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been selected to sit in judgment upon the defendant, and the manner of your selection is peculiar. The law officer which you are empowered to exclude from the jury box, every man who believes as he does, and the prosecution will exclude by peremptory challenge every man who is a member of his religious sect, although he might say that he regards the laws of his country as of higher obligation than any religious dogma and that he would try the case impartially and decide it in accordance with the law and the evidence. Practically every Mormon is banished from the jury box. In this poor unfortunate land of Utah, which God has made so beautiful and man has made so miserable, where party passion acting in combination with religious zeal has so embittered the prejudices and inflamed the animosities of men that reason is well nigh banished from her throne, you have been summoned to this jury box from the ranks of those who are believed to be arrayed in deadly hostility to the sect of which the defendant is a member. Naturally, gentlemen, inevitably a jury so selected is regarded with deep distrust by the great body of his co-religionists, and it has gone abroad that before such a jury there is no hope for the accused; that accusation is equivalent to conviction.

Do you wonder, gentlemen, that under such circumstances, believing that he could not obtain a fair and impartial trial in the courts, this defendant concluded to avoid arrest if he could, and so concealed himself in the place where he was found by the officer? Can that fact be treated as a confession of guilt?

But, gentlemen, I do not forget that when you took your seats in that jury box you said that you had no bias, no prejudices against the defendant, either personally or on account of his religion, or for any cause whatever, and with uplifted hand you called God to witness that you would try him fairly and impartially, and a true verdict render according to the law and the evidence. Do you remember those solemn pledges? I remember them, and I for one am willing to believe that you will keep those pledges. I do believe it from the bottom of my heart. I believe you have the courage and the manhood to do it. I believe that as honorable men you will regard the manner of your selection as placing you under the highest and most solemn obligations to banish from your minds all prejudice, all passion, all party or religious rancor, to weigh and consider this evidence impartially, to give him the benefit of every doubt, to judge him in mercy and with Christian forbearance, remembering the circumstances in which he was placed, the difficulties and perplexities with which he struggled, and that you will so acquit yourselves in the delicate position in which you stand that your verdict in this important case shall command the approval of your own consciences and the approbation of every lover of justice.

V. E. RICHARDS.

May it Please the Court—Gentlemen of the Jury:

The impression seems to have gone forth in this community, that in trials of this character the attorneys for the defense are wholly without hope of obtaining an acquittal. A rumor of this kind may have come to the ears of some of you. A report that the defense believes that you are prejudiced, that you will misjudge the facts, and that this case was decided and a verdict virtually rendered against this defendant before you had heard one iota of the testimony; it is possible that you have been told that counsel for the defense know that they can not obtain for their clients in these cases fair and impartial trials, and that they appear and make argument simply to air their own rhetoric and vent their own oratory. I mention this rumor that I may for myself and my associates absolutely and emphatically repudiate any such idea. In this jury-box are men with whom I have been acquainted for the greater part of a score of years, my fellow-citizens and fellow-townsmen. With some of you I have had professional and business relations, such as to create trust and confidence; and for me to stand in this Court to-day, and believe you capable of entering the jury-box with the deliberate and unalterable intention of convicting my client, would be to assert that I am a believer in the idea of the total depravity of man. Gentlemen, I am not so far gone in a distrust of mankind as that belief would indicate. It is my duty, and one which I observe with pleasure, to have faith in this jury—to think that when you held up your hands to high heaven and swore to be unbiased and fearless in the discharge of your sacred trust, you meant exactly what you said, and that you will take a pride in adhering strictly to your promise. Therefore, what I say to you is not as the sounding brass and tinkling cymbal, but in the way of reason and from the bright hope and true conviction of my soul. I believe that you will understand the facts of this case as I shall recall, just as I understand them, and that you will consider them without fear, without prejudice, without expediency, in the light of the law as it shall be given to you from the bench.

The first thing which you should attempt to determine in every trial of this character is: What are the elements which are essential to constitute the offense with which the defendant is charged? And the second point is: Are all of these necessary ingredients actually present in credible evidence?

Lorenzo Snow is charged with unlawful cohabitation with more than one woman, during the period named in the indictment, between the first day of January and the thirty-first day of December, 1884. Now, gentlemen, this particular offense, as it has been defined by this Court, as it has been designated by the Supreme Court of Utah Territory, and as it has been declared by the most exalted judicial tribunal in this republic, consists of two distinct and requisite elements. One of these is the living of a man with more than one woman, and the other is the holding out of these women by him as his wives. And although the learned counsel for the government may say to you in his closing argument, as has already been asserted in this and similar cases, that the only fact necessary to be proven is that the defendant has "lived a life which would lead the public to believe that the ladies named were his wives," I ask you to eliminate any such unjust and fallacious idea from your minds. Do not get any such foolish and wrongful impression as that the prosecution, under any circumstances, can dispense with either one of the necessary constituent elements of the offense, and then demand a conviction at your hands. Gentlemen, my client might have been a polygamist during the year 1884; he might have owned and acknowledged that every woman with whom the indictment charges cohabitation was his wife during the whole of that period; he might have declared this relation publicly in the pulpit, in the streets of Brigham City, or in the newspapers—all these things, even if proven—as they most emphatically have not been—would not and could not under the rulings of the Court constitute the unlawful cohabitation charged against my client in this case. I desire to impress upon you that you should not be misled by assertions of the character which I have just controverted, and which might cause you to render a verdict not in conformity with law or conscience. I maintain that I have expressed a correct view of the law and that nothing of a contrary nature will be given to you from His Honor, who presides in this Court.

Gentlemen, it is not the simple, passive relation of polygamy which Congress has declared against in the section of the law under which this indictment is brought. Certain disabilities are imposed upon the defendant, even for the status itself. He must neither vote, hold office, nor perform jury duty during the existence of that status; but that he should be subjected to punishment—that he should be tried, convicted, fined and imprisoned. It is required that he should do much more than remain passively in that relation. He must have lived with these women as a husband lives with his wife. In such cases as the one now on trial, the manner of living constitutes the habit and repute of marriage. What is the evidence of any habit and repute of living together as man and wife, in this particular case against Lorenzo Snow? For that proof we rely upon the testimony of witnesses for the prosecution; and let me say, in passing, that upon this testimony the law will not permit counsel for the government to cast discredit. It is the testimony offered to you by the prosecution upon which you are requested to find a verdict of guilty, and the power to impeach it or impugn it does not legally nor justly lie in the mouth of counsel for the government. He introduced these witnesses, and he is irrevocably bound by their assertions. The fact is that these witnesses have not been contradicted; the defense has made no effort to controvert their testimony, and what is that testimony? All of these women, except Minnie, with whom alone cohabitation is not denied, testified to you positively and unequivocally that at no time during the year 1884 did they live with the defendant, or did the defendant live with them. There is no doubt nor dispute regarding the truthfulness of their assertions. If it had been possible to produce testimony of a contrary character, the prosecution would have introduced that other evidence. I asked some of these ladies if they had lived with the defendant as husband and wives during 1884, and they answered "no." I then put the question in its general sense: "Did the defendant live with you, during 1884, as a husband or otherwise?" and they answered, "he did not." It is proven to you beyond the shadow of a doubt that he did not once sleep in any one of the residences of these ladies, that he never ate there, and, gentlemen, there is no evidence before you that he even called at any one of the houses except that of Sarah, at which he made two visits to see a daughter, their child, who had suffered a serious injury of a fractured skull by being thrown from a carriage. The attending physician was present at these interviews, and testifies to the effect stated. Upon one other occasion only he was in the company of Sarah, the mother of the injured daughter, and that was when defendant and Sarah went to Little Valley as soon as the accident was reported to them. They went to find their child, to care for her and bring her to her mother's home; and upon their woeful journey they traveled in the same conveyance. Was there any crime in such a journey and in such visits of paternal solicitude? These are absolutely the only circumstances tending to show that the defendant associated with Sarah as a husband, neighbor, acquaintance or in any other capacity; and yet it is upon the fact that Lorenzo Snow was gentle and tender enough to perform this humane, loving duty, that a demand for a

conviction is partially based. On one occasion he was in the company of Harriet during the year 1884. At a time when defendant's sister was visiting him, he and that lady rode in a carriage driven by a hired man to the front of Harriet's residence, and without there alighting, Harriet came from the house and entered the vehicle, riding upon the rear seat with Mr. Snow's sister Eliza, while defendant and the coachman occupied the front seat. They were driven to the home of Sarah's son, Lucius, at which place the two ladies alighted and remained, while defendant went away immediately to visit his farm, beyond the city. The carriage still bearing the defendant returned in an hour, the two ladies were picked up and carried back to the home of Harriet, which she entered and the defendant, again without alighting, at once drove from the locality. This is his only living with Harriet. But, seriously, is there any living together or holding out in these few facts? Is there any unlawful association? Is there any reason for the claim that this was cohabitation with either or both of the ladies named? So far as the others are concerned, the other ladies mentioned in the indictment, Adeline, Eleanor, Phoebe and Mary, there is not a particle of evidence that he had been seen in the company of either of them during the year 1884, except on the occasion of the anniversary of his 70th birthday, when he met some of them and a hundred other friends and acquaintances in a public hall. Therefore, there are but five facts upon which a conviction is demanded—five facts which I rehearse to you and which I wish now to reiterate that you may not lose sight of them: First, the brief and anxious journey of Mr. Snow in the same conveyance with Sarah to the place where their daughter was lying with a fractured skull; second and third, the two calls of the defendant at the house where their dear daughter was upon a bed of illness—calls made in the presence of the doctor, and which were for the obvious and undisputed purpose of learning of the condition of his sick child; fourth, the ride taken by my client in company with Harriet and two other persons to the house of Harriet's son; and fifth, the anniversary dinner eaten with his hundred friends. And upon those bare facts you, gentlemen of the jury, are asked in this, a hall of justice, to render a verdict of guilty! And of what? Of unlawful cohabitation; of having lived with these women as husbands live with wives, and of having held them out to the world as his wives! Gentlemen, the Supreme Court has held that unlawful cohabitation means these two things, and that without both of them proven it cannot be maintained. I insist, and any reasonable man must acknowledge, that neither of these essential elements has been established.

At this point I desire to warn you against falling into a pitfall which I fear may be opened for your feet. It has been suggested by counsel in other prosecutions of a similar nature, and I have a right to anticipate it in this case. I am compelled to advert to it before its utterance, as I have no privilege of reply to the prosecutor's closing speech: It has been very adroitly and significantly suggested that because my client did not live with these women and perform his marital duties to them all alike, he ought to be convicted of this offense because of his injustice and partiality. Gentlemen, this is a monstrous idea. The law required my client to live with not more than one wife, and because the prosecution cannot prove that he has lived with more than one, he is still to be convicted of the offense; and such absurdity and cruelty are justified as a measure of public policy! Gentlemen, as widely as the poles are separated, you may differ from the defendant's religious belief, from his marital methods, from his taste and conduct; you may coincide with an ingenious but heartless theory heretofore advanced by the prosecution in this court room, that this defendant's separation from a portion of his family was a desertion and neglect of some of his wives; that this conduct was unjust and even cruel to the women who were thus deprived of his companionship. But, gentlemen, that can have nothing to do with your verdict. Did the defendant endeavor in good faith to obey the law? You are not sworn to judge Lorenzo Snow for what he has not done, but for what he has done; not for having failed to perform his marital duties, but for having lived with these women as wives. The defense sets up the claim that Lorenzo Snow has obeyed the law. The prosecution's argument would lead you to say that if so he ought to be convicted of a violation of the law, because a compliance with the law would be an act of inhumanity. Further, my client is not on trial under a charge of "religious fanaticism." This community is not on trial; nor is the Mormon church arraigned, but the sole point at which all these circumstances and arguments center like the spokes at the hub of a wheel, is this—simply this and nothing more: Did Lorenzo Snow, during the year 1884, live with and hold out more than one woman as a wife? Under the evidence only one answer can be given, and that answer is "no."

Of course, gentlemen of the jury, you naturally find some embarrassment in thus repudiating an argument upon which the prosecution in a similar case has laid so much stress. You have supposed, doubtless, as I was taught, that the duty and aim of a public prosecutor was to stand in the Temple of Justice,

not clamoring for the blood or liberty of any man, but to represent truthfully, impartially, fully to the jury all the facts necessary for consideration in making up a just verdict. He should endeavor to be as eager for justice to the man on trial as is the paid advocate of the defense. It has been my fortune to serve for some years as a public prosecutor, and in that capacity I have many times had the honor of appearing in this court before the distinguished judge who was the predecessor of His Honor who sits upon this bench. But, gentlemen, I assert—I trust with nonsequence pride—that I never forgot the fact that I had no right to demand from any jury a verdict of guilty unless my own brain and conscience united in saying that, if I were acting as a juror in the case, I would feel bound by the facts to render such a verdict. This is the test. Apply it to the vigorous counsel for the government. Will he stand here and say that if he had taken your oath in the cause now on trial, his conscience would uphold him in voting for a verdict of guilty? I am reminded of an instance which occurred not more than one hundred years ago last Thursday, and not more than one hundred miles from this court room. A certain adroit and eloquent counsel for the government, in a case very, very similar to this, demanded most impressively the conviction of the defendant, and a short time afterwards, while in conversation on the street, the same gentleman spoke to this effect: "It is my firm belief that the man on trial yesterday had honestly endeavored to obey the law, and had done all that should be required of him."

Gentlemen of the jury, you stand here probably in a position of higher importance and holding a greater trust than the distinguished judge or the energetic prosecutor who represents the mightiest nation under heaven. For you are here as a constitutional bulwark—the wall of defense between my client, Lorenzo Snow, and the unheeding, ill-judging clamor of millions of people demanding his conviction. Do not mistake the gravity of this occasion, nor of your position. To my client, your verdict means either the retention or sacrifice of all that makes life radiant in human eyes and precious to the human heart. But that is not all. A devastating flood of convictions, in answer to a popular prejudice, is sweeping over this devoted land of Utah. Will you have the courage to-day, before the rush becomes indiscriminate and more disastrous, to dam that flood with your disapproval and say to the world, and if not to the opinion of this day, to the future: "It is possible for a Mormon accused of this offense and tried before a jury of his sworn opponents, to receive justice—to be acquitted when the evidence and the facts do not warrant his conviction?" Never, perhaps, in all the annals of history, has there been a grander opportunity to show the strength and lasting worth of true manhood than you gentlemen possess this hour. Will you be equal to the emergency?

It requires heroism, and the reward comes not to-day. But history is full of bright pages flashing with the deeds of men who dared all and whose very names make your heart-strings thrill. You do not forget Arnold Winkelreid, the Swiss patriot, who rushed against the oncoming, solid phalanx of Austrian spears, coming with swift tread like an irresistible public clamoring force. He seized an armful of the glittering steel and buried the points in his own breast, while his companions broke through the opened way which had been made for liberty, and Switzerland was redeemed. Go back a few ages among the legends of imperial Rome and recall how a vast crevice burst open in the earth, yawning at the very portals of the forum. The sacred oracles cried that it would never close and Rome must perish unless a sacrifice of some choice human life were offered. In an hour, back came the flower of Roman chivalry, a noble youth with the fire of grand daring flashing from his eyes. He was adorned in holiday attire; he rode his highest mettled barb, and when he reached the gaping fissure with one quick spring, brave, handsome rider and richly decked steed had sunk out of sight into the abyss which closed forever. But these are only instances of physical courage. It requires even a quality of greater bravery to be a moral hero. There is one Englishman whom Americans love better than all others of his race and time. I mean Pitt—the man who had the courage to stand in the British Parliament and defy the wicked government's project for the annihilation of liberty in this land. Such an opposition as that of which he made himself the champion might mean disgrace, the ruin of all his ambitious projects; but he dared to say to the King and the ministry: "If I were an American, as I am an Englishman, while a foreign foe remained in my country, I would never lay down my arms, never, never." Remember our own patriots of last century, who declared the divine idea that all men were free and equal. They walked in a pitiless storm of hostile opinion. Even later, almost in our day the men who led the movement for the abolition of slavery were execrated by the public clamor as wretches unfit to live, as "nigger stealers," worse than murderers. These men all went on their way, knowing that the day of justice would dawn when their heroism would be recognized at its full value.

It is not so difficult an act to perform a deed of physical valor, with the sound of life and drum, the spirit, the enthu-

siasm, the wondrous physical power which is imparted to a man in the clangor and glory of assembled multitude of warriors or admiring, applauding friends. But it is more, for a man to sit down in the presence of his soul and say: "For the sake of my own truth and manhood, I will perform this act of justice, and I dare to face the opposition of the world." Gentlemen, if you are animated by this exalted feeling, this court room will not only be the Temple of Justice to my client, but it will be to him his city of refuge, within the gates of which the hating multitude may not pass.

I have a few words more to say, gentlemen, before I close. My client was convicted last week upon a similar charge, only the alleged offense was placed a year later. You see his age—more than seventy years—his hair is white with December frost. I ask you to consider well what you are doing before you render a verdict which would impose upon him an additional penalty. Imprisonment means more in his case than in most others. It means more than the deprivation of the necessary comforts and attentions with which his age and circumstances have made him familiar. It means more than the change from the society of loving friends, to be the involuntary companion of thieves and murderers. Yes, gentlemen, for to my client, it may mean—death! Death within the prison walls! And yet, do not understand me that I am here as a suppliant for mercy to my client. God forbid that I should ever be placed in any earthly court where I shall have to ask for mercy on his behalf or that of any other man. I ask simply for Lorenzo Snow to-day, justice, brave justice. I ask for nothing more; I expect nothing less. I hope and trust that you may be able to rise to the dignity of this hour, that you may be able to see and grasp your opportunity to become moral heroes, that you will step forward and stop this onward devastating rush of injustice and wholesale condemnation, which is sweeping through this Territory, and which your outstretched hands can stay.

But gentlemen, if you fail to view the grandeur of your position, if you fail to act as becomes moral heroes, mark my word: the future will bring its retribution of regret to your hearts. No act of oppression can go forever unwhipped of conscience and destiny. This is true of individuals and nations. Read the blazing lesson of history, and it says that from the hour when Persia's myriad army was tossed like chaff from the shore of the land which it had hoped to desolate, down through the many ages until the hour when the Corsican corporal swept like the archangel of war in an avenging triumph over the tyrannical nobility of Europe; yes, search your story until this present hour; you will find that destiny has been lying in wait to bring retribution to every family and every land which has transgressed the laws of justice and humanity.

Gentlemen, this world has had her chapters written in blood and tears. She needs no more. Your verdict, now to be rendered, will become a part of an important historical epoch. I entreat you, by the regard which you have for your own fair fame; by your love for your children, who will judge you in the light of the future, by your admiration and hope for your country and her reputation, that you will not be swayed by prejudice, but that you will be guided by facts honestly stated. I ask you in the name of all that is sacred and dear to the human heart, to render a verdict which will not pale your faces, nor bring to the cheeks of your posterity the blush of shame; and that you will render such a verdict as the history of your country may truthfully say was not animated by cowardice or vindictive hate; and that verdict will be "not guilty."

GOVERNOR'S MESSAGE.

READ IN JOINT SESSION OF THE LEGISLATURE THIS AFTERNOON BY HIS EXCELLENCY GOVERNOR ELI H. MURRAY.

TERRITORY OF UTAH, EXECUTIVE OFFICE, ALT. LAKE CITY, Jan. 11, 1886.

Gentlemen of the Council and House of Representatives:

Indulging in the hope that your families may be blessed with health during your absence from them, in performing your duties as representatives, I trust the result of our labors may be conducive to the well-being of the people of the Territory of Utah, and to the honor of our common country; and that our intercourse both personal and official may be mutually pleasant.

Confronted at the beginning of the session with subjects of grave importance, even to the extent of involving our relations with the General Government, I congratulate you upon the fact that it is in your power to determine upon measures that will establish the greatest good to the greatest number, under the wise and beneficent guidance of the Constitution of our country, by virtue of whose laws we are assembled, and without which it would be unlawful for us to assemble as the law-making power of the Territory.

STATUS UNDER THE LAWS.

Utah holds the relation to the General Government that a minor holds to