

THE EDMUNDS BILL.

HUNTINGTON,
Emery County, Utah,
April 8th, 1882.

Deseret News:

hope you will excuse the liberty
ke of addressing you on the sub-
so prominent before the public
present, namely, the Edmunds
In relation to the constitu-
tality of sections 8 and 9 of said
I will quote from Broom and
ley's Commentaries on the
ys of England (with American
as by Wm. Wait), vol. 1, pages 27,
29. I will also state that I have
n assured by prominent lawyers
the above Commentaries are a
ard authority in the United
es.

peaking of the publicity that
a should have before the people
bound by them, it says, page 27:
Yet, whatever method is made
of, it is incumbent on the pro-
gators of a law to notify it in
most public and perspicuous
ner. Not like Caligula, who
ording to Dio Cassius) wrote his
ery small characters and hung
m upon high pillars, the more
ctually to ensnare the people.
is a still more unreasonable
hod than this, which is called
king of laws *ex post facto*, when,
or an action, indifferent in itself,
committed, the legislature then
the first time declares it to have
n a crime and inflicts a punish-
nt upon the person who has com-
ted it."

page 28 says:
Here it is impossible that the
ty could foresee that an action,
ocent when it was done, should
afterwards converted to guilt by
ubsequent law. He had therefore
cause to abstain from it, and all
ishment for not (p. 29) abstaining
st of consequence be cruel and
just. Laws should therefore, in
n-ral, be made to commence in
turo, and be notified before their
mmencement which is implied in
a term 'prescribed.'"

Now it may be claimed by the en-
ies of the Latter-day Saints, that
ey did know they were commit-
g crime by marrying more than
a wife since 1862. I will have to
swer that by saying that for six-
en years after that law was passed,
a "Mormons" as well as a large
rtion of the people of the United
ates believed that law to be un-
stitutional, and did not think it
nding upon them until passed up-
y the Supreme Court of the
nited States, and as far as the
Mormons" themselves are con-
rned, they are willing to stand by
nd obey any just law passed by
ngress, but are not willing to give
their religion for any *ex post facto*
unconstitutional law that man
ay make, but are willing to stand
y the Constitution, and obey its
ndates, knowing as they do that
he order of celestial marriage is as
nding upon them as any part of
eir religion; also knowing that that
nciple was revealed to Joseph
mith, giving to him a com-
mand that it should be obeyed, just
much as they know that any
her principle of the gospel was re-
ealed to him, or that the gospel we
believe in to-day is the same gospel
ught by Jesus, or the Apostles, or
e prophets of ancient days, not-
withstanding the "Christian" min-
ters of the day contradict them-
selves in regard to the Deity, by
ying he is unchangeable, that the
riptures are full, and that all reve-
tion is done away with. Now those
ery scriptures say the Lord is the
od of Abraham, Isaac and Jacob,
he same yesterday (anciently), to-
ay (the present), and forever
through all time to come). Now if
e Lord revealed himself to his
ildren anciently, why not to-day,
hy not at any time in the future.

But the Edmunds bill not only
ndemns all that married more
an one wife since 1862, but con-
emns and punishes all who did so
vious to that time. Section 5 says:
iat in any prosecution for bigamy,
oligamy or unlawful cohabitation,
nder any statute of the United
ates, it shall be sufficient cause of
challenge to any person drawn or
ammoned as a jurymen or tales-
man, first, that he is, or has been,
ving in the practice of bigamy,
oligamy, etc., etc.; second, that he
elieves it right (not for himself, but
or any one else) for a man to have
more than one living and undi-
orced wife at the same time. Sec-
tion 8 also disfranchises all married
o more than one wife, whether
married before or after 1862. Section
speaks for itself.

I will again quote from the above
commentaries. (American notes)

page 27: "The Constitution of the
United States forbids Congress from
passing *ex post facto* laws (Const.
Art. 1, Sec. 9); and it also prohibits
every State from passing such laws.
(Const. Art. 1, Sec. 10)"

A law that punishes a citizen for
an innocent action, or, in other
words, for an act which when
done, was in violation of
no existing law, a law that destroys
or impairs the lawful, private con-
tract of citizens, a law that makes a
man a judge in his own case, or a
law that takes property from A and
gives it to B; * * the legislature
may enjoin, permit, forbid and pun-
ish; they may declare new crimes,
and establish rules of conduct for all
its citizens in future cases; they may
commend what is right, and prohib-
it what is wrong, but they cannot
change innocence into guilt; or pun-
ish innocence as a crime, or violate
the right of an antecedent, lawful,
private contract, or the right of pri-
vate property." *Calder v. Bull*, Z.
Dallas, 338.

An *ex post facto* law is thus de-
fined: 1st. "Every law that makes
an action done before the passing of
the law and which was innocent
when done, criminal, and punishes
such action. 2d. Every law that
aggravates a crime or makes it great-
er than it was when committed.
(page 28.) 3d. Every law that
changes the punishment, and in-
flicts a greater punishment than the
law annexed to the crime when
committed. 4th. Every law that
alters the legal rules of evidence and
receives less or different testimony
than the law required at the time of
the commission of the offence, in
order to convict the offender."—*Ib.*
390.

"No State under the form or pre-
tense of creating a qualification, or
attaching a condition, to the exer-
cise of any office, right or duty, can,
in effect, inflict a punishment for a
past act which was not punishable
at the time it was committed, Cum-
mings v. State of Missouri, 4; Wall,
(U. S.) 277. To deprive or suspend
any person from the exercise of any
civil right for past conduct, is pun-
ishment for such conduct."—*Ib.*

"A clause in a State constitution
which requires priests or clergymen,
as a condition to their right to teach
and preach, to take and subscribe an
oath that they have not done cer-
tain specified acts which, at the
time they were committed, were in-
nocent in themselves, constitutes a
bill of attainder within the meaning
of the Constitution of the United
States, and it is therefore void."—
Ib.

In New York the rule is, that a
law changing the punishment for
offences committed before its pas-
sage, is *ex post facto* and void, un-
der the Constitution, unless the change
consists in the remission of some
separable part of the punishment
before prescribed, * * *

Hasting vs. People, 22 N. Y., (8
Smith) 105; Shepherd vs. People, 25
N. Y., (11 Smith) and several other
authorities. Talking of changes it
says:

"But no change can be made
which deprives the accused person
of any substantial protection, which
was established for the purpose of
securing a fair trial." *Hart vs.*
State, 40, Ala. 21.

I could go on and refer you to
enough precedents of the above kind
to fill a volume, but I am afraid I
have now overstepped the space you
can allow me, provided you think
this is worth publishing. But the
above is enough to show that Con-
gress has already overstepped and
trampled under foot the constitu-
tional rights of the people, but per-
haps they think as the ancients did,
that Might makes Right. If they
do think so, let them try it, and
there may be more for them to do
than handling the "Mormons."

Yours respectfully, W. H.

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