Second—That such penalties consist solely of fine and imprisonment, or of both.

Third—As a consequence, that disfranchisement is merely an electoral regulation and exclusion.

Fourth—That the punishment inflicted for inhibited criminal acts extends only to such persons who being otherwise eligible to be registered, had entered into the polygamous relation and actually continue it; or to whomsoever, although protected by lapse of time from prosecution as a polygamist or bigamist, still cohabits or associates polygamously or bigamously with persons of the other sex; or to whomsoever has been convicted of any inhibited sexual offense and has not been amnestied or pardoned. On the contrary, whoever is not so disfranchised, being otherwise eligible thereto, may be registered and vote.

Fifth—Any person actually maintaining the bigamous or polygamous relation at the time when he offers his name for registration is by such relation disqualified to be registered, or to vote or hold office, or perform jury service, and that although he may have formed such relation before there was any law against it.

Proceeding on these conclusions of law and fact judicially determined, the Commission has from time to time prepared circulars advisory of them and caused them to be printed and issued to the registration and election officers.

This is an important practical question.

Answering it, we are gratified to say that generally they have been, especially in the rural districts, while, we regret to say, that they have not always been in some of the larger cities. Particularly in the latter, not infrequently, according to what seems to be trustworthy reports, registrars have denied registration to eligible persons, or have stricken the names of such persons from the registry simply upon the ground that they had, at a former time, contracted plural marriages and must therefore unavoidably continue to be polygamists until death, pardon or amnesty comes to relieve them. In this way the law and its judicial exposition to the contrary were officiously overruled in one or more precincts in Salt Lake City, while the act was attempted to be justified by a different version of both. This version impliedly, if not in terms, denies the legal or natural capacity of the polygamist to cease to be one, or his capacity, mentally, morally or physically, for sexual reformation. It fatalistically holds that once a polygamist always a polygamist, unless death, pardon or amnesty intervenes. It damns the unfortunate alike if he does or don't.

In another instance, it appeared in the case of a contested election brought before Justice Anderson of one of the district courts, that persons had been improperly denied registration or that their names had been improperly stricken from the registry and that the votes of such persons had been improperly refused, and, in the same case, it appeared, that personators of others had been knowingly permitted to vote. Indeed such was the outcry of complaint that the Commission, desiring to obviate it, invited the registrars in Salt Lake City to a personal interview at its office and, among other, issued the following, July 31, 1890:

"Whereas, Complaints have been made to the Utah Commission by persons who claim that they are citizens of the Territory of Utah and have been residents of their respective counties the required length of time to be registered voters, that have been registered heretofore and have regularly voted in the annual elections for Territorial and county officers, that their names without any fault of theirs have been stricken off and do not appear upon the registration list for the ensuing August election, and that they are not disfranchised by any act of Congress,

"Therefore, in the opinion of the Commission, whenever it appears that the name of a voter has been omitted from the registration list without fault on his part, and such voter is not disfranchised by any act of Congress, * * the name of such voter should of right be reinstated by the deputy registrar of the proper precinct and he be allowed to vote at the ensuing election."

The source of these abuses lies in part in the restricted power of the Commission, which, as a matter of law and fact is established by the Supreme court of the United States, in Murphy vs. Ramsey and others, *supra*. In that case the court said: "The ninth section of the act of March 22, 1882, providing for the appointment and prescribing the duties and powers of the board, shows that they have no functions whatever in respect to the registration of voters, except the appointment of officers in place of those previously authorized, whose offices are by that section of the law declared vacant, and the persons appointed to succeed them are not subject to the discretion and control of the board, but are required, until other provision be made by the Legislative Assembly of the Territory to make the required registration of voters"—under the existing laws of the United States and of said Territory. The statutory powers of the board are limited to the appointment of registration and election officers.

Thus judicially assured of their independence, registrars and judges of election have occasionally, in times of party excitement, disregarded the well-considered opinions of the commission upon questions affecting their duties. In such cases there is no remedy other than an assumed and indirect one following the exercise of the power of the removal as incident to the power of appointment; nor is that resort free in all instances, from countervailing disadvantages. For example, the replacing of one registrar with another when the former was pursuing his house to house canvass, or while he was sitting judicially to hear objections to the right of a person to have his name retained on the registry, might in either such case give rise to embarassing complications. Or, to replace one or more election judges with another or others while the election was proceeding, might be attended with the same consequences—nay, might vitiate the election.

The Territorial law bounding the authority of registrars by precinct lines bespeaks a policy of local administration. Hence, the registrar hearing objections to the right of continued registration must need be a resident of the precinct in which the hearing takes place; therefore, analogically, the person making the objection should likewise be a resident of it, and for the further reason, because as such he would presumably be better informed respecting the right challenged than if he were not. Yet it has occurred in the stress of party rivalry, that non-residents of the precinct, perhaps strangers to it and personally irresponsible, have, as the agents of political committees, caused to be presented numerous such objections, to the vexation and hindrance of electors and the obstruction of the course of the law.

An adequate and effective remedy for these abuses claims serious attention, and, as conducive thereto, the commission, in the event of its continuance, may be understood as suggesting an amendment of the existing laws covering and giving effect to the following propositions:

First—That the commission shall be authorized to issue instructions, conformably to the conditions of such authorization which shall be binding on the registrars, or, that the functions of the registrars shall be limited to the acts of registration and to the taking of affidavits of electoral qualification and transmitting the evidence of the same as now required by law; or, that the election judges shall, exclusively, be authorized to deal with all objections or challenges to the right of persons to be registered or to vote, or, that an intermediate tribunal between the election judges and the registrars shall be established with exclusive jurisdiction for that purpose.

Second—That any act of the registrar improperly hindering or any neglect of duty by him delaying the lawful effectuation of the right to be registered or to vote, or any wilful or unauthorized act committed or omitted by him in his capacity as a registrar, shall, in any such case, be deemed a punishable offence.

POLYGAMY.

Having discussed the institution and practice of polygamy as affecting the individual, the family, society and the State in a former report, I shall add nothing here on this subject except to say that my views as expressed in that report remain unchanged. My immediate purpose is to notice the decrease of polygamous marriages in Utah to their present point of virtual cessation. The evidences of this fact, direct and indirect, moral and official, are as numerous as they should be convincing. I pause to dwell on a few of them.

In 1887 a convention of delegates chosen with remarkable unanimity by a Mormon constituency in Utah memorialized Congress to admit the Territory as a State, under a constitution framed by the convention which inhibited bigamy and polygamy and repeal or change of the inhibition without the approval thereof by Congress, and which also suspended the operation of any act of pardon in behalf of any person convicted of any of those offenses, unless such act had been approved by the President of the United States.

Whatever the consistency of those provisions with the fundamental doctrines of the political equality of the