

"Polygamy was more largely permitted in Judea than in all Eastern Asia; not only was a man permitted to have many lawful wives, but also concubines."

"Constantine discouraged and tried to destroy the system of concubinage."

The system of concubinage in the Roman Catholic Church in olden times may be understood in part from the following extract from D'Aubigne's *History of the Reformation*, vol. ii, page 291, speaking of Zurich and neighboring districts in the early part of the sixteenth century:

"A married schoolmaster, wishing to become a priest, obtained his wife's consent, and they separated. The new curate was unable to keep his vow of celibacy, but not to outrage his wife's feelings, he left the place where she lived, and, having taken up his residence in the diocese of Constance, formed a licentious connection. His wife hastened to the place. The poor priest took compassion on her, and dismissing the person who had usurped her rights, took back his lawful spouse. The procurator-fiscal forthwith drew up a charge against him: The vicar-general began to move; the council of the consistory deliberated. * * * and the curate was ordered to abandon his wife or his benefice. The poor wife left the house weeping bitterly, and her rival returned in triumph. The church declared itself satisfied, and thenceforth let the adulterous priest alone."

About that time the men of Einsieden (a gathering of prominent Swiss reformers) adopted two petitions, one to their ecclesiastical superiors and the other to the Swiss Confederation, Zwingli, or Zwingli, prepared the petitions. In that to the church authorities, quoting from the same work, page 295, the men of Einsieden say:

"You are not ignorant that hitherto chastity has been deplorably violated by the priests. When on the consecration of the servants of the Lord, he who speaks for all is asked, 'Are those whom you present righteous?' he answers, 'They are righteous.' 'Are they learned?' 'They are learned.' But when he is asked, 'Are they chaste?' he answers, 'As far as human weakness permits.' Everything in the New Testament condemns licentiousness; everything in it sanctions marriage."

Concubinage exists in our day also in the Roman Catholic Church, and is evidently winked at. Dr. H. W. Baxley, in his *What I Saw in South America* (1865), says:

"The unblushing boldness with which clerical debauchery stalks abroad in Lima renders it needless to put in any saving clause of declaration. The priest may be seen on the Sabbath day, as on others, in bull-ring and cockpit, restaurant and tavern, with commoner and concubine, joining in noisy revel, or looking on with complacent sanction. Nor does the going down of the sun arrest his wayward peregrinations; for he may be seen at that hour, at corners, with *tapa-das*, in gay and lascivious conversation, or threading byways in fulfillment of a lustful assignation."

The same author states that the Bishop of Arequipas has "separate apartments in Lima for his seven concubines and his thirty-five illegitimate children." Dr. Baxley continues:

"In the street called San Francisco, opposite the monastery of that name, a kind of barracks is found, containing quite a population apart from the rest. There lives a class of women and children whom one would think came in a direct line from the gypsies, if their complexion did not show a variety of a thousand shades, from white to black. These women are the acknowledged mistresses, and the children the progeny, of the monks, who visit them at all times, and pay them a regular stipend. 'La casa de la moja,'—the house of the nuns,—as the people ironically call it, is a real Gomorrah. The clerical protectors of the tenants that inhabit it willingly mistake the chambers, not having the weakness of the lady of being jealous of each other. Do not suppose that we are amusing ourselves in speaking ill of the monks of Lima. These abominations among themselves they are the first to expose; for in their stated elections for superiors, such is the bitterness of rival aspirants, that they publicly charge against each other these infamous transactions, making known

the number of their concubines and illegitimate children."

Thus, in Christendom for many centuries, a concubine has not been regarded as a wife in any sense, but has been considered equivalent to what is understood as a "kept mistress" now. Paul said, "It is better to marry than to burn." But the Roman Catholics in various ages have virtually said to their clergy, "It is better to have a kept mistress than to burn, but marry you shall not." Many rigidly self-righteous opponents of polygamy admire that doctrine, especially the first half of it, and put it into practice freely in these days, but only marriage to a limited extent.

Mr. F. H. Norton says: "Polygamy seems not to have been entirely eradicated among the Christians of the sixth century, as we find it then enacted in the canons of one of their councils, that if any one is married to many wives, he shall do penance. Even the clergy themselves in this period practiced bigamy, as we find it ordained at another council held at Narbonne, that such clergymen as were oligamists should only be presbyters and deacons; and should not be allowed to marry and consecrate. * *

"In the eighth century Charlemagne had two wives. Sigebert and Chilperic had also a plurality, according to Gregory of Tours. * *

"The celebrated John of Leyden (a leader of the Anabaptists in Munster, Germany, in 1533) announced his right to marry as many wives as he chose, following the custom of the kings of Israel, and put it into practice so far as to marry seventeen. * *

"Polygamy, indeed, seems to have obtained among the ancient inhabitants of the whole of Central and South America, and, as a result, little adultery or violence was committed. The aborigines of North America, though generally content with one wife, sometimes took two or three. In conclusion, it is stated on good authority that, from the creation of the world, polygamy has been the rule with four-fifths of the human race."

Dr. Pierce says—

"Polygamy has existed in all ages. * * * Tradition points to polygamy as the generally recognized form of marriage among the ancients. The father of the Hebrew nation was unquestionably a polygamist, and the general history of patriarchal life shows that a plurality of wives and concubinage were national customs. * *

According to the distinguished Rabbi, Maimonides, polygamy was a Jewish custom [in Europe] as late as the thirteenth century. * *

The Mosaic law allowed polygamy; the Bible records it." Celsus, a heathen philosopher, declares that the Apostles and other early Christians practiced polygamy.

Dr. Foote says:

"Polygamy is an institution which has remained unchanged throughout the whole east, through all changes of time, races, religion, and climate. Those even who have given to Asia the purest laws—Zoroaster and Moses even—were obliged to make their rigid doctrines conform with this custom. * * * But that which proves that it exists in all climates and all zones, is, that it is found among the Indians of the two Americas, the Tartars of the two Russias, and Kamchatska, as well as in the heat of the tropics."

Sir D. Wedderburn, in his essay on "Mormonism from a Mormon Point of View," says—

"Without going into their arguments, it may be at once conceded that polygamy was sanctioned by the ancient Hebrew law."

Bossuet, in *Histoire des Variations*, says—

"The gospel neither revoked nor defended that which was permitted in the law of Moses with regard to marriage: Jesus Christ did not change the external policy, he only added justice and eternal life for recompense."

Dr. Channing says—

"We believe it to be an indisputable fact that although Christianity was first preached in Asia, which had been from the earliest ages the seat of polygamy, the apostles never denounced it as a crime, and never required their converts to put away all their wives but one."

The London *Globe* (1869), in an article on "Marriage Among the Jews," says—

"Plurality of wives is not supposed to be barred by any divine command, and nothing is to be discovered in the law, so the sages

affirm, which need hinder a man from taking as many as he can support, though they are inclined to limit the number to four. Beyond this figure it is not desirable to advance."

W. Hepworth Dixon, in *The Holy Land*, speaking of the marriage at Cana in Galilee, says—

"No new law had been given; a man might still marry a hundred wives; and some men, rich and ostentatious, had married their six or seven."

The same author, in his *Spiritual Wives*, speaking of Paul's recommendation that a bishop be the husband of one wife, says that polygamy was then, as it had been in olden time, a habit with his countrymen, the Jews, and that it prevailed in Jerusalem, Antioch, and Alexandria, the three chief centres of Jewish and Christian life.

The *American Cyclopaedia* says: "The former [polygamy] has existed from time immemorial, especially among the nations of the East. It prevailed before the flood (Gen. iv. 19), was common among the patriarchs, and was tolerated by the laws of Moses (Exod. xxi. 9, 10, and Deut. xxi. 15)."

There are no positive injunctions in the Bible against the practice. In the east the custom has been almost universal, being sanctioned by all religions. * *

Among the Greeks, at least of later times, polygamy was never practiced, although in the Homeric age it seems to have prevailed to some extent. In republican Rome it was not known; but during the existence of the empire the prevalence of divorce gave rise to a state of things almost analogous to it. It prevailed among the barbarous nations of antiquity, with the exception of the Germans, who, Tacitus says, 'almost alone among the barbarians, are content with a single wife.' * *

In modern times polygamy has had some defenders, most of whom have grounded their defence on the absence of an express prohibition in the Scriptures. Bernardus Ochinus, general of the Capuchin order and afterwards a Protestant, published in the 16th century 'Dialogues in favor of Polygamy,' to which Beza replied. A still stronger view was taken in a work called *Polygamia Triumphatrix*, published at London by John Lyser, a Lutheran divine (1692)."

The *Encyclopaedia Britannica*, article on Germany, speaking of the ancient Germans, says:

"Polygamy was not in use excepting amongst the princes; and amongst them only for the sake of multiplying their alliances."

It has also been in use in later times among the princes; in the form of morganatic marriages, which have sometimes been plural.

Zell's *Cyclopaedia* says.

"In some countries, Turkey for instance, polygamy is allowed. * * Polygamy prevailed among the Jewish patriarchs, both before and under the Mosaic law. * * Polygamy has been allowed under all the religions which have prevailed in Asia. By the laws of Mohammed, every Mussulman is permitted to have a plurality of wives. * * The ancient Romans never practiced it, though it was not forbidden among them; and Mark Antony is mentioned as the first who used the privilege of having two wives. From that time it became frequent in the Roman Empire, till the reigns of Theodosius, Honorius, and Arcadius, who prohibited it, A. D. 393."

JACOB.

GRAND JURY REPORT.

SALT LAKE CITY,
November 26, 1879.

To Hon. John A. Hunter, Chief Justice, presiding in Third Judicial District Court, Utah Territory.

The undersigned members of the Grand Jury for the September term of this Court, in concluding their labors, respectfully submit herewith the reports of special committees, duly appointed from among their number, to inspect the prisons and insane asylums in said district, together with this general report, as adopted in committee of the whole.

Commencing with the impaneling of the Grand Jury on the 1st day of last October, we have, during our sessions, ending this 26th day of November, 1879, had presented to us the names of nearly

100 persons charged with violations of the laws of the United States and the laws of the Territory of Utah. Of this number about 50 have been indicted.

In this connection the undersigned members of the Grand Jury wish to say that in cases presented to them of persons charged with crime under the law of Congress of 1862, against polygamy, they have found great difficulty in obtaining consistent truthful testimony from some witnesses, who, from their own admissions and from the circumstances in which they were placed, it would seem, could, if they would, have easily satisfied us as to the guilt or innocence of the parties charged with said offenses. With some exceptions, in the cases alluded to, the witnesses were either unwilling or unreliable. Especially was this true of some of the younger persons appearing before us, and the undersigned members of the grand jury desire, in view of the painful exhibition of disregard for the sanctity of judicial oaths, in connection with this class of offenses, to place upon record the expression of their opinion.

It is the constitutional right of every citizen to have a speedy trial in the courts in all issues involving his life, liberty and property. As means to this end, our laws should provide ample opportunity for the empanelling of juries and for the fair and honest compensation of both jurors and witnesses. We respectfully submit that here, in Utah, the courts are crippled and the people suffer by reason of defective laws in these respects.

On the opening of the present term of this court there were on the trial calendar 243 civil cases, of which 82 cases have been disposed of, together with 18 criminal cases. Of the remaining 161 civil cases, over 130 are for trial jury, but the limited number of jurymen allowed to be drawn is already exhausted to such an extent that the court cannot proceed with trials. As a result of this delay, interests of great magnitude are jeopardized. Under our inflexible, unelastic laws, no talesmen can be summoned to supply the deficiency of jurymen. Only a limited number can be selected from two well-defined, and in some respects hostile classes. When this insufficient number is exhausted, judicial proceedings in jury cases are at an end. This grand jury respectfully submit that immediate action on the part of Congress is needed to protect and secure the rights of citizens in Utah to a trial by jury, either by enlarging the number of persons drawn under the law as jurymen, or by authorizing the court to summon talesmen to put on juries.

With regard to the compensation of jurors and witnesses for travel and attendance upon the Court we are warranted in the assertion that the present system, in its practical working, is simply a legalized robbery. True, the territorial statutes provide that a definite sum shall be paid for mileage and per diem to jurors and witnesses; but our legislators have carefully discriminated against this unfortunate class of public servants, providing that said mileage and per diem shall not be audited and paid until an appropriation is made expressly for that purpose. But the appropriation, when made yearly two years ago, was so ridiculously small that substantial justice was not attained and jurors and witnesses suffer in consequence. This grand jury, for themselves and in behalf of injured jurors and witnesses, protest against this injustice, and respectfully ask redress of this grievance at the hands of our legislative assembly.

It appears that the papers and records of the Third District Court, at Salt Lake City, are now exposed to loss by fire, theft and mutilation. This jury would respectfully recommend that provision be made by the Legislative Assembly of Utah for properly recording said papers and documents, and for the protection and safe custody of said records.

In conclusion, the members of the Grand Jury would beg to express their thanks to the honorable Chief Justice, presiding, for the kind and courteous manner with which he has provided for their comfort and convenience, and in every way assisting them in the discharge of their labors. We wish, also, to convey to the District Attorney and Assistant District Attorney our hearty appreciation of their services in rendering us need-

ful information and assistance in the prosecution of our labors.

All of which is respectfully submitted.

GEO. H. SANFORD,
L. B. MATTISON,
SAMUEL J. NATHAN,
A. MAJORS,
L. GOLDBERG,
JAS. M. BARLOW,
JAS. TURNER,

JAS. F. BRADLEY,
Foreman Grand Jury.
CHAS. M. GILBERSON,
Clerk Grand Jury.

INSANE ASYLUM.

Grand Jury Room,
Third Judicial District of the Territory of Utah.

To the Foreman and the Grand Jury of said District:

The undersigned members of the Grand Jury of the Third District Court of Utah Territory, having been appointed by the Grand Jury a committee to inquire into and report upon the condition of the insane asylum of this Territory, beg leave to submit the following report:

Your committee visited the asylum on the 11th day of October, 1879, and found it to contain 24 inmates, of which 14 are males and 10 females as follows:

MALES.—Henry Bone, Thomas Stevens, Laforte Meyers, Hugh Lyons, Dr. Kimball, Andrew Anderson, Thomas Oney, Samuel Vincent, Jos. Sherman, Victor Marose, Miller, Andrew Stevens, Thomas Elliott, Ambrose Leonard.

FEMALES.—Margaret Mantle, Mary Hooker, Rachel Southwell, Emily Alexander, Willis, Mary Forbush, Sarah Meyers, Allee Nuttal, Ida Rouse, Diana Abbot.

Your committee found the general management of the asylum to be very poor, as is also the means for caring for the inmates, the building being poorly adapted for the use of an asylum; and it is sadly out of repair in many places, making it cold and uncomfortable. Your committee found the following named inmates kept in cells or stables, that were unfit for a beast, and the stench and filth must soon end the days of the inmates, unless a change is made: Hugh Lyons, Victor Marose, Miller and Andrew Stevens. These men have the poorest accommodation and, while they may be somewhat violent, could be cared for in a more humane manner.

Your committee would recommend that repairs be made upon the building at once, so as to insure the comfort of the inmates against cold and inclement weather, and particularly in the part in which are confined the above named persons. And now your committee would invoke the aid of the authorities in securing for these poor, miserable people such comfort as the laws of humanity and decency require at the hands of a Christian people. All of which is respectfully submitted.

GEO. H. SANFORD,
J. P. LAWSON,
JAS. M. BARLOW,

Committee.
Territory of Utah, County of Salt Lake, October 25th, 1879.

On motion the foregoing report was adopted, by a unanimous vote, and the committee discharged.

A committee was also appointed to examine into and report upon the prisons in the district. The report speaks in very praiseworthy terms of the management of the penitentiary, but says there is not enough sleeping accommodation for those now confined there. The food given the inmates is said to be good and wholesome, and those of the prisoners who were spoken to by the committee expressed satisfaction at the treatment they received. The report also states that advices had been received from the sheriffs in the different counties in this district, which state that they had no prisoners in their jails.

LAND CLAIMS!

PARTIES about to make final proof, who have any kind of land business to attend to, will do well to call at the office of Chas. W. McYner, south of Z. C. M. Salt Lake City, U. T., before going to Land Office or elsewhere. He will give information how to proceed, free of cost.