

paid for coming together. The morning services were devoted to general instructions. At 2 p. m. a conference of the Primary association was held, and in the evening a Relief Society conference was held.

At 10 a. m. of the second day conference reconvened. On the stand were Elders Brigham Young and Seymour B. Young from Salt Lake City, they having arrived the evening previous. Elder Brigham Young opened with a splendid discourse, after which the Bishops and representatives from the various wards reported their wards as being in a good condition generally. The speakers during conference were Elders Brigham Young, Seymour B. Young, William Halls, Platte D. Lyman, Jere Hatch and H. M. Taylor. The principal subjects treated upon were the law of tithing, Word of Wisdom, the proper training of the young, observance of the Sabbath and fast days, and our relationship to the Lamanites. The instructions given were timely and impressive, and were listened to with marked attention by the Saints and visiting friends. The general and Stake authorities were sustained by the unanimous vote of the Saints. The crowning feature of our conference was a Priesthood meeting held on Sunday evening, the 25th. Elder P. D. Lyman opened with a splendid discourse on the duties and callings of the lesser Priesthood. Elder B. Young spoke with much force upon the important calling of the Teacher, after which Elder Seymour B. Young delivered a hygienic lecture—all of which was both interesting and instructive. Great credit is due Brother Nephi Bailey and his excellent corps of sweet singers for their singing during what was spoken of as being a most excellent conference throughout.

H. M. TAYLOR, Clerk pro tem.

THE PROCLAMATIONS INTERPRETED.

Associate Justice Baruch Thursday handed down his decision, in full, in the case of the United States vs. W. P. Willis, tried before his honor at the recent term of court at Beaver. The ruling is an important one as concerning the two amnesty proclamations and the question is now passed upon by the district court for the first time. The opinion runs as follows:

In this case the defendant is under indictment for the crime of unlawful cohabitation.

According to the allegations in the indictment, the offense was committed after the first day of November, 1890, and prior to the issuing of the proclamation for amnesty and pardon by the President of the United States on September 25th, 1894.

The defendant files his plea in bar of the action, and claims that he ought not to be prosecuted because the offense, if any was committed, was pardoned by virtue of the said proclamation.

It is contended by counsel for defendant, that while this case is not affected by the proclamation issued by President Harrison on January 4, 1893, it is affected by that of President Cleveland, and that the latter proclamation is more far reaching than the former.

Counsel for the people maintains that the two proclamations are sub-

stantially the same in effect and operation, and this leads to a consideration and comparison of the two proclamations, for if the offense is not affected by the former proclamation, and the latter is the same in effect and operation as the former, then the plea in this case cannot avail the defendant.

It appears from the proclamation of President Harrison that express reference is made to the act of Congress approved March 22, 1892, and to statutes in furtherance and amendment thereto, and by way of inducement reference is made to the manifesto of the Church of Jesus Christ of Latter-day Saints, the Mormon Church, issued on the 6th day of October, 1890; to representations made that the members of the said Church were obeying the laws of the United States in reference to plural marriages and unlawful cohabitation; to a petition of the officials of the Church pledging the membership thereof to the faithful obedience of the laws in question, and asking that amnesty be granted for past offenses against said laws, which request was strongly urged by a large number of non-Mormons; to the recommendation of the Utah Commission that amnesty be proclaimed under proper conditions as to the future observance of the law; and to the fact that during the past two years amnesty had been granted to a large number of the same class of persons conditioned upon the faithful observance of the said laws of the United States.

It is evident from an examination of the two proclamations that the several facts above mentioned constituted the moving consideration or inducement for the granting of the amnesty. After reciting and referring to these several matters and conditions, the President grants amnesty and pardon as follows:

"I, Benjamin Harrison, President of the United States, by virtue of the power in me vested, do hereby declare and grant 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 marriages, who have since November 1st, 1890, abstained from such unlawful cohabitation, but upon the express condition that they shall faithfully obey the laws of the United States, herein before named, and not otherwise. Those who shall fail to avail themselves of the clemency hereby offered will be vigorously prosecuted."

It seems clear that the President intended to and did grant full amnesty and pardon to all persons who had been or were members of the said Church, and who by reason of unlawful cohabitation, under the color of polygamous or plural marriages, were liable to the penalties of said act, provided they had obeyed the law since November 1, 1890, and upon the express condition that they would obey the law in the future.

The President does not in express terms refer to the various crimes which are the result of polygamous or plural marriage, but in a general way refers to the "penalties" provided by law for such crimes.

In criminal law the term "penalty" denotes a punishment for the non-performance of an act commanded, or for the performance of an act forbidden

by law. Webster defines the term as: "Penal retribution; punishment for crime or offense; the suffering in person or property which is annexed by law or judicial decision to the commission of a crime."

Bouvier defines it as "the punishment inflicted by law for its violation."

In statutes this term is frequently used in its broad sense, and when so used, it may, without much strain of its ordinary meaning, be held to embrace all the consequences visited upon those who violate the laws.

Grover vs. Huckins, 26 Mich. 476.

Constructing the proclamation as a whole, I am of the opinion that the term "penalties" was therein used in the sense above indicated; that the language employed in said proclamation is broad enough to include all the crimes which grew out of the relations therein referred to; that such was the intention of the President when he promulgated the proclamation; and that it operates not only upon the crimes of unlawful cohabitation, bigamy and polygamy, but also upon adultery, when committed by reason of such relations, and all such civil disabilities which were imposed by the law upon the class of persons therein embraced.

The pardon and amnesty granted is limited to those persons, of the class mentioned, "who since November 1, 1890, have abstained from such unlawful cohabitation, and is coupled with the further condition that they shall obey the laws of the United States referred to in the proclamation. Subject to this condition, there is granted full amnesty and pardon, the effect and operation of which are to release the penalty and blot out the guilt, so that the offender is as innocent in the eye of the law as he was before the offense was committed. It restores his civil rights and removes his disabilities and penalties.

Ex Parte Garland, 4 Wall. 333.

1 Am. and Eng. Ency. of Law, 556.

This proclamation grants full amnesty and pardon in several terms, and the rights, immunities, and privileges which it restores to the persons embraced in it are such as are enjoyed by all citizens of the Territory. It, however, does not affect property rights. The proclamation is a public act of which all courts of the Territory are bound to take notice. It supersedes the statute law therein referred to in so far as the penalties and disabilities created by the statute affect those persons who are embraced in the proclamation, and who have complied with the conditions therein mentioned.

Armstrong vs. United States, 13 Wall. 154.

Knote vs. United States, 95 U. S. 149.

Upon consideration it seems clear that the proclamation of President Harrison granted full pardon to all persons embraced in it, for all offenses committed in violation of the laws referred to, prior to November 1st, 1890, provided that such persons since that date have obeyed such laws.

The case at bar, although the person is one embraced in the class mentioned, is not affected, because the offense is alleged to have been committed since that date. But it is insisted by counsel