885, George W. Cannon published two editorials in the Juvenile Instructor in which he acknowledged that some people suggested that “we do not ask you to give up your belief in this doctrine; we merely ask you to suspend for the time being your practice of it,” to which he replied that “I look upon such a suggestion as from the devil,” that doing such a thing would demonstrate utter apostasy, and merit the vengeance of God.⁵

And yet, by 1890 events had taken a disastrous turn for the Church. Congress granted Idaho, with its sizeable Mormon population, statehood with a constitution that barred voting rights to immigrant Chinese, Mongolians, American Indians—and Mormons. On February 3, 1890, the U.S. Supreme Court upheld the constitutionality of Idaho’s law; and on the 10th of the month, with so many Saints disfranchised in Utah, the anti-Mormon political party won the Salt Lake City election.⁶ In mid-May, the Supreme Court ruled that the Edmunds-Tucker Act was constitutional in its provisions to

---

⁴ Deseret Evening News, April 23, 1885.
⁵ Juvenile Instructor, May 1, 1885 and May 15, 1885; italics in original.
⁶ Lyman, “Mormon Quest for Utah Statehood,” 254-262.
disincorporate the Church and confiscate the Church properties. Canada responded to growing numbers of Latter-day Saints in Alberta by criminalizing plural marriage there. The Cullom-Struble Bill, with provisions stripping civil rights from anyone living in territories of the United States who believed in Mormon patriarchal marriage, moved closer to passage. The summer months were filled with more bad news. On July 1st the Senate introduced a bill that would bar polygamists or anyone belonging to an organization teaching or promoting polygamy from homesteading in Wyoming; on the 15th the anti-Mormon political party won the Salt Lake City school trustees election; on the 29th the Utah Supreme Court ruled that polygamous children could not inherit from their fathers’ estates; and on August 5th the anti-Mormon party won most of the county offices in Salt Lake and Weber Counties.7

The Church was in disarray. Most leaders had been in hiding for several years and the hardships endured by the Mormons during the anti-polygamy crusade were taking their toll. In 1889, two years after President John Taylor died while on the underground, Wilford Woodruff was ordained the fourth president of the Church. He was weary from running from the law and despondent at the state of the Church. In closing his 1889 diary, Woodruff wrote, “Thus ends the year 1889 and the word of the Prophet Joseph Smith is beginning to be fulfilled that the whole nation would turn against Zion and make war upon the Saints. …1890 will be an important year with the Latter Day Saints and the

7 *Deseret Evening News*, July 1, 15, and 29, and August 5, 1890.
American nation.” Woodruff knew monumental changes had to come about in order to save the Church.

Public Acquiescence and Private Continuance

Woodruff had been a hardliner for the practice of polygamy. He often railed against the government for passing unconstitutional laws depriving the Saints of their freedom to worship as they chose fit and reassured the Saints that polygamy was an eternal law unable to be overturned by men. Wilford Woodruff dictated a revelation in January 1880 which stated in part: “And I say again unto the Nation or house or people who seek to hinder my People from obeying the Patriarchal Law of Abraham which leadeth to a Celestial Glory … for whosoever doeth those things shall be damned.” A year later Woodruff told the Latter-day Saints in two published sermons that “if we were to give up polygamy to-day,” they would have to give up revelation, prophets, apostles, temple ordinances, and the Church itself. As late as May 1888, President Woodruff, at the dedication of the Manti Temple said, “We are not going to stop the practice of plural marriage until the Coming of the Son of Man.” Despite his history of rallying Mormons to defense of polygamy, when he became president in 1890, Wilford Woodruff was willing to capitulate to the government—in word at least.

8 Wilford Woodruff Journal, December 31, 1889.
9 For the full text of the revelation see Wilford Woodruff’s Journal, January 26 and April 22, 1880 and Matthias F. Cowley, Wilford Woodruff, (Salt Lake City: Deseret News, 1909), 530-531.
In August 1890, the Utah Commission reported that, contrary to what leaders like Woodruff had told the general public about the cessation of plural marriages, more than 40 polygamous sealings had occurred in the previous year. To bring an end to such relationships, the commissioners urged that Congress impose additional punishments, including disfranchisement as found in the Cullom-Strubble bill. The Commission’s report also stated that over the course of the past year, many had expressed hope that the Church would, in some authoritative and explicit manner, declare in favor of the abandonment of polygamy or plural marriage as one of the authoritative doctrines or teachings of the church … There is little reason for doubting, so complete is the control of the church over its people, that if such a declaration were made by those in authority it would be accepted and followed by a large majority of the membership of the so-called ‘Mormon Church’ – and a settlement of the much discussed ‘Mormon question’ would soon be reached.

The two pages that followed this claim included comments quoted from the Church leaders illustrating the tenacity with which the Church adhered to polygamy, building the Kingdom of God, and the temporal as well as spiritual power of the head of the Church. The report was sent to the Secretary of the Interior on August 22, 1890. Rumor of the report’s content circulated before it was publicly released and soon reached the hearing of Mormon leaders.

It seems the Commission’s report was the tipping point for Wilford Woodruff. He knew the Church leadership had to speak authoritatively on the matter of plural marriage

---

13 Ibid.
or risk the annihilation of the Church and the confiscation of the four completed temples.

On September 24, 1890 he wrote in his journal,

I have arrived at a point in the History of my life as the President of the Church of Jesus Christ of Latter-day Saints where I am under the necessity of acting for the Temporal Salvation of the Church. The United States Government has taken a stand and passed laws to destroy the Latter-day Saints upon the subject of polygamy or patriarchal order of marriage. And after praying to the lord and feeling inspired by his spirit I have issued the following Proclamation which is sustained by my councilors and the twelve apostles.\textsuperscript{14}

The next day Woodruff published his proclamation, which came to be known as “The Manifesto” in the Church-owned Desert Weekly and sent a copy to officials in Washington, D.C.

The Manifesto addressed the allegations made against the Church in the most recent report of the Utah Commission. Woodruff declared the accusation that Church leaders continued to preach the rightfulness of polygamy and that new plural marriages had been contracted over the past year was false. “We are not teaching polygamy or plural marriage, nor permitting any person to enter into its practice, and I deny that either forty or any other number of plural marriages have during that period been solemnized in our Temples or in any other place in the Territory.” In dealing with the future of polygamy in Utah, Woodruff was far more ambiguous: “Inasmuch as laws have been enacted by Congress forbidding plural marriages, which laws have been pronounced constitutional by the court of last resort, I hereby declare my intention to submit to those laws, to use my influence with the members of the Church over which I preside to have

\textsuperscript{14} Wilford Woodruff Journal, September 24, 1890, 9:112.
them do likewise.” He continued, “I now publicly declare that my advice to the Latter-day Saints is to refrain from contracting any marriage forbidden by the law of the land.”

It was the first time a Church authority had told members to stop practicing polygamy.

It is not clear whether Woodruff and other leaders had planned to present the Manifesto to church members that autumn. A telegram from territorial delegate John T. Caine prompted them to do so. Caine said that the Secretary of the Interior would accept the Manifesto as a contradiction to the Utah Commission’s claims about continued polygamy only if the members of the church endorsed it.16 At the October 1890 General Conference, the day after the receiving the telegram, Woodruff presented the Manifesto to a sustaining vote of the Church body. To prepare the congregation for the blow he was about to deliver, he first had the gathered Saints sustain the Articles of Faith, in particular the twelfth article: “We believe in being subject to kings, presidents, rulers, and magistrates, in obeying, honoring, and sustaining the law.”17 Next, Woodruff read the Manifesto. Observers noted that tears streamed down the President’s cheeks as he read the declaration. Nearly everyone in the audience wept. When asked to vote for the declaration, a majority of those present indicated approval, although it is likely many refused to vote for or against the measure, keeping their hands in their laps.18

---

16 Hardy, Doing the Works of Abraham, 347.
17 Deseret Evening News, October 11, 1890.
18 A More extensive account of the Manifesto’s reception is in Hardy, Solemn Covenant, 135-138. There is some debate among historians about how many did not sustain the Manifesto. While the Deseret News claims that it was sustained unanimously, several Saints wrote in their journals that many kept their hands in their laps, for example: Mariner Wood Merrill, Diaries, October 6, 1890, Church Archives. But it is unlikely that historian Michael Quinn’s judgment that only a minority of those present voted for the Manifesto.
It seems clear from his journal entries and sermons that Woodruff earnestly believed that divine intent prompted his mind and hand when writing the Manifesto. Although George Q. Cannon and Charles Penrose assisted in phrasing the message, the Manifesto appears to be overwhelmingly the work of the church president himself.¹⁹ He alone signed the finished document and, even before obtaining ratification from the church’s general membership, sent it to the press and officials in Washington, D.C.

The Manifesto was purposefully ambiguous.²⁰ It was not labeled a revelation, nor was it written in the style of a revelation, beginning with “Thus saith the Lord…” as the Saints were accustomed to reading in the *Doctrine and Covenants*. As a result, many Latter-day Saints questioned its authority. Was it a revelation? Did it supersede the revelation given to Joseph Smith in 1843 requiring plural marriage to achieve exaltation? Church leaders were mindful not to call it a revelation yet they had to defend its authority, not only to the faithful but to antipolygamists as well. Accordingly, George Q. Cannon spoke to doubts about the divine nature of the Manifesto in his conference address of April 1891:

> I know it was God who dictated it [the Manifesto]—that was issued in accordance with the requirement of the Spirit of God; and I also know that every member of the Church who is living in close communion with the Lord has had a testimony—notwithstanding their natural feelings with reference thereto, notwithstanding the painful consequences which followed its adoption—that it was the right thing to do…

> We endeavored by our sacrifices to arrest the progress of this crusade against our religious liberty; we honestly believed that we had a right to act as we did. That we have failed, however, in persuading the

---


²⁰ According to Quinn, “the Manifesto inherited ambiguity, was created in ambiguity, and produced ambiguity” (Quinn, “New Plural Marriages,” 15).
nation … is very clear at the present time. We have utterly failed. We have carried this to such an extent that the Lord himself has signified His acceptance of the sacrifices and offerings of the Latter-day Saints. He has said to us, ‘It is enough now You have done your duty, this matter must rest with Me;’ and we have, in consequence, sustained the issuance of the manifesto.\footnote{\textit{Late General Conference}, \textit{Deseret Evening News}, 7 April 1891.}

Cannon, like Woodruff in drafting the Manifesto, chose his words carefully. He did not call it a revelation, but reassured the Saints that the prohibition of polygamy was divinely inspired. At the same time, he assured the Saints that those who had defied the laws of the land had done so in righteousness. But now, to save the temporal Church, the Saints had to suspend the practice of plural marriage.

Wilford Woodruff also addressed the divine nature of the Manifesto. He told a congregation in Logan that God had asked him to put a question to the Latter-day Saints who doubted the sanctity of the Manifesto:

Which is the wisest course for the Latter-day Saints to pursue—to continue to attempt to practice plural marriage, with the laws of the nation against it and the opposition of sixty millions of people, and at the cost of the confiscation and loss of all the Temples, and the stopping of all the ordinances therein, both for the living and the dead, and the imprisonment of the First Presidency and Twelve and the heads of families in the Church and the confiscation of personal property of the people (all of which of themselves would stop the practice), or after doing and suffering what we have through our adherence to this principle to cease the practice and submit to the law, and through doing so leave the Prophets, Apostles and fathers at home, so that they can instruct the people and attend to the duties of the Church, and also leave the Temples in the hands of the Saints, so that they can attend to the ordinances of the Gospel, both for the living and the dead?...

I want the Latter-day Saints to stop murmuring and complaining at the providence of God. Trust in God. Do your duty. Remember your
prayers. Get faith in the Lord, and take hold and build up Zion. All will be right.22

Without the Manifesto, the Church had no future. Without the public denunciation of new plural marriages, the temple and the critical ordinances performed there would be stripped from the Saints. To continue doing God’s work, the Saints were ordered—by God—to put aside the commandment of plural marriage for the time being.

Church leaders were also wary of the authority of the Manifesto. Apostle Mariner Wood Merrill made a diary entry in 1891 indicating that a special meeting of the First Presidency and Quorum of the Twelve Apostles had been called to determine if the Manifesto was to be understood as requiring a permanent abandonment by the church of plural marriage. Merrill answered that he could not “accede to or endorse nor vote for [such an interpretation] as I do Not believe the Manifesto was a revelation from God but was formulated by President Woodruff and endorsed by his councilors and the Twelve Apostles for expediency to meet the present situation of affairs in the Nation or those against the Church.”23 Historian B. Carmon Hardy notes, beyond Merrill’s record, three different individuals, on three different occasions, said that similar comments were made to them by Apostle Charles W. Penrose, in which he indicated that the Manifesto was not a divine production but something manufactured to outwit the church’s enemies.24 This seemed to be the prevailing perception of the Manifesto among the Church leadership. They understood that Church had to pay lip service to those in Washington who clamored

22 “Remarks Made By President Wilford Woodruff at Cache Stake Conference, Held at Logan, Sunday Afternoon, November 1, 1891,” Deseret Evening News, November 7, 1891.
23 Mariner Wood Merrill, Diaries, August 20, 1891.
24 Hardy, Solemn Covenant, 150.
for the end of plural marriage. They hoped that an outward appearance of ending the practice would be enough to bring a halt to the attack on the Church, save the temples from government escheatment, and eventually bring about statehood.

There were also questions of whether or not the Manifesto was applicable outside the United States. Some believed Woodruff’s “advice” that the church members desist from entering plural marriages “forbidden by the Law of the Land” did not, for example, apply to Mexico. After convictions under the Edmunds Act commenced, many Latter-day Saints ran for the borders of the United States, both north and south. By 1890 three major communities, numbering hundreds of colonists, existed in Chihuahua. An additional six settlements appeared in the next two decades, including three in Sonora. Latter-day Saint settlement in Alberta commenced in 1887, only two years after the Mormon entry into Mexico. In little more than a decade, seven Canadian settlements were founded, with others to follow in succeeding years. Saints emigrated in search for refuge from the crusade against polygamy in the United States. These faithful Latter-day Saints forfeited their American citizenship to continue practicing polygamy.25

The Manifesto was also ambiguous on the matter of continued cohabitation with existing plural wives, an issue that evoked heated debate among many Latter-day Saints,

including many apostles, for years to come.\textsuperscript{26} Church leaders made it clear they had no intention of deserting their wives. President Woodruff emphatically stated: “The Manifesto only refers to future marriages, and does not affect past conditions. I did not, could not and would not promise that you would desert your wives and children. This you cannot do in honor.”\textsuperscript{27} Dedication to sustaining plural families would plague the Church for a long time.

Perhaps the most important ambiguity found in the Manifesto is lack of divine order to halt the practice of polygamy. President Woodruff simply advised his flock to live by the laws of the land. This fact was not lost on officials in Washington. In his annual message for 1890, President Benjamin Harrison noticed that Woodruff’s statement contained no rejection of the doctrine of plural marriage, only advice against it practice:

The fact should not be overlooked that the doctrine or belief of the Church that polygamous marriages are rightful and supported by divine revelation remains unchanged. President Woodruff does not renounce the doctrine, but refrains from teaching it, and advises against the practice of it because the law is against it. Now it is quite true that the law should not attempt to deal with the faith or belief of anyone; but it is quite another thing, and the only safe thing, so to deal with the Territory of Utah as that those who believe polygamy to be rightful shall not have the power to make it lawful.\textsuperscript{28}

\begin{footnotesize}
\textsuperscript{26} Marriner Wood Merrill, \textit{Diaries}, October 7, 1890. The issue would be revisited in the Smoot hearings in 1904.
\textsuperscript{27} Abraham H. Cannon, \textit{Diaries}, October 7, 1890.
\textsuperscript{28} Harrison, second annual message, December 1, 1890, Richardson, 12:5553.
\end{footnotesize}
The Church would have to strengthen its rhetoric concerning plural marriage and the Latter-day Saints would have to assure the nation that it would cease before the Mormons of Utah could be admitted to the Union.

While leaders had to defend the Manifesto publicly to their fellow churchmen and the nation at large, the historical record demonstrates that the credibility of the Manifesto was circumspect from the beginning. Historian Michael Quinn’s research in temple and Endowment House records reveals at least a dozen plural marriages were performed in Utah during the period referred to in the Manifesto, between 1887 and 1890, ten of which were officiated by Apostle Franklin D. Richards. In addition, Apostle Marriner W. Merrill took a plural wife during this period. The Manifesto’s credibility is further eroded by the fact that Merrill was among those asked to look at the document before it was released to the press.29

Commitment to the principle could not be erased with one ambiguous declaration. Although the number of plural marriages did diminish significantly after the Edmunds-Tucker act, polygamous marriages after 1890 involving common lay members, bishops, stake presidents, and apostles were approved and solemnized in the hundreds. Abraham H. Cannon, son of George Q. Cannon recorded in his journal his father’s continued faith in the principal of plural marriage. “I believe in concubinage, or some plan whereby men and women can live together under sacred ordinances and vows until they can be married. … There is the danger of wicked men taking license from such a condition, and

of good people taking offense thereat, but such a condition would have to be kept secret, until the laws of our government change to permit the holy order of wedlock which God has revealed, which will undoubtedly occur at no distant day, in order to correct the social evil.”  

In the same diary entry Cannon recorded soon-to-be Church President Lorenzo Snow as saying, “I have no doubt but concubinage will yet be practiced in this Church” and President Woodruff stated that “If men enter into some practice of this character to raise a righteous posterity, they will be justified in it. The day is near when there will be no difficulty in the way of good men securing noble wives. There are terrible afflictions at the door of this nation which will take their minds away from this people.” More than anything, the continued sanction of plural marriages by Church leaders after the Manifesto demonstrates the intent in which it was made: to save the Church from certain destruction, ensure statehood for Utah, and eventually, once the nation had grown tired of worrying about the marrying practices of the Saints, allow for the reinstatement of public plural marriage.

**The Saints Join the Union**

In 1891, not a year after issuing the Manifesto, President Woodruff submitted a petition for amnesty to President Benjamin Harrison. He assured the President that the Church body had sustained the Manifesto suspending polygamy and had been faithful to their covenant in so sustaining. With that being true, he asked that full amnesty be

---


31 Ibid.
extended to all who are “under disabilities” because of the Edmunds and Edmunds-
Tucker laws. He pleaded:

Our people are scattered; homes are made desolate; many are still in
prison; others are banished or in hiding. Our hearts bleed for these. In the
past they followed our counsels, and while they are thus afflicted our souls
are in sackcloth and ashes. We believe there are nowhere here in the
Union a more loyal people than the Latter Day Saints. They know no other
country except this. They expect to live and die on this soil. When the men
of the South, who were in rebellion against the Government in 1865 threw
down their arms and asked for recognition along the old lines of
citizenship, the Government hastened to grant their prayer. To be at peace
with the Government and in harmony with their fellow citizens who were
not of their faith and to share in the confidence of the Government and
people, our people have voluntarily put aside something which all their
lives they have believed to be a sacred principle.

Have they not the right to ask for such clemency as comes when
the claims of both law and justice have been fully liquidated?32

In his petition, Woodruff was doing more than asking for the government to allow
polygamists to come out of hiding, he was asking the President to reinstate their rights as
citizens. He centers the blame of the prolonged battle over plural marriage with Church
leadership, stating that members were simply doing as they were told. Finally, calling on
the spirit of “Redemption” still present in Washington, Woodruff cites the amnesty given
to Southern rebels as precedence why his request should be fulfilled.

Recognizing the significance of the petition to the civil liberties of the Saints, the
Utah Commission called it “the most important of the documents the church has issued,
and contains the most direct and positive statements of its desires and promises for the

32 James R. Clark, ed., Messages of the First Presidency, vol. 3 (Salt Lake City: Deseret Book, 1975), 229-
231.
future.”33 Territorial governor Arthur L. Thomas and Chief Justice Zane both endorsed the petition. In a personal latter to President Harrison they both stated: “…were full amnesty granted to date that date would be coupled with your name and in the future the Mormon people would turn to them as does the Colored race to Abraham Lincoln and the day of Jan. 2nd 1863.”34 Perhaps no one was more vocal in his excitement that the Latter-day Saints had changed their perspective on plural marriage than Judge Zane. Once known as the Saints’ most intractable foe, Zane was outspoken in his support for accepting the Saints as a changed people. In 1891 he declared, “the Mormon is with us.”35 Once hostile Republicans, like Thomas and Zane, were especially outspoken in their support post-Manifesto Latter-day Saints in hopes the party could garner support of Saints who, with the dissolution of the People’s Party, now found themselves without a political party. The Mormon alignment with national political organizations provided further evidence that the territory was becoming thoroughly American.36

By not making any reference in the petition to “unlawful cohabitation,” Church leaders hoped they would be permitted to live out their lives with their plural wives married before 1890. Because prominent Gentiles in Salt Lake City collaborated in writing the document, local toleration in the matter was implied.37 President Harrison’s

34 Arthur L. Thomas and Charles S. Zane to President Benjamin Harrison, December 21, 1891, in Jean Bickmore White, ed., Church, State, and Politics: The Diaries of John Henry Smith, (Salt Lake City: Signature Books, 1991), 266 as found in Hardy, Doing the Works of Abraham, 359.
37 For more on Gentile assistance see Lyman, Political Deliverance, 189-190, 205.
proclamation of amnesty on January 4, 1893, however, pardoned only those who had abstained from both new plural marriages and unlawful cohabitation since November 1, 1890.

Now, therefore, I, Benjamin Harrison, President of the United States, by virtue of the powers in me vested, do hereby declare and grant a full amnesty and pardon to all persons liable to the penalties of said act by reason of unlawful cohabitation under the color of polygamous or plural marriage who have since November 1, 1890, abstained from such unlawful cohabitation, but upon the express condition that they shall in the future faithfully obey the laws of the United States hereinbefore named, and not otherwise. Those who shall fail to avail themselves of the clemency hereby offered will be vigorously prosecuted. 38

Clemency was critical to the political future of the Territory, therefore President Harrison’s inclusion of continued cohabitation as part of his stipulations for amnesty was a terrible blow to the Church. Wilford Woodruff lamented in his journal: “The Amnesty from President Harrison … is of little benefit to the people.” 39

A later proclamation by President Grover Cleveland, prompted by the Utah Commission in 1893, ensured that “amnestied polygamists be allowed to vote.” 40 Accordingly, President Cleveland affirmed that all Latter-day Saints who had earlier been disqualified to vote or hold office because of their practice of polygamy were to have their civil rights reinstated. Like Harrison, however, Cleveland conditioned his pardon on

---

abstention from continued cohabitation with plural wives.\textsuperscript{41} The majority of Church leaders, however, continued to live with their plural wives.\textsuperscript{42}

After the President issued clemency, victories for the Church soon followed. In October 1893, Congress authorized the return of some of the church properties and the following month the House Committee on Territories recommended granting Utah statehood: The Enabling Act issued by the committee stated:

after the governor of the Territory, all of its Territorial officers, and its judiciary, all of whom are Republicans in politics, have declared, that in their opinion polygamy is abolished and at and end; after all the members of the Utah Commission, a commission created expressly to crush and obliterate polygamy have declared their work practically accomplished; after the Mormon Church, through all of its heads and officials, publicly, privately, and in every way possible for mortals to do and proclaim, have with bowed heads, if not in anguish, pledged their faith and honor that nevermore in the future shall polygamy within the Mormon Church be either a doctrine of faith or of practice, there certainly can be but one sentiment, but one opinion among all just-minded legislators in Congress upon the question of duty, and that is to admit Utah as a State into the Federal Union. Your committee recommends that the bill do pass.\textsuperscript{43}

The Saints had been humbled, and for the intents and purposes of gaining statehood, the Church had convinced federal agents in Utah that polygamy had ended. The Republicans in Congress could no longer oppose Utah’s petition for statehood. They could not disagree with their political brethren in Utah—they had to support statehood for a

\textsuperscript{41} “Now, therefore, I, Grover Cleveland, President of the United States, by virtue of the powers in me vested, do hereby declare and grant a full amnesty and pardon to all persons who have in violation of said acts committed either of the offenses of polygamy, bigamy, adultery, or unlawful cohabitation under the color of polygamous or plural marriage, or who, having been convicted of violations of said acts, are now suffering deprivations of civil rights in consequence of the same, excepting all persons who have not complied with the conditions contained in said executive proclamation of January 4, 1893.” “Proclamation No. 14,” U.S., \textit{Statutes at Large}, September 25, 1894, 28:1257.


\textsuperscript{43} House Report 162, November 2, 1893.
rehabilitated Utah and most were ready and willing to do so. Congress gave its full support to an Enabling Act. The Act dictated that the future state constitution must ensure that “perfect toleration of religious sentiment shall be secured, and that no inhabitant of said states shall ever be molested in person or property on account of his or her mode of religious worship; Provided, That polygamous or plural marriages are forever prohibited.”

In the spring of 1895 a convention met in Salt Lake City to frame a constitution which included the clause: “polygamous or plural marriages are forever prohibited.” Signed in Washington, D.C. on January 4, 1896, the proclamation admitted Utah as the nation’s forty-fifth state.

The first serious test of Latter-Day Saint loyalty to the nation occurred when war with Spain seemed imminent. Eager to demonstrate their loyalty and patriotism, Utah legislators were at the forefront of the clamor for war. A full week before the Maine was destroyed, Utah’s Senator Frank J. Cannon, son of George Q. Cannon, introduced a resolution in the U.S. Senate in which he stated that, if Spain refused to grant the independence of Cuba on or before March 4, “the Government of the United States will on that date recognize the belligerency of the Cuban patriots and will within ninety days thereafter assert the independence of the Republic of Cuba.” On March 29, nearly a month before war was declared, Utah’s Senator Joseph L. Rawlins introduced a

47 Congressional Record, 55th Cong., 2nd sess., 1534,
resolution declaring war on Spain, and on April 5, he urged the Senate to declare war without waiting for President William McKinley to request it.\footnote{Ibid., 3293.}

Church officials preached of the righteousness of the impending war with Spain, calling on the Saints’ loyalty to the nation in hopes that they would heed the call to serve their country in a time of war. In a particularly telling sermon, George Q. Cannon quoted from the Book of Mormon concerning the Western Hemisphere: that it would be a land of liberty, having no kings, and being fortified by God against its enemies. After recounting the many times Latter-day Saints had proven themselves willing to die for their religion, he added: “We should be equally willing, if it should be necessary, to lay down our lives for our country, for its institutions, for the preservation of this liberty that these glorious blessings and privileges shall be preserved to all mankind, and especially to those with whom we are immediately connected.”\footnote{Sixty-eighth Annual Conference of the Church of Jesus Christ of Latter-day Saints (Salt Lake City, 1898), 83-88.. April 10, 1898 just days after the Maine.} With official encouragement from church leaders, several hundred young Mormons enlisted.

Most Latter-day Saints, like other Americans, gave the war their enthusiastic support. There was cheering and waving of flags as the young men marched through the streets of Salt Lake City before boarding the train that would take them to their destination:

The scene that was presented at the depot while the troops were boarding the trains has seldom been equaled in its manifestation of popular feeling and enthusiasm in the intermountain region. A vast and dense mass of humanity packed the depot grounds, and wave after wave of thunderous
cheering rose from it while the soldiers were entering the cars. Such a show of patriotism was glorious and inspiring in the highest degree.\textsuperscript{50}

The Latter-day Saints willingness to serve their country in a foreign war signaled their readiness for full acceptance in the nation. They were part of the empire building project of the early twentieth-century and wanted to participate fully in the war that many have viewed as critical to the establishment of the United States as a global player and in the way Americans would understand gender and race for decades to come.\textsuperscript{51}

Despite their public assurances that plural marriage had stopped, with statehood secured, Church authorities told selected audiences, primarily other Church leaders and Mormon elite, that plural marriage remained a doctrine of the church, that it better accommodated the familial needs of a healthy society than monogamy, and that only those who lived in plural marriage would become gods.\textsuperscript{52} The number of polygamous marriages again began to increase. When President Wilford Woodruff died on September 2, 1898, criticism of the church was rapidly reviving. Mormons were accused of defaulting on their promises concerning polygamy—which in fact they were. These allegations contributed to the conservative policies of Woodruff’s successor, Lorenzo Snow, concerning the approval of new plural marriages. During his brief administration, however several new plural marriages were performed. Although done in secret in Utah

\textsuperscript{50} Deseret Evening News, April 20, 1898.


\textsuperscript{52} There have been many studies of post-manifesto plural marriages. The most important are: Quinn, “LDS Church Authority and New Plural Marriages,” 9-105; Hardy, Solemn Covenant, 389-426. Hardy compiled the most complete list so far of post-manifesto marriages, documenting 262 new plural marriages between 1890 and 1910.
or south of the border in Mexico, rumors were growing that the Latter-day Saints had again picked up the practice of plural marriage.

The mounting attacks on the church coincided with the election of B.H. Roberts as a Congressional representative of Utah in 1898. A member if of the First Council of Seventy and a known polygamist, Roberts entered the electoral race for Congress in the autumn of 1898. Most Church leaders opposed his candidacy. Not only was he a Democrat who had been outspoken about denying suffrage to women during the Utah State Constitution Convention, and most leaders aligned themselves with the Republican party, but he was also a polygamist who had been convicted during the Raid. Roberts not only continued to live with his plural wives, Louisa Smith and Celia Dibble, fathering children by them after 1890, but he probably took a third wife during those years as well. In the end, however, a majority of churchmen, still solidly Democratic, supported him and Roberts won the election handily.

It was not long until both sectarian and non-religious societies responded to Roberts’ election. “It was perfectly understood,” said one writer, “that the condition of Utah’s admission to the Union was the complete abandonment in all good faith of the institution and practice of polygamy doctrine.” Another writer stated that “church leaders scarcely waited for Statehood to be perfected before they began pressing forward the old

polygamy doctrine.” Roberts election to a federal office brought the continued practice of polygamy back into the national limelight.

There was a clamor for Roberts not to be seated. The cries of protests were made up of the old stand-by: Roberts presence in the Congressional chamber would put the American home in jeopardy. The question provoked a new round of calls for a constitutional amendment that would forever exorcise the “disease” of polygamy from the American commonwealth. Congressmen urging passage of the measure reminded the public that if Utah were allowed to revive polygamy and send pluralists to Congress, it would introduce into their midst a home system that would doom society as they knew it. “Such a union between the Asiatic type and European-American type of civilized life would be incompatible and fatal to our peace and progress.”

A petition demanding the denial of Roberts his seat in the national legislature produced 7,000,000 signatures. It was sent to Congress on twenty-eights rolls, each two feet in diameter and encased in an American flag. In its investigation the committee confirmed that Roberts was engaged in polygamous cohabitation and indicated that one of the three women involved had likely become his wife since the Manifesto. This, they said, constituted a “notorious and defiant violation of the law of the land.” Roberts, the report said, had flouted not only society’s legal codes but his church’s promises as well.

55 U.S. House of Representatives, 55th Cong., 3rd sess., Committee on Election of President, Vice President, & Representative in Congress, Amendments to the Constitution Prohibiting Polygamy, Etc., Report no. 2307 (1899), 11passim.
56 Bunker and Bitton, Mormon Graphic Image, 1834-1914, 60-64; and Bitton, “The B. H. Roberts Case of 1899-1900.” Utah Historical Quarterly 25 (Spring 1957): 27-46;
His election as Utah’s representative was “an explicit and offensive violation of the understanding by which Utah was admitted as a state.”\textsuperscript{57} The House overwhelmingly voted to exclude Roberts from their chamber.

The Church had to answer the accusations that resulted from the Roberts case. President Lorenzo Snow publicly denied reports of a polygamous revival and assured the nation that the Saints were yet faithful to pledges made by Snow’s predecessor, Wilford Woodruff: “Ever since the issuance of the manifesto on this subject by President Wilford Woodruff, my predecessor in office, polygamy or plural marriages have entirely ceased in Utah. The implied understand with the nation when Utah entered the Union as a State has been sacredly observed… There have been no polygamous marriages since 1890.”\textsuperscript{58}

The Church leadership would be forced to continue to make this disingenuous claim when another Mormon leader, Reed Smoot, was elected to federal office in 1904.

**The Price of American Citizenship**

In 1888, Congregationalist Rev. A.S. Bailey spoke for many when he said, “Mormonism must first show that it satisfies the American idea of a church, and a system of religious faith, before it can demand of the nation the protection due to religion. This it cannot do, for it is not a church; it is not religion according to the American idea and the United States constitution.”\textsuperscript{59} In her marvelous book, Kathleen Flake maintains that

\textsuperscript{57}“Case of Brigham H. Roberts of Utah,” U.S. House of Representatives, 56th Cong. 1st sess., (January 20, 1900).
\textsuperscript{58}“Mormon Head to the World,” *New York World*, December 30, 1898.
through the Reed Smoot hearings and their fallout, the Latter-day Saints did just what Bailey required of them. In order for Apostle Reed Smoot to maintain his seat in the senate, Flake argues that the Saints had to conform their kingdom to that most Protestant form of religion, the denomination, with its definitive vales of obedience to law, loyalty to the nation, and creedal tolerance. In return, the Senate gave the Latter-day Saints religious citizenship, which would provide them protection, at home and abroad, for the propagation of their faith.60

Building on Flake’s work, the remainder of this chapter demonstrates the theological cost of accommodating American religious citizenship. The testimony of President Joseph F. Smith to the senate committee and what he did during the Smoot hearings fundamentally altered the nature of the Church of Jesus Christ of Latter-day Saints. While the Saints had submitted to the state in word in 1890 and several times since, the Reed Smoot hearings would bring about the Church’s submission in deed—a change that required no less than dragging the Saints out of their nineteenth-century peculiarities and into the modern age of assimilation. The Smoot hearings represent the end of Mormon duplicity regarding plural marriage and the beginning of a modern Church of Jesus Christ of Latter-day Saints made up of loyal, law-abiding citizens, eager to spread the gospel and live in peace with their fellow Americans.

In many ways, the Smoot hearing can be seen as the Church’s attempt to be accepted socially and legitimatized politically as a full member of the American

community. And while it may be argued that the Roberts case was an attempt to test the political waters after statehood, significant differences between the Roberts and Smoot cases made the Smoot hearings more crucial to Mormonism’s legitimization within the American political community. The primary difference was that Roberts was a polygamist and Smoot was not. Roberts’ defense of his seat was always overshadowed by the fact that he was a practicing polygamist and therefore, in the eyes of most in Congress, a criminal. In comparison, Smoot was a well-respected politician largely removed from the rancor of the Raid years, and, unlike Roberts, received the unwavering support of the Church throughout his candidacy and defense. From the Church’s point of view, if Smoot could not retain his seat, no faithful Latter-day Saint would be permitted to participate in the federal government. To the Saints, Smoot appeared to fit the mold of the outstanding American citizen, perfectly suited to represent his state in the halls of Congress. The rest of the country, however, needed convincing. To that end, the Reed Smoot hearings covered three topics critical to establishing the Latter-day Saints’ right to claim full American citizenship: continued cohabitation on the part of most Church leaders; new plural marriages contracted after 1890; and the role of continuing revelation in Church theology and loyalty to the nation. Once these matters had been settled, Smoot would be accepted and the Saints would join the rest of the country as fully participating and represented citizens.

Reed Smoot, forty-one year-old businessman and member of the quorum of the twelve apostles, was elected to the United States senate in January of 1903. His election, much like B.H. Roberts’, started off a firestorm of angry protests against him personally and against the Church in general. The Salt Lake ministerial Association led by E.B. Critchlow, a Salt Lake attorney, and an assortment of other concerned anti-Mormons, unleashed the initial salvo. Although Critchlow authored the petition opposing Smoot’s taking office, it was J.L. Leilich, superintendent of the Missions for the Methodist Church, who fanned the flames by falsely accusing Smoot of being a polygamist. The formal protest asked that Smoot not be permitted to take his seat of office because

he is one of a self-perpetuating body of fifteen men who, constituting the ruling authorities of the Church of Jesus Christ of Latter-day Saints, or ‘Mormon’ Church, claim, and by their followers are accorded the right to claim, supreme authority, divinely sanctioned, to shape the belief and control the conduct of those under them in all matters whatsoever, civil and religious, temporal and spiritual, and who thus, uniting in themselves authority and church and state, do so exercise the same as to inculcate and encourage a belief in polygamy and polygamous cohabitation; who countenance and connive at violations of the laws of the State prohibiting the same regardless of pledges made for the purpose of obtaining statehood and of covenants made with the people of the untied States, and who by all the means in their power protect and honor those who with themselves violate the laws of the land and are guilty of practices destructive of the family and the home.\(^{62}\)

The protestors followed these accusations with LDS scripture and speeches given by Church authorities with the intent to prove that the Church represented the antithesis of American citizenship.

\(^{62}\) *Proceedings*, 1:1.
After arriving in Washington, D.C., Smoot learned that he would be presented and seated, after which his seat would be contested. The issues raised by his election would not be resolved until the full Senate, voting in February 1907 after three years of drawn-out hearings, followed the advice of President Roosevelt and overrode the recommendation of the U.S. Senate’s Committee on Privileges and Election to withdraw its recognition and unseat him.

In the Spring of 1903 Smoot joined the United States senate. He had several months to prepare the defense of his seat. His case was hindered in November when Apostle Heber J. Grant jokingly told the University of Utah student body that he would contribute to the association $50 for himself and $50 for each of his two wives. After hearty applause, he continued, “Yes, I have two wives and the only reason I haven’t got another is because the government won’t let me.” News of this statement hit the Eastern papers like a bombshell. Grant promptly became the subject of a warrant issued for his arrest. To help him avoid prosecution, Church leaders immediately called him to preside over the European Mission. Smoot lamented these comments in letters to friends back in Utah, stating that Grant had made things infinitely worse for him and the defense of his seat. Grant’s statements demonstrated the rift between the lived reality of continued

64 Heath, “The Reed Smoot Hearings,” 19.
65 Smoot, Letter to Joseph F. Smith, November 18, 1903 and Smoot to John Henry Smith, November 19, 1903.
plural marriage in Utah versus the nation’s requirement that polygamy be nothing more than a thing of the past.

Just before the hearings began in January of 1904, the Senate committee permitted the protestors to modify their complaint. The new charge stated that “the President [of the L.D.S. Church] and a majority of the Twelve Apostles now practice polygamy and polygamous cohabitation and some of them have taken polygamous wives since the Manifesto of 1890; [and] that these things have been done with the knowledge and countenance of Reed Smoot.” Smoot’s ineligibility for office, they now argued, was based on his participation in a religion that openly violated the law and did so with his blessing. On the eve of the hearing, Chairman Burrows “very frankly” told Smoot, “you are not on trial. It is the Mormon Church that we intend to investigate, and we are going to see that those men obey the law.” This was echoed by Utah’s delegate in the House of Representatives, who after the first few days of testimony warned a friend in Utah, “It looks more serious for the Mormon people than they seem to realize at home. It is summed up in this; The question is not, Shall Reed Smoot keep his seat in the Senate? But, Shall the Mormon Church be declared an alien organization, and its members unfit to hold the rights of citizenship?”

---

66 Proceedings, 1:25. An additional complaint, accusing Smooth of being a polygamist, was filed on 26 February 1903 by Rev. John Luther Leilich, superintendent of the Utah Methodist missions and a signatory on the original protest. Because this was patently false, Leilich’s brethren in the Salt Lake Ministerial Association tried to distance themselves from the accusation initially. See Proceedings, 1: 26-30.
The entire upper echelon of Church leadership was subpoenaed to appear at the hearings in Washington, D.C. Of the Church’s top leadership, only President Smith, his son and apostle, Hyrum, and chief apostle Francis M. Lyman responded to the subpoenas. Two apostles were prevented by illness from responding, though one testified at a later date. Another four apostles avoided subpoena by leaving the country. They included seventy-three-year-old George Teasdale, who went to Mexico a week before the subpoenas were issued. Apostles John W. Taylor and Matthias Cowley fled to outlying Mormon settlements and continued to confound attempts to serve their subpoenas by circulating through Canada and Mexico on church assignments.68

President Joseph F. Smith’s testimony proved critical in the case and had repercussions throughout the Church. Smith had become President of the Church only three years prior. He was the nephew of Church founder Joseph Smith, Jr. and had lived through many years of hardship that made up Mormon history to that point. When he was nearly six-years-old, he watched his father and uncle hauled away at the hands of a mob who later killed both men at Carthage jail in Illinois; he made the long trek west to build up the Kingdom of God in the mountains of Utah; he preached the divine commandment of plural marriage and spent several years on the underground hiding from federal marshals; and now he sat before the senate committee to defend his faith and right to citizenship. He was ready to do so in order to ensure that the Saints were finally accepted into the greater body politic. He also wanted to show the world that the Saints had

changed, that they were ready to conform, in hopes that accommodation would not only assure his people full citizenship in the United States but would also help missionary efforts around the globe.

In his inaugural sermon as President of the Church, Smith told the congregation:

“We have been looked upon as interlopers, as fanatics, as believers in a false religion; we have been regarded with contempt, and treated despicably; we have been driven from our homes, maligned and spoken evil of everywhere.” Indeed, the Church’s reputation was so bad that “the people of the world have come to believe that we are the off-scourings of the earth and scarcely fit to live.” He wasn’t just stating the obvious. Smith was expressing his concern that “thousands and thousands of innocent people in the world whose minds have become so darkened by the slanderous reports … that they would feel they were doing God’s service to deprive a member of this Church of life, or of liberty, or the pursuit of happiness, if they could do it.”

For Smith, the problem with the Church’s reputation was not just the Saints’ loss of liberty or the threat of violence against its members. Rather, it was that no one was listening to its message. The Smoot hearings were a chance for Smith not only to ensure the Latter-day Saints’ American citizenship, but to retool the public image of the Church so that more people would be willing to hear the gospel as well.

Smith tried to satisfy the Senate prior to the hearing by offering official statements designed to counter concerns about the church’s economic and political power.

---

in Utah. Two months before the trial was scheduled to begin, Smith responded publicly to
the Senate protest. Titled The Kingdom of God, Smith’s published address outlined what
would become Smoot’s defense. The essential point of Smith’s proclamation was that
“the system called ‘Mormonism’ … is solely an ecclesiastical organization … separate
and distinct from the state.” Using biblical references to reassure his audience that the
Latter-day Saints did not constitute a political threat, Smith likened the role of his
restorationist church to that of John the Baptist, whose job was to announce the “the
kingdom of God is at hand.” Contemporary attacks on the church, Smith said, were
merely “history repeat[ing] itself with the old cry of ‘treason’ … and the charges that the
‘Mormon organization is imperium imperio.’”\(^71\) The Church was not the kingdom of God
but merely preparatory to it, he explained. He added that any “sermons, dissertations and
arguments by preachers and writers in the Church” implying church
dominion over
temporal affairs were “incorrect, no matter by whom set forth.”\(^72\) This was a public
renunciation of nearly sixty years of Church teaching and the first step taken by Smith to
formally end theodemocracy and bring the Latter-day Saints into the twentieth-century,
where the division between Church and state in Utah was perfectly clear.

The next steps Smith would take to modernize the Church came through the
testimony he gave before the Senate committee. Smith’s job as a witness was a difficult
one. He was answerable not only to the Senate committee, but also to the Latter-day

\(^{71}\) Clark, Messages of the First Presidency, 4:79.

\(^{72}\) Clark, Messages of the First Presidency, 4: 82. For a discussion of the political dimensions of the Latter-
day Saint concept of the kingdom of God, see Hansen, Quest for Empire, and Ehat, “It Seems like Heaven
Began on Earth,” BYU Studies 20, no. 3 (1980), 1-27.
Saints, for whom his words were of critical importance. He refused to apologize for his own family relations or, more generally, the Latter-day Saint belief in and practice of plural marriage. He reiterated also that the Church’s belief in plural marriage was based on revelation given from God to its founding prophet. Antipolygamy law, he said, “did not change our belief at all.” At the same time, however, he demonstrated that the Church would no longer condone nor tolerate new plural marriages. He downplayed his role as prophet, seer, and revelator for the Church, maintaining that his role was to speak for God in matters of faith only, drawing a distinction between religious and civic affairs that had never existed in Mormon culture before.

**Continued Cohabitation**

The most provoking part of Smith’s testimony was his refusal to apologize for continuing to live with his plural wives after the manifesto. He would not budge from his claim that pre-Manifesto marriages, like his own, were legitimate and that the families produced by them had a greater claim on the Latter-day Saints than did Church or civil law. While the prosecuting attorney, Robert W. Tayler, and members of the Senate Committee did not believe plural wives and their children should be left destitute after the Manifesto, they were adamant that husband and wife relations should have ceased at the time Woodruff issued his declaration. After being forced to answer that he had

\[^{73}\textit{Proceedings}, 1: 107\]
\[^{74}\text{Robert Walker Tayler was elected to four terms as a Representatives from Ohio. He led Congress’s successful resistance against seating B.H. Roberts. In Smoot’s case, he served as lead counsel for the Protestants.}\]

296
continued living with his plural wives and have children by them after the Manifesto, Smith was asked whether he thought he had obeyed the laws of the Church and the land. Smith admitted that continuing to cohabit with his plural wives was “contrary to the rule of the church and contrary as well to the law” “But,” he went on:

I was placed in this position. I had a plural family, if you please; that is, my first wife was married to me over thirty-eight years ago, my last wife was married to me over twenty years ago, and with these wives I had children, and I simply took my chances preferring to meet the consequences of the law rather than to abandon my children and their mothers; and I have cohabited with my wives—not openly, that is, not in a manner that I thought would be offensive to my neighbors—but I have acknowledged them; I have visited them. They have borne me children since 1890, and I have done it knowing the responsibility and knowing that I was amenable to the law.

Since the admission of the State there has been a sentiment existing and prevalent in Utah that these old marriages would be in measure condoned. They were not looked upon as offensive; as really violative of law; they were, in other words; regarded as an existing fact, and if they saw any wrong in it they simply winked. In other words, Mr. Chairman, the people of Utah, as a rule, as well as the people of this nation, are broad-minded and liberal-minded people, and they have rather condoned than otherwise, I presume, my offense against the law. I have never been disturbed. Nobody has ever called me in question, that I know of, and if I had, I was there to answer to the charge; or any charge that might have been made against me, and I would have been willing to submit to the penalty of the law, whatever it might have been.75

Smith outlined the social, cultural and theological pressures that kept a man from abandoning his plural families. He respected the law and did not flagrantly display his disobedience, but at the same time he had a moral obligation to his families. The people of Utah, Mormon and non, understood this obligation and turned a blind eye to continuing cohabitation.

75 Proceedings, 1:129-130.
Smith also drew a distinction between himself as President and the Church as an organization. He painted himself as just another individual church member. This was a radical change. A president had never before separated himself from “the Church” in this way. To the Saints, he was prophet, seer, revelator—the voice of God on earth. In many ways the President was the embodiment of the Church. Yet, here was Smith casting himself as just another Mormon who could disobey directives of his religion if his personal conscience dictated otherwise. He was demonstrating that he would not abandon the principle of marriage he entered into more than thirty years ago, but not because the Church told him to. His intention was not to set an example as president for others to follow. Instead, he was an individual, like all good American citizens, who let his conscience guide him in his choices.

The fact that plural marriages, including Smith’s, continued to produce children was especially galling to members of the Committee and the prosecuting attorney. Mr. Tayler cheekily asked, “Do you consider it an abandonment of your family to maintain relations with your wives except that of occupying their beds?” Smith answered, “I do not wish to be impertinent, but I should like the gentleman to ask any woman, who is a wife, that question.”

The newspapers reported that Smith’s testimony “displayed a spirit of defiance to the Senate and to the United States government. He said almost in so many words that it was none of the business of the rest of the world what the people do in the state of Utah

76 Ibid., 1:131
so long as they do not actually contract new plural marriages.” In many ways, the press had summed up the situation perfectly. Smith believed marriages contracted before the Manifesto were none of the government’s business and should be left alone.

When Tayler tried to draw a connection between continuing cohabitation and new plural marriages, Smith did what he could to explain the situation as the Saints saw it.

I should like to draw a distinction between unlawful cohabitation and polygamy. There is a law prohibiting polygamy, plural marriages. … it is required by the enabling act. That law, gentlemen, has been complied with by the church; that law has been kept by the church; and there never has been a plural marriage by the consent or sanction or knowledge or approval of the church since the manifesto.

The law of unlawful cohabitation is another law entirely, and related to the cohabitation of a man with more than one wife. That is the law which I have presumed to face in preference to disgracing myself and degrading my family by turning them off and ceasing to acknowledge them and to administer to their wants—not the law in relation to plural marriage. That I have not broken. Neither has any broken it by the sanction or approval of the church.”

Smith’s confession to knowingly breaking the law against cohabitation did not, he assured the committee, have anything to do with new plural marriages. Just because he continued to live polygamously, did not mean that he or the Church sanctioned new plural marriages. He did what he could to draw a distinction between the two. His flagrant disobedience to one law, however, only created more suspicion that he would disobey the other.

77 “Mormon Smith Defies Country,” Chicago Daily Tribune, March 6, 1904.
78 Ibid., 1:130.
New Plural Marriages

Smith reiterated throughout his testimony that “the Church” had not officially permitted any new plural marriages after the Manifesto. He repeatedly testified that “There never has been a plural marriage by the consent or sanction or knowledge or approval of the church since the Manifesto.” Later he said, “I wish to say again, Mr. Chairman, that there have been no plural marriages solemnized by and with the consent or by the knowledge of the Church of Jesus Christ of Latter-day Saints by any man, I do not care who he is.” The next day he repeated, “Let me say to you, Mr. Senator [Beveridge]—I have said, it but I repeat it—there has not [been] any man, with the consent or knowledge of approval of the church, [who] ever married a plural wife since the Manifesto.” In this way, Smith repeatedly drew a distinction between the Church and its members. While new plural marriage had in fact been performed, the Church did not authorize those unions. By creating such a distinction, Smith belied the fact that he himself had performed such marriages.

And yet, new plural marriages had taken place, and everyone in the room new it. The prosecutors and opposing Senators wanted to know what the Church was doing to stop new instances of polygamy. After being grilled by former “cohab hunter” and now Idaho Senator, Fred Dubois, Smith said, “If any apostle or any other man claiming authority should do any such thing as that [marry polygamously after the 1890 Manifesto], he would not only be subject to prosecution and heavy fine and imprisonment

---

79 Ibid.
80 Ibid., 1:77.
81 Ibid., 1:143.
in the State under the State law, but he would also be subjected to discipline and
excommunication from the church by the proper tribunals of the church.”82 The
magnitude of this declaration cannot be overstated. Because Smith had taken the position
that new plural marriages were not sanctioned by the Church, he had to admit that
persons performing them should be disciplined by the Church. No Church official had
ever said or done such a thing. Since the first anti-polygamy law had passed in 1862, not
one Latter-day Saint had ever been subjected to church discipline for practicing plural
marriage.

Hoping to avoid ever having to sanction a fellow Churchman for polygamy, when
he returned home to Salt Lake, Smith tried to satisfy the committee through a public
pronouncement. While presiding over the April 1904 General Conference, Smith called
for a sustaining vote on the proposition that “all such [post-Manifesto plural marriages
are prohibited, and if any officer or member of the Church shall assume to solemnize or
enter into any such marriage he will be deemed in transgression against the Church and
will be liable to be dealt with, according to the rules and regulations thereof, and
excommunicated therefrom.”83 Now known as the Second Manifesto, the pronouncement
did not have the desired effect on lawmakers back east. They were tired of words. The
Senate committee wanted to see the Church take action.

During the course of the hearings, Apostles John W. Taylor and Matthias Cowley
had been singled out as symbols of dangerous polygamists. Evidence had shown that both

82 Ibid., 1:178.
83 Clark, Messages of the First Presidency, 4:84.
men had taken additional wives after the 1890 Manifesto and as recently as 1901. They also appeared to be the most open in their advocacy of plural marriage and most likely to be the officiators for unlawful marriages.\textsuperscript{84} Both Taylor and Cowley failed to respond to Senate subpoenas. Their refusal to testify at the hearings was deemed proof of the Church’s defiance of the law. Committee members believed that if the Church was telling the truth about itself and its commitment to end new plural marriages, it would follow through with its recent promise to sanction those known to have defied the law after the Manifesto.

During his questioning, the prosecution asked President Smith to use his influence to get Taylor and Cowley to testify. Smith replied that since the Church did not believe in compulsion, especially in areas not related to the Church, he had no authority to demand their presence before the committee.\textsuperscript{85} While this was a sly way of demonstrating the freedom of Church members to do as they please in worldly matters while at the same time not force Taylor and Cowley’s hand, it did not satisfy the committee. In January 1905, Smoot’s attorneys met with Smith in Salt Lake City and told him that without

\begin{flushright}
\textsuperscript{84} John W. Taylor married his fourth and fifth wives, Eliza Roxey Welling and Rhoda Welling, in 1901 and his sixth wife, Ellen Sandberg in 1909. Matthias F. Cowley took a third wife, Harriet Bennion, in 1899 and a fourth, Lenora Taylor, in 1905. Only the 1899 marriage came to the attention of the Senate committee. IN addition, Cowley performed the wedding of apostle Mariner Wood Merrill to his eighth wife, Hilda M. Erickson, in 1901. Documentation for these post-Manifesto plural marriages and the post-Manifesto marriages of many other members of the Church can be found in Quinn, \textit{Mormon Hierarchy}, 705; Alexander, \textit{Mormonism in Transition}, 11-12 and 62-66; Hardy, \textit{Solemn Covenant}, 206-244; Quinn, “New Plural Marriages.”
\textsuperscript{85} \textit{Proceedings}, 1:131.
\end{flushright}
punitive action against Taylor and Cowley, the case for Smoot would certainly fail and
the church risked a constitutional amendment and perhaps confiscation.86

Reluctant to disfellow members who had continued to follow their conscience
and, more likely than not, received the blessing of other Church authorities in marrying
additional wives after the Manifesto, Smith waited nearly two years to demand Taylor
and Cowley’s resignations as members of the twelve apostles. Not acting could have been
disastrous for Smoot’s defense, but disciplining a Church authority for plural marriage
was a watershed moment for the Church. Smith did not want to make the decision on his
own. He gave his view on the matter to the quorum and to Taylor and Cowley. He told
them he thought they had three options: deny the committee’s charges, if they could do so
honestly, confess wrongdoing to the church and be excommunicated or dropped from the
quorum; or “let things go on as they had gone and risk the consequences which might
mean the disfranchisement of the Church.” After defining the alternatives, Smith “left the
matter in the hands of the brethren and of their quorum.”87

Recognizing the danger to which they were exposing the Church, Taylor and
Cowley executed their resignations on October 28, 1905, demonstrating to the Senate and
all Latter-day Saints that those who entered post-Manifesto marriages were out of
harmony with the Church and were acting against the declaration of Church presidents.88

The Church had finally begun to act on its declarations against new plural marriages.

87 As found in Flake, The Politics of American Religious Identity, 106.
88 The best discussion of this event is Victor Jorgensen and B. Carmon Hardy, “The Taylor-Cowley Affair
Until Taylor and Cowley had been sanctioned, there was little proof that the Saints truly meant to abandon polygamy. Depriving a man of his Church office and threatening the excommunication of anyone who contracted new plural marriages represented a radical change in Church policy. The Church would take action against polygamists, and that action would severely effect a person’s eternal salvation.

**Continuing Revelation and Loyalty to the Nation**

Jan Shipps, the foremost “outside” scholar on Mormonism argues, “the connection between plurality and the ‘restoration of all things’ underscores the importance of the actuality of polygamous marriages to the generative period in Mormon history.” Polygamy, she maintains “took the Saints inside the biblical story, allowing experience to tie Old Testament accounts and everyday Restoration history together.”

Living the restored gospel by practicing polygamy was critical to the identity of the Saints as God’s new chosen people who were actively building up Zion and preparing the Kingdom of God. In a way, the Saints of the nineteenth century were living in an age of covenant—they were building up the Kingdom of God to ready the world for Christ’s second coming. Polygamy was a critical element in their covenant. To accommodate the demands of modern American citizenship, however, President Joseph F. Smith had to guide his people out of their Old Testament reenactment and into the modern age. Smith had to bring the Saints in line with twentieth-century America—a modern nation-state.

---

with centralized laws and citizenship, where polygamy was no longer possible and where building kingdoms within nation-states was no longer possible. He knew that to be permitted to participate as Americans, the Latter-day Saints had to shed nearly all their peculiarities, particularly polygamy, without shedding their faith.

Modern Mormonism’s capacity to adapt to its social environment has been explained in terms of its belief in continuing revelation.90 God continues to guide his Church through continuous revelations given to his prophet, seer, and revelator—the President of the Church of Jesus Christ of Latter-day Saints. Revelations are given in their own good time, when the people are ready to receive them. This was both a blessing and a curse for President of the Church at the turn of the century. In order to bring the Church in line with the ideals modern American citizenship, Joseph F. Smith had to convince his people that the Manifesto carried the weight of a revelation without actually calling it such. At the same time, he had to undo his people’s faith in Joseph Smith’s revelation concerning plural marriage without undermining their confidence in all revelations, or in Joseph Smith as a revelator, or in himself as Smith’s prophetic successor. Smith’s testimony reflects the importance of this balancing act.

Revelation was an important topic during the Smooth hearings because the committee members, like so many others, were troubled by the fact that the Manifesto was not called a revelation. Smith, himself still a staunch believer in the rightness of plural marriage, could not be lured by any questions into deeming it a revelation—he

90 Shipp, Mormonism, 148.
could not change the Church that much. At the same time, revelation was important to the hearings in that it made the committee nervous that Church leaders could receive a revelation that contradicted the laws of the land, again, and that the Saints could once again align themselves against, rather than with, the body politic. Smith had to downplay his role as prophet, seer, and revelator to assure the Senators that no more grand changes were going to drive the Saints back into outsider status.

During his questioning of President Smith, Senator Joseph Wheldon Bailey clearly outlined the impossible position the Church leaders found themselves in after the Manifesto. Not only did he comment on the absence of anything in the Manifesto’s language suggesting its divine origin, but he then chided Smith for abandoning a tenet of his religion. He said he thought a Christian would “go to the stake” before abandoning so vital a tenet of his creed. When Smith remonstrated that the Manifesto did not contradict a former revelation but only forbade the “practice” of polygamy, Bailey answered that such an interpretation was “a distinction without a difference.” Bailey further told Smith he had little regard for revelations of convenience, that the circumstances surrounding issuance of the Manifesto made it difficult to believe anyone could be required to “accept it as a revelation.”

Bailey had articulated the problem perfectly. The Saints had to abandon polygamy—a practice central to their belief system—without completely turning their back on their entire faith. Continuing revelation provided them with some relief. If God deemed it necessary for the Saints to suspend the practice for the time being, then

---

most Latter-day Saints would accept that, as difficult a pill as it might be to swallow. It was up to President Smith to convince them that it was God’s will without causing them to question what other tenets God might want to suspend next.

Mr. Tayler, inquiring about the divine nature and authority of the Manifesto, asked Smith whether the declaration changed “the divine view of plural marriages.” Smith answered, “It did not change our belief at all.” Tayler was surprised: “It did not change your belief at all? … You continued to believe that plural marriages were right?” Smith responded, “We do. I do, at least. I do not answer for anybody else. I continue to believe as I did before.” The Manifesto did not undo the rightfulness of polygamy. The document only stated that the Church head recommended the practice halt for the time being. Of course, this answer could not possibly satisfy the committee and Smith knew it. He went on to testify that even though he had continued to live with his plural wives and believe in the rightfulness of polygamy, the Manifesto “was a revelation to me.” Upon this point Senator Overman asked, “If that is a revelation, are you not violating the laws of God?” Smith answered, “I have admitted that, Mr. Senator, a great many times here.” For the sake of his Church, Smith had to maintain that both the original revelation and the Manifesto were the will of God. The Chairman wished to clarify, “I understand you to say not that you believe in the former revelation directing plural marriages in spite of this later revelation for a discontinuance. … You adhere to the original revelation and discard the later one.” Smith answered: “I adhere to both. I adhere to the first in my belief. I

---

92 Ibid., 1:107.
93 Ibid., 1:129-130 and 335.
believe that the principle is correct a principle to-day as it was then.”

Smith was careful not to cast any doubt on his uncle’s revelation, while at the same time express the conviction that God wanted new plural marriages to cease.

The Senators next turned to the loyalty of the Latter-day Saints to the United States. Could the Mormons be counted on to obey the law of the land, even when their god counseled otherwise? The Senate wanted President Smith to answer this question directly and under oath.

Prosecuting attorney Tayler introduced the subject of conflicting authorities by asking Smith “as to the method in which revelation is received and its binding or authoritative force upon the people.” Smith responded that the “guidance” he received from God was “the same as any other member of the church.” Moreover, he said, all members of the church were free to accept or reject any revelation presented to them by their prophet. Revelation was not binding upon the church by virtue merely of its enunciation by the hierarchy, but only upon acceptance by vote of the congregation, and even then some latitude was allowed. Smith emphasized that all may receive divine guidance through “The spirit of revelation.” Similarly, he portrayed Smoot’s authority as “no more than [that of] any other member of the church, except as a body or a council of the church.”

With the unwelcome help of Senator Hoar, Smith admitted he knew of no revelation from church leadership that had been rejected by church members as a whole.

---

94 Ibid., 1: 109.
95 Ibid., 1: 95-96, 135.
96 Ibid., 1: 312-313.
Chairman Burrows and Senator Overman wanted to know what happened to individuals who disagreed: “Are they unchurched?” To the extent they were, Smith answered, they “unchurched themselves … by not accepting [the revelation].” Senator Hoar then asked, “The point is, which, as a matter of obligation, is the prevalent authority, the law of the land or the revelation?” Smith replied, “Well, perhaps the revelation would be paramount.” Hoar erupted, “Perhaps? Do you think ‘perhaps’ is an answer to that?” Smith tried again: “With another man the law would be accepted, and this was the condition the people of the Church were in until the Manifesto settled the question.” Hoar went on: “I want to go a little farther. Suppose you should receive a divine revelation, communicated to and sustained by your church, commanding your people to-morrow to do something forbidden by the law of the land. Which would it be their duty to obey?”

To answer this question, Smith had to find a way to rationalize convincingly the subordination of prophecy to democracy and do so without undermining Church order. What the Smoot hearings made clear is that while God may be above the Constitution, churches are not. Smith gave the only possible answer under the circumstances: “They would be at liberty to obey just which they pleased.”

As part of his effort to shed some of Mormonism’s peculiarity, President Smith downplayed his roll as prophet, seer, and revelator to the Senate Committee. He needed to convince the country that no Mormon Prophet was going to come down off a mountain—or out of a grove—with a revelation that would once again place the Saints at

97 Ibid.
98 Ibid.
odds with the U.S. government. At the very beginning of his questioning, after giving his
name and address, Smith was asked to state his title for the record. He answered,
“president of the church.” Mr. Tayler pressed him: “Is there any other description of your
title than mere president?” “No,” said Smith. This answer was ridiculous. Smith was
much more than a president to his people. Tayler tried again: “Are you prophet, seer, and
revelator?” Smith responded that he “suppose[d]” he was.

Later, Senator Hoar asked Smith if the doctrine of revelation given to the head of
the Church was one of the fundamental doctrines of Mormonism. “The principle of
revelation is a fundamental principle of the church,” Smith answered. Hoar asked: “You
have revelations, have you not?” “I have never pretended to nor do I profess to have
received revelations. I never said I had a revelation except so far as God has shown to me
that so-called Mormonism is God’s divine truth,” Smith replied. The Chairman clarified:
“You say that was shown to you by God?” “By inspiration,” Smith answered. “Does it
come in the shape of a vision?” the Chairman asked. Smith responded by quoting the
Bible, “‘The things of God knoweth no man but the spirit of God;’ and I can not tell you
any more than that I received that knowledge and that testimony by the spirit of God.”

This was a radical change in the way most Church presidents described their revelations.
Joseph Smith saw the personages of God and Jesus in his most famous revelation. He
routinely spoke with angels and was visited by the spirits of Christ’s apostles. God’s
revelations came through Brigham Young and John Taylor like peals of thunder with

99 Ibid., 1:99.
which they pummeled their people. The Presidents of the Church, until that point, had been much like the prophets of the Old Testament, demanding the attention of a sinful world that without guidance would be destroyed. For President Smith to claim knowledge of God’s will through nothing more than inspiration was a critical change. It made the Church leader safe in the eyes of the committee. Smith was like any other religious American. He listened to the still small voice that guided his faith and with an equally tempered spirit relayed his inspirations to the Church. This Mormon prophet was no real threat.

When the committee adjourned in the spring of 1905, the anti-Mormon Salt Lake Tribune started publishing full transcripts of Smith’s testimony from the preceding spring. For the first time, Latter-day Saints read in full Smith’s disavowal of plenary power and denial of ever having received revelation. Disaffected Latter-day Saint and Tribune editorialist Frank J. Cannon announced that Smith had “argued him[self] and his particular church out of any reason for existence. … The Mormons are no more entitled to claim that they are led by direct revelation from God through Joseph F. Smith than are the members of any other church whose ministers claim that, by leading a good and prayerful life, they can discover the truth and be saved.”

---

100 Smith had testified during the first phase of the hearing, which was adjourned on April 24, 2904. The committee reconvened the hearing on December 12, 1904 to hear the remainder of the case. Smoot began his defense on January 11, 1905, presenting forty-two witnesses over a three-week period. What were thought to be closing arguments were heard on January 28. Realizing they had not made their case, however, the protestants convinced the committee chairman to reopen the hearings on February 8, 1906 for promised new evidence.

101 Salt Lake Tribune, February 1, April 16, 1905.
Smith had to explain himself to his flock. In a sermon given shortly after the hearing transcripts were published, he said that in denying he received revelation, he was only trying to avoid the “trap” designed by his “inquisitors.” He reassured the audience that God “has made manifest to me a knowledge of his truth by and through spirit of revelation.” To some the explanation was worse than the admission. The next day Cannon denominated Smith “God’s Appointed Liar” for contradicting his Senate testimony. Cannon elaborated by telling his readers that they had to decide whether Smith was “prophet to smite the Nation with law or truth at his pleasure; or … a shallow pretender.” In the same issue, new coverage of Smith’s speech was headlined: “By Command of God the Prophet Lied/ Law Defier Admits Perjury. Joseph F. Smith had New Revelation.” While Cannon succeeded in riling up anti-Mormons in Salt Lake, most Latter-day Saints were able to see the situation for what it was: almost impossible. Smith had to say what he did to save the Church. As prophet, he was guided by God, and while his words must have been very difficult to read for any faithful Saint, trust in God would see them through any crisis of faith.

Acceptance

In 1906 Roosevelt took an active role in bringing the hearings to an end. With Mormon voters able to influence three seats in the House, six seats in the Senate, and nine electoral votes, it is understandable that Smoot’s survival was interpreted by some as

---

102 Journal History, March 19, 1905.
103 Salt Lake Tribune, March 20, 1905.
merely an exercise in party politics.\textsuperscript{104} An outraged Dubois, in his final speech in the Senate, accused Roosevelt and the Republicans of being the first to politicize the “Mormon question” and promised they would regret exchanging the “moral support of the Christian women and men of the United States” for “temporary political advantage.”\textsuperscript{105} Despite Roosevelt’s influence, the committee voted 7 to 5 that Smoot was not entitled to his seat.

The Senate floor debate began on February 6, 1907, with galleries packed and overflow crowds in the halls straining to hear. The Republicans who spoke in favor of keeping Senator Smoot used the Church’s own statements from the hearing. Not only was “polygamy … as dead as slavery,” but “time would banish” cohabitation.\textsuperscript{106} The younger generation of Latter-day Saints did not believe in polygamy and would fight it if an attempt were made to bring it back. The leading wrongdoers, Taylor and Cowley, had been punished. They had been “desposed from their official positions, expelled from the church, driven from the country, and are now fugitives from justice.”\textsuperscript{107} Pennsylvania senator Knox made the case most succinctly: “Mr. President, polygamy is dying out. … As practical men, should we not be content with that?”\textsuperscript{108}

Having established that the Church was no longer a threat, Smoot’s supporters began to make a case that the Mormons were becoming ideal American citizens. First they argued that the church had recently shown loyalty to the government and contributed

\textsuperscript{104} “Dance with the Devil”\
\textsuperscript{105} \textit{Congressional Record}, 59th Cong., 2nd sess., 1:938.\
\textsuperscript{106} Ibid., 4:3280, 3278, and 2:1492.\
\textsuperscript{107} Ibid., 4: 3277.\
\textsuperscript{108} Ibid., 3:2939.
to the nation’s social welfare. Smoot and his co-religionists also were loyal, having been “taught love of country and devotion to Republic.” Former attorney general Knoz carried the bulk of this argument, restating Latter-day Saint doctrine and actions that displayed patriotism. The junior senator from Utah, George Sutherland, added that the citizens of his state were among the first to volunteer in the war with Spain and were led by a Latter-day Saint major “as brave and loyal and splendid a gentleman as ever wore the uniform of a soldier.” Beveridge elaborated by including into the record the names of every Utah volunteer wounded or killed in the war in the Philippines. “The Filipino bullets found no ‘treason’ in these Utah hearts,” he said. “How better can men prove their loyalty than by their lives?”

Smoot’s defenders argued further that the L.D.S. Church had come to the nation’s aid during other domestic crises. It had protected the government’s property during a recent cyclone in the Society Islands and had sent disaster aid immediately after the San Francisco earthquake; such acts showed a commitment to the common good. Smoot’s defenders pointed out that Church of Jesus Christ of Latter-day Saints was, after all, just a church. Smoot had sworn that he was not required to obey the dictates of his leaders, demonstrating that “members of his church are free agents, and that any one of them has the right to disobey any divine revelation given to the head of the church.” It was a

109 Ibid., 4:3411-3412.
110 Ibid., 2:1500.
111 Ibid.
112 Ibid.
113 Ibid., 3:2937-2938.
voluntary organization and Church members could easily maintain loyalty to both Church and country.

Finally, putting forward the defense Latter-day Saints had been using since the first anti-polygamy law was drafted, Smoot’s advocates argued that both constitutional law and the principle of religious tolerance forbade excluding Smoot on the basis of his religious belief. To do so would be unlawful and un-American.\textsuperscript{114} Beveridge compared the hearing to the “terrible, but true tale of the bringing of the witches in New England.”\textsuperscript{115}

Senator Beveridge summarized the terms for granting religious liberty to the Latter-day Saint this way:

Obedience to law, tolerance of opinion, loyalty to country—these are the principles which make the flag a sacred thing and this Republic immortal. These are the principles that make all Americans brothers and constitute this Nation God’s highest method of human enlightenment and living liberty. By these principles let us live and vote and die, so that ‘this Government of the people, for the people, and by the people’ may not perish from the earth.\textsuperscript{116}

The Senate galleries burst into applause. Beveridge articulated the prescription for ending the Mormon Problem. The Saints had satisfied the first two criteria: obedience and loyalty. They demonstrated obedience by subordinating their church to the state, through such means as Smith’s 1903 address redefining the “Kingdom of God” and the 1906 punishment of Taylor and Cowley. Mormons demonstrated loyalty by volunteering to fight the nation’s battles and openly contributing to the nation’s common welfare through

\textsuperscript{114} Ibid., 3:2937.
\textsuperscript{115} Ibid., 4:3412.
\textsuperscript{116} Ibid.
Relief efforts. Religious tolerance was much harder to achieve. President Smith had demonstrated his readiness to bring his Church into line with what the country wanted in an American religious institution by insisting his Saints shed their peculiarities and assimilate into modern Americans. Thirty-nine Republicans and three Democrats voted against expelling Smoot, while nine Republicans joined twenty-two Democrats in support of his ousting. With a two-thirds majority, the Senate Committee’s recommendation that Smoot loose his seat was overturned. The Senate’s vote to retain Smoot marked the beginning of the nation’s acceptance of the Latter-day Saints on the same terms as other religious Americans.

* * *

After the hearings, the Church formally positioned the Manifesto as doctrine. In December 1908 the 1890 Manifesto was added to the Book of Doctrine and Covenants and titled an “Official Declaration.” The Manifesto had finally become scripture. The change was cushioned by three doctrinal strategies. First, the church did not repeal Joseph Smith’s original revelation. Section 132 of the Doctrine and Covenants remains part of Latter-day Saint scripture. The 1890 Manifesto was subordinated to Smith’s revelation through its placement at the back of the Book. Furthermore, by calling the Manifesto a declaration, not a revelation, church authorities implied that the Manifesto was not of equal weight to material contained within the main text—the Saints could continue to believe in the revelation, but could not act. Secondly, church leaders’ continuing intellectual commitment to the doctrine of plural marriage eased the change in practice. By refusing to say that polygamy was now “wrong,” Smith ensured that the
Saints could continue to believe even if they could no longer act. Finally, and most importantly, through sermon and other doctrinal exposition, the meaning of the doctrine of celestial marriage changed. It no longer meant plural marriage, but now referred to temple marriage that would last through time and eternity.\textsuperscript{117}

Significantly, the Church’s message to member and nonmember became indistinguishable after the Smoot hearings. Instead of being admonished to do the works and receive the blessings of Abraham, the Latter-day Saints were encouraged to manifest Yankee virtues and Progressive Era values. Promptings to participate in missionary work replaced the nineteenth-century call to build the Kingdom of God. Twentieth-century Latter-day Saints focused on growth, not gathering in Zion. During Joseph F. Smith’s tenure, immigration to Utah was officially ended, and the church began to build centers of membership abroad. Mormons no longer wanted to be seen as a “peculiar people.” Instead, they were missionaries, spreading the restored gospel across the earth. As Jan Shipps notes in her analysis of a conference address given by Joseph F. Smith ten years after the Smoot hearing ended, “By concentrating on what the Mormons regard as essential principles of the gospel—the nature of God, Christ’s role as Savior, the restoration of the church and its place, and the place of the priesthood, in humanity’s quest for salvation and eternal life—Joseph F. Smith conveyed to the Saints his confidence that the changes which had occurred during his tenure were not changes which had in any way diminished the strength of the relationship between God and his

chosen people.”¹¹⁸ Although the tumultuous nineteenth century had brought about many changes for the Saints, Smith assured his people that the gospel remained the same.

¹¹⁸ Shipps, Mormonism, 145.
Conclusion

Citizenship is a porous concept, its meaning constantly shifting. The formal definition of citizenship that outlines an individual’s legal relationship to the state—the civil rights guaranteed and protected by the government and the political rights and obligations of full participation in governance—began to take shape in the years immediately following the Civil War. Over the past 150 years the government’s commitment to expand and protect the citizenship rights of all its subjects has waxed and waned as groups and individuals have been included or excluded from the national body politic based on their race, class, gender, and religious status. The religiosity of the Latter-day Saints, and their practice of plural marriage, influenced the limits the government and the nation at large put on civil, political and social rights of citizens whose beliefs differed greatly from the majority of Protestants of the nineteenth century. In the end, the coercive measures of the state and their own desire to join the body politic drove the Saints to unquestionably abandon the practice of polygamy, a central tenet of their faith, so that they could be accepted as American citizens.

During the 1850s and 1860s, the civil and political rights of individual Latter-day Saints were not challenged as they would be in the years following the Civil War. Instead, the Saints were excluded from the socially defined status of citizen during the antebellum years because of their commitment to “theodemocracy” and plural marriage. At the same time, the Saints adopted a defiant attitude toward the federal government. Chafing under the territorial rule of Congress and the federally appointed judges sent to Utah, the Saints were, in many ways, responsible for their own outsider status in the
nation. While the Saints abhorred most government officials, they revered the United States and its constitution as the works of God. The Saints believed God inspired the founding fathers to establish a nation committed to religious freedom so that His true Church could be restored on earth. The freedom of religion clause, the Saints were sure, protected their right to marry polygámously—a central tenet of nineteenth century Mormon theology. They submitted six unsuccessful petitions for statehood between 1847 and 1890, hoping that if they could join the Union as a state so that they would be left alone to worship as they pleased.

At the same time, the popular discourse of the day established the Saints as “other.” Social commentators, religious leaders, journalists, activists and novelists constructed the Saints as dangerous and polygamy a threat to the welfare of the nation. Polygamy, they argued, destroyed the American family and the American home—the bedrock upon which the nation was built. It ruined true American women, rendering the polygamous wife no better than a slave. Using the language of nativism, anti-Catholicism and orientalism, writers of the 1850s and 60s depicted Mormons as dangerous and un-American. The Saints’ social standing, if not their legal standing, as citizens was deeply suspect.

After the Civil War, the formal, legal relationship between a citizen and the government had to be defined. A brief moment of expansive citizenship during Radical Reconstruction resulted in the fourteenth and fifteenth amendments, but Congress spent most of the 1870s, 80s and 90s narrowing the definition of who was an acceptable citizen—excluding those who did not fit a racialized, gendered, and religiously
exclusionary mold. In order to pass antipolygamy legislation without threatening their Jacksonian notions of freedom of conscience, lawmakers construed Mormonism as not religious. A faith that dictated something as abhorrent as plural marriage could not, they argued, be given the protection of the first amendment. The Supreme Court agreed—upholding the Morrill Act as constitutional, insisting that the Saints were free to believe whatever they like, but that their religious actions had to be limited in order to protect the nation. To the Saints’ astonishment, the first amendment had failed them.

In the fifteen years immediately following the Civil War, Congress was unable to pass sweeping antipolygamy legislation because the proposed measures too closely resembled Reconstruction. Radical Republicans were always at the forefront of the antipolygamy campaign and their remedies for the Mormon Question went too far in stripping the Saints of their civil and political rights to gain Democratic and moderate Republican to support. As the years passed, however, antipolygamy hysteria grew and lawmakers stepped back from expansive citizenship. A unified nation made up of white, monogamous, Protestants was an ideal both Republicans and Democrats supported and polygamy was an issue upon which everyone agreed. By 1882, the political will to terminate polygamy in Utah was strong enough in both houses of Congress to bring about the Edmunds Act, a law that resulted in the political and legal reconstruction of Utah.

The Saints resisted, hiding polygamists on the “underground” and continuing to marry polygarnously. Because the rest of the country refused to see plural marriage as a central tenet of the Latter-Day Saint faith, most Americans woefully underestimated the lengths to which the Saints would go to defend the practice. The Edmunds-Tucker Act of
1887 delivered the decisive blow to their resistance. Since 1852 the Saints’ claim to social rights as members of the nation had been questionable at best. The law of 1887 stripped the Saints of their civil and political rights as well. The Mormons lost their rights as citizens because of their religion.

Broken and desperate, the Church surrendered. In 1890, Wilford Woodruff issued the Manifesto, a purposefully ambivalent document Church leaders hoped would satisfy the rest of the country and, at the same time, not upset the faithful. Through public acquiescence, the Saints gained presidential pardons and statehood. Their not-so-private continuance of polygamy, however, kept Latter-day Saints from being included as acceptable American citizens. The Reed Smoot hearings demonstrated how far Mormons still had to go in order to be accepted as members of the American body politic.

Over the course of the twentieth century the Saints did what they could to assimilate, abandoning polygamy and forsaking any theocratic notions of constructing a literal Kingdom of God on earth. Mormons assimilated so well that by the 1990s they were being heralded as the most American of Americans. In a 1994 cover article for Time magazine, the authors claimed “that although the Mormon faith remains unique, the land in which it was born has come to accept—no, to lionize—its adherents as paragons of the national spirit.”¹ During the 2002 Salt Lake City Olympic Games, rather than being depicted as insular and repressive, the American media repeatedly praised the Saints for their family focus, hard-working attitude, academic achievements and economic success.²

---

One hundred years after the Senate voted to allow Reed Smoot to retain his seat in the Senate, the question remains, however, have the Saints and the boundaries of religious citizenship changed enough for Mormons to claim full social citizenship today? Mitt Romney’s 2008 presidential candidacy brought this question to the fore. Has the notion of American religious citizenship expanded enough to encompass Mormonism? Do Latter-day Saints share equal standing as Americans—enough so that a Mormon could be elected president?

The 2008 presidential election is well suited to examine the state of American citizenship in the early twenty-first century. Using the ascriptive categories of analysis employed by historians of citizenship—race, class and gender—one can clearly see that American citizenship, not just the civil and political rights, but the notion of belonging and standing has expanded enough to make viable the presidential candidacies of a black man, a white woman and a Mormon. Romney was not successful in his bid for president, but he seems ready to try again in 2012. How much a role did Romney’s religion play in his defeat and how important will it be in his future bids? While it is impossible to point to one issue as the demise of a campaign, it is difficult to overlook the importance of Mormonism in Romney’s campaigns. In a 2008 Harris Poll, twenty-nine percent of Republicans said that they probably or definitely would not vote for a Mormon for president. The discomfort seems partially religious, especially for evangelicals who

---

understand Mormon theology as non-Christian and heretical. For others, however, the aversion to Mormonism is harder to pin on theological differences.

Americans today are as uncomfortable with blatant religious bias as they were in the nineteenth-century. While some are ready to proclaim that they would not vote for Romney because he is a Mormon, most express a vague notion of something troubling or unfamiliar in the Mormon manner or worldview that make him an undesirable candidate.\(^4\) Much of this stems from the complicated history of the Church’s relationship to mainstream American life.

Part of the Latter-day Saint assimilationist strategy during the twentieth century was to participate actively in politics at the state and national levels. As alluded to in Chapter 6, after 1900 the Saints began to align themselves with the Republican Party—a complicated alignment, beyond the scope of this study. Suffice it to say that what made the Mormons Republican was their move toward the conservative center of American public opinion.\(^5\) By the 1950s, the Saints had become mainstream enough that President Eisenhower named Apostle Ezra Taft Benson (later President of the Church) Secretary of Agriculture. According to Jan Shipps, anticommunism also played an important role in making Mormon Republican and mid-century.\(^6\) Many Church leaders, including Benson, had ties to the John Birch Society. In the 1960s, Latter-day Saints began to shift further right-of-center when the Democratic Party increasingly made civil and cultural liberties

\(^4\) Ibid.
part of its agenda. Once politically radical and concerned for the minority rights of religious outsiders, the Saints are now stalwarts of conservatism, opposing the ERA, withholding full membership to blacks until 1979, and campaigning vigorously against same-sex marriage.

And yet, in many ways, the Latter-day Saints are on the outside looking in on American conservatism, as can be seen in the uncomfortable relationship between Mormons and the religious right. While Mormons seem a perfect match for the conservative, moral values crowd, the religious right is made up of primarily evangelical Christians who view Latter-day Saint faith in the Book of Mormon as another testament of Christ as heretical and what they consider Mormonism’s nontrinitarian theology as un-Christian. Despite long and loud protestations from Latter-day Saints that Christ is as that center of their faith, the fact remains that from an orthodox Protestant standpoint, Mormon theology is heterodox.

What must happen for the Saints to be accepted enough that Mitt Romney could become president? One option is for Romney and other Mormons to develop a new way of talking about their religious beliefs that will make them seem more accessible and familiar to evangelicals without compromising them. Similar to the way Joseph F. Smith had to downplay the role of revelation in Mormon theology in 1904 to make Latter-day Saints seem less threatening, Romney has begun to minimize the centrality of Mormon scripture by saying that he reads the Gideon Bible when he is alone in his hotel room on
the campaign trail.\textsuperscript{7} While this may make Romney seem more mainstream to non-Mormons, Latter-day Saints hear this and ask themselves: what kind of Mormon travels without his scriptures? The balancing act Romney must perform to please both non-Mormons and Mormons is a formidable one.

Another option is for the Church to respond to outside pressures through continuing revelation as it has done in the past with polygamy and Black priesthood. Shifting its theology and practices even further into the mainstream may minimize its outsider status in the nation. While it may seem unlikely to contemporary Mormons that the Church could change its teachings about doctrine like the physical nature of God and Jesus, it seemed equally unlikely to nineteenth-century Mormons that the Church would ever abandon polygamy.

Finally, America changes, too. Although the trajectory of inclusion in the United States is not always expansive, it seems that over time the nation tends toward acceptance. Perhaps sometime in the future, what Harvard law professor Noah Feldman calls the “soft bigotry of cultural discomfort” many Americans have toward Mormons, will be put aside and Americans will embrace Latter-day Saints as truly American.\textsuperscript{8}

\textsuperscript{7} Feldman, “What Is It About Mormonism?”
\textsuperscript{8} Ibid.
Bibliography

Primary

Manuscripts

Abraham H. Cannon Diaries, Brigham Young University.

History of Brigham Young, MS, Church Archives.

Marriner Wood Merrill Diaries, Church Archives and University of Utah.

Senator Reed Smoot Papers, Brigham Young University.

Church Sources

Doctrine and Covenants

Journal of Discourses

Journal History

Pearl of Great Price

Court Cases

Clawson v. United States, 114 U.S. 477 (1885).


Davis v. Beason, 133 U.S. (1890)

Murphy v Ramsey, 114 U.S. (1885).


United States v. Cannon, 4 Utah (1885).

United States v. Harris, 5 Utah 441, 17 Pac. 77-78 (1888).

United States v. Musser, 4 Utah (1885).

Public Documents

Biennial Message of William M. Bunn, Governor of Idaho, to the Thirteenth Session of the Legislative Assembly of Idaho Territory. Boise, 1884.

Compiled Laws of Utah, (1866),


United States Congress. Congressional Globe.

United States Congress. Congressional Record.

United States House of Representatives. Fifty-sixth Congress, 1st Session. Report 85,

Case of Brigham H. Roberts, of Utah, January 20, 1900 Referred to the House Calendar and ordered to be printed. Washington, D.C.: G.P.O., 1900.


United States Senate. *Proceedings before the Committee on Privileges and Elections of the United States Senate in the matter of the Protests against the right of Honorable Reed Smoot, a Senator from the state of Utah, to hold his seat.* Washington: Government Printing Office, 1904-1906. Four volumes.


United States. *The Utah expedition: Message from the President of the United States, transmitting reports from the secretaries of state, of war, of the interior, and of the attorney general, relative to the military expedition ordered into the territory of Utah. February 26, 1858.* Washington, D.C.: n.p., 1858.


Utah Territorial Laws, 1851-1890.

**Newspapers and Magazines**

*American Monthly Review of Reviews*
*Anti-Polygamy Standard*
*Chicago Daily Tribune, Chicago Tribune*
*Daily Alta California*
*Daily Globe*
*DeBow’s Review*
*Deseret Evening News*
*Deseret News*
*Deseret News Weekly*
*Deseret Weekly*
*Forum*
*Frank Leslie’s New Family Magazine*
*Galaxy*
Printed

A Series of Instructions and Remarks by President Brigham Young at a Special Council, March 21, 1858.

An Epistle of the First Presidency to the Church of Jesus Christ of Latter-day Saints, in General Conference Assembled. Read April 6, 1885 at 56th General Conference, Provo, Utah. Salt Lake City, Utah: The Deseret News Company, Printers, 1887.


Official Report of the Semi-Annual Conference of the Church of Jesus Christ of Latter-day Saints (Salt Lake City: Deseret News, 1897-1964), November 1901

Proceedings in Mass Meetings of the Ladies of Salt Lake City, to Protest Against the Passage of Cullom’s Bill, January 14, 1870. [Salt Lake City?]: n.p., 1870.


The Inside of Mormonism: A Judicial Examination of Endowment Oaths Administered in all the Mormon Temples, by the United States District Court for the Third Judicial District of Utah, to Determine Whether Membership in the Mormon Church is Consistent With Citizenship in the United States. Utah American, 1903.


Bowles, Samuel. *Across the Continent: A Stage Ride Over the Plains, to the Rocky Mountains, the Mormons, and the Pacific States, in the Summer of 1865, with Speaker Colfax*. Springfield, Mass.: Samuel Bowles, 1869.


Campbell, Alexander. *Delusions: AN Analysis of the Book of Mormon; With an Examination of Its Internal and External Evidences, and a Refutation of Its Pretences to Divine Authority*. Boston: Benjamin H. Greene, 1832.


Church of Jesus Christ of Latter-day Saints. “Mormon” Women’s Protest. An Appeal for Freedom, Justice and Equal Rights. The Ladies of the Church of Jesus Christ of Latter-Day Saints Protest against the Tyranny and Indecency of Federal Officials in Utah, and against Their Own Disfranchisement Without Cause. Full Account of


Colfax, Schuyler The Mormon Question: Being a Speech of Vice-President Schuyler Colfax, at Salt Lake City. A reply thereto by Elder John Taylor: and a Letter of Vice President Colfax. Printed at the Deseret News Office, 1870.


Goodrich, E.S. *Mormonism Unveiled. The Other Side. From an American Standpoint*. [Salt Lake City?: Deseret News?], 1884.


Paddock, Cornelia. *In the Toils; or, Martyrs of the Latter Days*. Chicago: Shepard Tobias, and Col, 1879.


Penrose, Charles W. *Blood Atonement, As Taught by Leading Elders of the Church of Jesus Christ of Latter-day Saints*. An Address Delivered in the Twelfth Ward Assembly Hall, Salt Lake City, October 2, 1884, by Elder Charles W. Penrose. Salt Lake City: Printed at Juvenile Instructor Office, 1884.


Tullidge, Edward W. *Life of Brigham Young; or, Utah and Her Founders*. New York: n.p., 1876.


Ward, Austin N. *The Husband in Utah; or, Sights and Scenes Among the Mormons: With Remarks on Their Moral and Social Economy.* Ed. Maria Ward. New York: Derby and Jackson, 1859.

Ward, Austin N. *Male Life Among the Mormons, or The Husband in Utah.* New York: Derby and Jackson, 1859.

Ward, Maria. *Female Life Among the Mormons: A Narrative of Many Years’ Personal Experience.* New York: J.C. Derby, 1855.

Whitney, Helen Mar. *Why We Practice Plural Marriage.* Salt Lake City: Published at the Juvenile Instructor Office, 1884.


Secondary


____________. “The Power of Combination’: Emmeline B. Wlls and the Nation and


__________. “That ‘Same Old Question of Polygamy and Polygamous Living.’ Some Recent Findings Regarding Nineteenth and Early Twentieth-Century Mormon Polygamy.” *Utah Historical Quarterly* 73 (Summer 2005): 212-224.


Madsen, Carol Cornwall. “‘At Their Peril’: Utah Law and the Case of Plural Wives, 1850-1900.” Western Historical Quarterly 21 (November 1990): 425-443.


Phan, Hoang Gia. “‘A Race So Different,’: Chinese Exclusion, the *Slaughterhouse Cases*, and *Plessy v. Ferguson*.” *Labor History* vol. 45, no. 2 (May 2004): 133-163.


Roberts, B.H. A Comprehensive History of the Church of Jesus Christ of Latter-day Saints. 6 vols. Salt Lake City: Church of Jesus Christ of Latter-day Saints, 1930.


“Utah Comes of Age Politically: A Study of the State’s Politics in the Early Years of the Twentieth Century.” Utah Historical Quarterly 35 (Spring 1967): 91-111.


__________. “Woman’s Place is in the Constitution: The Struggle for Equal Rights in Utah in 1895.” Utah Historical Quarterly 42 (Fall 1974): 344-369.


Whitney, Orson F. History of Utah: Comprising Preliminary Chapters on the Previous History of Her Founders … Salt Lake City: Cannon and Sons, 1892-1904. Four Volumes.


Biography

Jenette Wood Crowley was born on May 10, 1978 in Salt Lake City, Utah. She double majored in history and religion and graduated summa cum laude with high honors in religion from Bowdoin College in 2000. She went on to earn a Masters in Arts and Liberal Studies from Dartmouth College in 2004 after completing her thesis: “The McLachlan Family, 1862-1916: A Case Study of a Mormon Polygamous Family.” She began her doctoral work in history at Duke University in the fall of 2004. She was a recipient of the Anne Firor Scott Award in 2005 and a finalist for the Charlotte W. Newcombe Dissertation fellowship in 2007. She served as the graduate student representative on a target of opportunity hiring committee, served as the chair of the history graduate student association, and was a member of the history graduate-faculty committee during the 2006-2007 school year. Her book review of Renee C. Romano’s Race Mixing: Black-White Marriage in Postwar America was published in the Journal of Social History in 2007.