## DESERET EVENING NEWS: SATURDAY, FEBRUARY 11, 1905.

preted, had been met by the High Coun

Mr. Tayler-Was not his claim the

Mr. Tayler-And that when this His

Senator Smoot-I will say that

But a

ugh f

Tayler-Just let me finish the

the rule invaded the province of

Senator Smoot-His claim-

what

cil, or, in other words, his conclusion as to

Senator Smoot-Yes

ouncil, not one of y

Church, not one of w pated in the framing

ne of whom was no

interpreted it, under Church, that was blue

claim was that that everybody in the Chu

nvading the citizensh

made, deciding that the higher officers of

als contention, and the field with it. I think the

here so shows, while he was tes before this committee, although not looked it up. It just came

Mr. Tayler-Now, as a matter of fa

he was, while a caudidate for the Unit ed States senate, threatened by th high officials of the Church, and by th Church organ, with Church influence to defeat him?

Senator Smoot-I do not know as

Senator Smoot 1 do not know as to high officials in the Church, but I know the Deseret News, in some of their articles, as I remember them, state that Moses Thatcher's fight was ant. Church and that he based it upon the

Mr. Tayler-And that the Church

would interfere to defeat him? Senator Smoot-I do not rement

Mr. Tayler-Do you remember who

the letter that Councilor Woolley wrote which was printed by the Deseret New

and introduced here in evidence i yourself, said about that?

Woolley, from St. George, writing

in the pamphlet which contains "

Mr. Tayler-In which he said:

"While there may be a difference pinion as to the wisdom of the con-

being pursued by the Deseret News threatening the supporters of Thatch for the senate with Church power, s

open fight

that b

I would rather have an open fight any time than to be stating one po for the outside to hear and pursu

another in secret, so that 1 am wills to stand by the Church in an open fig

for any principle of right, and at as matter what cost." Mr. Worthington-From what pagedo

you read? Mr. Tayler-Page 273. Do you un-

derstand that that stated the fact? Senator Smoot. That stated it as Mr.

Mr. Tayler-Is not that the fact? Did he state the fact?

Senator Smoot-I could not say, Mr

Tayler. Mr. Tayler-Now, respecting this mat.

ter of difficulty which Moses Thatch had for which he was tried, do y

not know that this High Council whi tried him found that Moses Thatch

had "exhibited an apostate spirit was unchristianlike in his conduct

several respects, and I want to rel briefly to two or three of them, Mr. Worthington-What page?

"the authorities of the Church with bad faith in declaring, first, that they would not interfere in politics, and neu,

that they intended to and would so a

Is not that what they churged him with?

Senator Smoot-If that mays to, 1

should judge so. Mr. Tayler-You have undertaken to tell us what was the trouble. Was so that the trouble?

Senator Smoot-No: I have not un

dertaken to tell it. Mr. Tayler-I thought you did here

the other day. Do you not know what the trouble was?

Senator Smoot-I know there wi trouble between Moses Thatcher al some of the quorum of the Twelve number of years before this. Mr. Tayler-Now I want to call s

ention to the actual thing for whi he was tried. You have undertaken

he was tried. You have duratash of course leave the impression honestly, of course --I am not criticising that-that the trouble for which Moses Thather was tried was old, and that it had but slight and trivial relation to this polit-cal manifesto that the Church has is-sued and to his candidacy for the United States senate.

United States senate. Senator Smoot—I did not wish to con-vey that impression at all. I only made the statement I did in relation to there having heap a fealing—and there had

the statement I did in Featow of the having been a feeling—and there has been difficulties for years before —between Moses Thatcher and some of the quorum of the Twelve, and the

of the quorum of the Twelve, and they were not in harmony in their basiness relations. I understood, and I so stated. I think, that this question of interference, as he claims, was a part of the complaint and a part of the trouble. Mr. Tayler-Was he not charged with "an apostate spirit" and with be-ing "unchristianlike in his conduct" because he said:

"The spirit of the manifesto, as it a

pealed to me, was in violent antagona to all I had believed and publicly pr

not and so far have not been able bring myself to a point where I b lleved I should yield my political jud

ment to any set of men, hours praiseworthy their intentions." Senator Smoot-I think where a says "manifesto," he means the re-

Mr. Tayler-Yes, undoubtedly. We are

Mr. Tayler—Yes, indoubtedly, we at talking about the political manifests not the manifests of 1890. Senator Smoot—And, as I stated, int was his contention—that that applied to all members of the Church, and the is the reason why he felt it was not conductive to more membership.

conducive to good membership. Mr. Tayler (reading): "When he

He continued, and is charged will

manifesto"— He continued, and is charged with necting in an unchristianlike way for saying this: "When the manifesto was presented to me it appeared to my mind as a command on all to recognize the fid-of the Church authorities to contre political concerns; it meant, so far as I was concerned, a recantation of pris-ciples I had for years advocated-receding from the ground I had eee-pied during the division movanen-and above all, it made me feel that I would be untrue to myself." And so on,

And so on. Senator Smoot-That would be its the construction of the manifest ad been as he thought it was whe

e wrote that. Mr. Tayler-And because he said this

"No legislator can keen his oath office inviolate if he or she allows f

officials of an ecclesinglicat ora-zation to control his actions within

Senator Smoot-I rather think he sal

Mr. Tayler-Do you see any critic

properly to be urged against that state

Senator Smoot-I do not. If the

was any church that tried to co the action of any legislator it w

wrone and most repre-

"No legislator can keep

officials of any ecclesiastical as

Mr. Toyler-Why

that he was tried for s

men, howe

claimed for many years, and I

cause he said:

of 1896

manifesto"

him

hat.

they

Mr. Tayler-Page 566.

Woolley understood it.

nator Smoot-I remember so.

atter to his boys. Mr. Tayler-And that was published

Senator Smoot-I remember a M

dld Moses Thatch

mind.

ground.

not?

tand it, and that h

the Church.

the interpretation

ardless of his personal

meant

Mr.

entence

Senator Smoot-He is living.

Senator Smoot-He is living.

think they are.

those men?

day school?

Senator

emember.

Lesso

Lesson XIII.

ot be on that.

eneral superintendents.

Mr.

Mr.

ork

but

Mr. Tayler-Of Francis M. Lyman?

Mr. Tayler-And except yourself all of them are polyganists? Senator Smoot-I did not follow it

with that purpose in view, but I rather

The Chairman-Now, let me under

stand, Senator. Was the instruction given that biographies of these parties should form the text-books of the re-

ligion classes, or that the religion class es abouid be instructed in the lives o

those men? Senator Smoot-I do not think so. Of course, I have never had anything to do with the religion dlass work at all,

do with the religion class work at all, but I take it that that is a part, per-haps, of the lesson-the lives of one of the men spoken of-but I do not think that they would in speaking of them

teach that, or try to teach it to the students or to the classes there. The Chairman-Mr. Tayler, how did

that appear, in what connection? Mr. Tayler-I can get at the fact more quickly in this way. Do you not

Senator Smoot-I do not want any.

thing but the facts. Mr. Tayler-Do you not recall that the pamphlet was sent out by Anthou H. Lund, Rudger Clawson and Joseph

M. Tanner, general superintendency of the Sunday school system or the re-

ligious instruction? Senator Smoot-Oh! Is this the Sun-

religion class work. That is it. Senator Smoot-Then Tanner would

Mr. Tayler-It seems that he signed

Mr. Tayler-He signed this pamphlet

which religion class outlines are iven, with an introduction describing

what is the scope of it, in which, among other things this appears— Mr. Worthington—From what page

o you read? Mr. Tayler-Page 113 of the second

'Abundant material for the bio

graphical sketches of the present and many of the past leaders of the Church may be found in the little work entitled

And after general instruction as to how this work is to be conducted, there

the list of lessons with the subjects

"Third step. How children should be grateful for food and clothing. "Fourth step. Sketch of Elder

"Third step. How children should

be grateful to parents for giving birth to and rearing them.

"Fourth step. Sketch of Elder M. W. Merrill's life."

"Fourth step. Sketch of Elder B. H. Roberts' life, including his

sson XXXIV.
"Third step. Why children should avoid giving way to anger.
"Fourth step. Sketch of Supt. Joseph M. Tanner's life."

And so on. Senator Smoot-I take It that they

c sketches in the course of the les

ons of the day. Those lessons, I under tand, were given one day a week.

ct of polygamy, at this point, do you

know how long ago it was first pro-claimed and testified that polygamy

Mr. Tayler-Is it not nearly 20 years? Senator Smoot-I could not say. Mr. Tayler-Was it not claimed at

Mr. Tayler-was it not claimed at one time that no marriages, and if so, only one or two, which were actually sporadic, had occurred after 1885? Senator Smoot-I think it was later

han that. As I remember that letter

Mr. Tayler-I am not referring to the Woodruff letter, with which I am

Senator Smoot-That is the only one

can remember. Mr. Tayler-Do you not know, as a

matter of history, that that has been

Senator Smoot-Not for 20 years, be-

cause 20 years ago the people were be-ing sent to the pepitentlary every day.

Senator Smoot-For polygamy and inlawful cohabitation.

Mr. Tayler-Do you not know there ere very, very few people prosecuted

Senator-Smoot-Yes; there were very few cases; that is, I do not know how

riginal letters are here now. Do you

typewritten form. Senator Smoot—Then I will give them to Mr. Van Cott.

sould keep them. Senator Smoot-I will take them and

The Chairman-On consultation with

ounsel and members of the committee, everal of whom are compelled to be

absent this afternoon in connection with ceremonies which are to take place in the senate, I find the opinion is

that we had better adjourn until Mon day at 10 o'clock. We have had

Thereupon (at 11 o'clock and 55 min-utes a. m.) the committee adjourned until Monday, Jaa. 23, 1905, at 10

Washington, D. C., Jan. 23, 1905. The committee met at 10 o'clock a. m

Present: Senators Burrows (chair-

also Robert W. Tayler, counsel for the protestants, and A. S. Worthington and Waldemar Van Cott, counsel for

ne respondent. The Chairman-Mr. Tayler, will you

occeed with the witness? Reed Smoot, having been previously

uly sworn, was examined and testified

Mr. Tayler-Senator, I asked you

question or two on Saturday about the trial of Moses Thatcher. He was tried, you told us, before the High Council of

he stake in which he lived, which had urisdiction over him. Senator Smoot-I believe he was liv-

ng in Salt Lake at the time. Mr. Tayler—The chronology of it, just

the Apostles did not present

dropped him from his Apostleship in November, 1896, and after that he was

tried by the High Council, on what

Senator Smoot-For his fellowship or

standing in the Church, I think. Mr. Tayler-He was charged with

apostasy, was he not? Senator Smoot-I have not read over the testimony. I do not know.

Mr. Tayler-Later on, In 1897, some ndings were made. Now, was not that

rial practically exclusively based upor

his difference with the Church on the subject of their interference in politics

Senator Smoot-I would not want to say that it was, because I have not looked over the case. I know that that

was one of the charges, and I believe the other day, in answer to a statement

that you made, that he made an ab-ject apology, I said "Yes." As I re-member it now, he did not make an apology, but he stated that his idea of the rule, or the way he wanted it inter-

to refresh our recollection about

to the conference in 1896, and

man), McComas, Foraker, Dillingham Hopkins, Dubois, Bailey, and Overman

have had a

at 10 o'clock. We 1 strenuous week of it.

. I could not say. Worthington-Mr. Tayler, the

Tayler-No; I have them in this

Van Cott-I would rather you

Mr. Tayler-For what?

or polygamy?

are for them?

turn them.

o'clock a. m.

follows

Mr. Tayler-I am not referring to

was from President Woodruff-

Senator Smoot-No; I do not,

Tayler-Mr. Smoot, on the sub

Why children should

s, for instance, in the primary grade ithout going all over them, I read; Lesson XII.

from th

Prophets and Patriarchs."

pen of Elder Matthias F. Cowley,

"Fourth step. Sketch John W. Taylor's life.

That is Apostle Merrill.

Lesson XXXIII.

writings

Lesson XXXIV.

Mr

that.

familiar.

laimed

lany.

Mr

Mr

Mr

den

as dead?

"Third step. not be vain.

this pamphlet. Senator Smoot-He may be: I do not

Tayler-General superfittendency

Tayler-Tanner is one of the

Smoot-Of religion class

speak of them as polygamists

Mr. Tayler-I now have the let-

"The appeal case of James Poulsen

ters. Here is a letter written Nov. 7 1895, in which they say:

vs Christian A. Christensen, originally beard before the Bishop's court of the Basalt ward, and afterwards by the High Council of the Bannock stake of Zion has rescued our statistic masteries.

Zion, has received our attention. There are many matters that can be right-fully considered by the Church courts

and decisions rendered thereon, bu when matters relating to the boundary

lispute we think it better that such ifferences should be settled by arbi-

tration or, if necessary to secure the rights of either party, by the duly con-stituted courts of the land. The case of

Poulsen vs Christensen appears to hinge on just such a question, for if it should be

decided exactly where the boundary line between the lands of these breth-

Do you understand that that was a denial of the propriety of trying a land case if the boundary was not in dis-

Senator Smoot-I think so. It was a question of title to land.

Mr. Tayler-Do you remember the reference that was made in these let-ters to the case at Paris, Ida.? Senator Smoot-I do not remember the details

Mr. Tayler-Do you not know that the

case went on, and that President Budge or the High Council heard the case? Senator Smoot-No; I understand

that President Budge testified that he did not hear the case. Mr. Tayler-I do not know that he

testified on that particular phase of it

Senator Smoot-That is the only one

remember. Senator Dubois-He testified general-

y, to the best of my recollection, that hey had orders not to try land cases. Senator Smoot-He spoke of the case,

ed, and that the High Council of

and I think there was a specific case

that stake did not try it and would not. Senator Bailey-Mr. Smoot, you are not a lawyer?

Senator Balley-Then, of course, when you say that a question of boundary is a question of title to land, you speak,

Senator Balley-Of course, a question

of boundary does involve title to the and between the disputed boundaries.

Senator Balley-But a lawyer does

not understand a boundary case to be exactly a case involving title to land. Senator Smoot-This is the way I construed it, at least: If the boundary line should be claimed by one party to be 10 feet out of line, and should be moved 10 feet or a rod, or whatever the distance may be, further on the land of the other party. I of course took it that it was a question of land, or right and title to land.

nat it was a question of a course in senator Bailey-It does of course in design of the design of the

olve title to the land between the dis-

puted boundaries, but it is not what we understand to be a case involving title

Senator Smoot-A case of that kind, Senator, our Church would not take up by the courts of the Church and handle.

Senator Balley-I was rather impress-ed by the wisdom of the Church in

avoiding boundary line disputes, be-cause they create more bad feeling than

many other disputes out there as to the

title to water rights. Mr. Tayler—You said something, Sen-ator, about the religion classes in the

Senator Smoot-The public school-

Mr. Tayler-Yes; the public school-houses; and you put in evidence yester-day a recent order issued by the

Senator Smoot-I believe that my at-

eligion classes should be held in the

Senator Smoot-Yes. Mr. Tayler-You know now, do you

asses were being instructed in school.

Senator Smoot-Conducted, do you

Senator Smoot-After school hours?

Mr. Tayler-I do not know that you

Mr. Tayler-Do you remember the estimony of the state superintendent

Senator Smoot-I think he stated here were some 300, as I remember it.

o with the Sunday school system of our Church?

Senator Smoot-Nothing at all, Mr. Tayler-Who is at the head of it? Senator Smoot-President Joseph F.

harge of that branch of your Church

Mr. Tayler-What position does Jo eph M. Tanner hold in relation to it Senator Smoot-He is over the whole

Mr. Tayler-Of course the Presid t the Church is the head of it all.

Mr. Tayler-Joseph M. Tanner is the eneral superintendent?

Senator Smoot-Yes. Mr. Tayler-He is a man who is said

The Chairman-By whom is he chosen r appointed to that position?

Senator Smoot-By the President of

The Chairman-When was his ap-

Senator Smoot-I would not want to

estify. I should say within three or our years; something like that. The Chairman-At the time the ap-

ointment was made, was he known to

Mr. Tayler-You know, Senator, that luring the last school year, 1903-4, nstructions were issued to the various

Senator Smoot-I heard that testified

erning which they should instruct the

Senator Smoot-I remember it being

Mr. Tayler-And you recall that those sachers were directed to instruct the

hildren, among other things, in the ives of all the prominent Mormons? Senator Smoot-I think so.

Senator Smoot-Well, if you would

iggest it. I would say so; yes. Mr. Tayler-For instance, the life of-

Senator Smoot-I have no doubt of it. Mr. Tayler-The life of President oseph F. Smith?

Smoot-He is living.

Mr. Tayler-And of Elder B. H. Rob-

Tanner? Senator Smoot-He is living, Mr. Tayler-And of Elder Reed Smoot, of course, which would be a proper subject. Of Mathlas Cowley? Senator Smoot-He is living, Mr. Tayler-Of Mathler W. Merrill? Senator Smoot-He is living, Mr. Tayler-Of John W. Taylor? Senator Smoot-He is living.

Senator Smoot-He is living. Mr. Tayler-Of Heber J. Grant?

Mr. Tayler-Of George Teasdale? Senator Smoot-He is living.

Senator Smoot-He is hving. Mr. Tayler-of John Henry Smith?

Senator Smoot-He is llving.

Tayler-And of Supt. Joseph M.

as well

resented here to this committee

Mr. Tayler-The living as hose who had passed away?

Senator Smoot-He is living

Tayler-As to the subjects con-

Senator Smoot-I think so.

Senator Smoot-Yes.

a polygamist

Senator Smoot-Yes.

Church.

a polygamist?

) here

hildren?

rts?

'anner?

Senator Smoot-Lars Eggertsen

Tayler-Who is in immediate

Mr. Tayler-Do you have anything

Senator Smoot-I could not say.

Senator Smoot-In schoolhouses?

Mr. Tayler-Well, conducted,

it that several hundred such rolled

Tayler-Saying that hereafter no

Senator Smoot-We have a

Senator Smoot-No; sir.

striat opinion, as a layman. Senator Smoot-Oh, yes.

Senator Smoot-Yes.

o lands.

all others.

Uses

Mr

ouses

mith

ublic schools.

orney submitted It.

Mr. Tayler-Yes.

f public instruction?

hoolhouses.

ren lay there would be no difficulty reaching a conclusion with regard

the other questions involved.

Senator Smoot-I think so.

Mr. Tayler-You do?

details.

it all.

pute?

of lands and kindred subjects are

Senator Smoot-I was. Senator Overman-For what purpose -to preach the Gospei of the Mormon

26

Church? Senator Smoot-Just the same as oth-

er missionaries are sent. Senator Overman-Did you preach in

England? Senator Smoot-I preached some worked most of the time in the Liver-

Senator Overman-Did you preach

polygamy over there? oot-Oh, no.

Senator Beveridge-Are you through Senator'

nator Overman-Yes.

Senator Beveridge-Coming back to the question propounded a moment BEO:

Senator Foraker-Excuse me for a

Senator Beveriage-Certainly. Senator Foraker—Did you ever preach polygamy anywhere, Senator? Senator Smoot=I never did in my

life Senator Beveridge-Still addressing

ment. Senator Beveridge-Certainly,

Senator reversage - Certainly. The Chairman-When you were abroad on any mission, while not preaching the doctrine of polygamy, suppose the doctrine had been assailed.

What would you have done? Senator Smoot-I never had it as-sailed, Mr. Chairman, because most of my preaching was done on a Sabbath day, and I labored in the Liverpool and from the office I went to some parts of England, and just simply spoke for that day, and returned the next morning,

next morning, The Chairman-In your intercourse among the people, if the doctrine was assailed, would you agree with those who assailed it, or would you defend it? Senator Smoot-I would just simply refer them to the Bible, and say if the Duble does not support it, then it can

Bible does not support it, then it can

not be supported. The Chairman-The text-book had with you was the book-The Doc-trine and Covenants?

Senator Smoot-That is hardly a textbook used by the missionaries. They have that here.

The Chairman-You had that with you, I suppose

Senator Smoot-It was there at the office.

The Chairman-That teaches poly. gamy?

Senator Smoot-It teaches that polygamy is permissive

Chairman-Excuse me, Senator Beveridge Senator Reveridge-Certainly, I mere-

ly want to continue a question which by want to concent ago, putting it in its simplest possible form. As between the law of the land and any revelation, which is binding upon the members of your Church?

Senator Smoot-What would I do? Senator Beveridge-No, sir. I did not ask what you would do. I ask you, as an officer of the Church, to answer my an oncer of the Church, to answer my question. As between a revelation and the law of the land, which is binding upon the members of the Church? Senator Smoot-The law of the land

Senator Beveridge-Do I understand

you to say that there is no law, rule, or ordinance of your Church by which a revelation from above, even when confirmed by your people, is superior to the law of the land?

Senator Smoot-I do not think it could be, Senator. Senator Beveridge-My mind was di-

rected to that very point. It is rather important. Senator Smoot-We have a revelation

in the Doctrine and Covenants that it is mandatory upon all members of our Church to honor and obey the law of the land.

Senator Overman-Right there-Senator Beveridge-Pardon me. Sup a revelation is received as pose a revelation is received as you described a moment ago it might be, and suppose, in addition to its having been received in that way, it is confirmed, or whatever term you use, the people, and then that revelation, thus confirmed by the people, is in con-flict with the law of the land; which is

the country and go where the law of the land would permit obedience to the revelation?

Senator Smoot-Yes; if God had given It to me Himself, then I would, because 1 would feel then that I was under di-rect obligation to my Maker to carry out what He revealed directly to me, and if I could not do it in this country go to some other country where

Mr. Tayler-So that you would, of urse, obey the revelation coming from

Senator Smoot-If I knew that God

ad spoken to me I would obey it. Mr. Tayler-Suppose the revelation ommanded of God was that you should certain thing and also stay in the

Senator Smoot-Well, I do not think

te God I worship is such a God. Mr. Tayler-That is your answer to e question?

Foraker-You think that is sardly a fair suppositions case? Senator Smoot-1 do not think it is

obable or possible Senator Overman-If you have a right to disobey the law of God given to the Church, why would you not have a right as a free agent to disobey a reve-

lation given to you as an individual? Senator Smoot-I would have that, Senator. God could not take it away

from me Senator Overman-Then you would not have to leave the country? You could disobey it? Senator Smoot-I would not obey it.

say it is not necessary for me to obey , even though God spoke to me. Senator Overman—You would not be ondemned by God, then, if you disbeyed it?

Senator Smoot-Certainly I would. Senator Overman-Then, If you dis-obeyed a revelation given to the Church and accepted by the Church, you would also be subject to be condemned by Cod? v God?

Senator Smoot-Whatever wrone

there may be in it, I would have to answer for that wrong. Mr. Tayler—You say that the law of the land would prevail, because that is a fundamental doctrine of the Church?

Senator Smoot-I say so. Mr. Tayler-That is the reason? Senator Smoot-I say that that-Mr. Tayler-Is that the reason? Senator Smoot-I think you could in

Mr. Tayler-Was the law command

polygamy a revelation from God? enator Smoot-I understand so.

Mr ayler-It was just as much velation Senator Smoot-Wait. Excuse me. I

o not think there is any revelation ommanding polygamy. Mr. Tayler-I mean the plural mar-

al revelation. Senator Smoot-If you will say the

Senator smoot-in you will say the celestial marriage, or the revelation in-cluding plural ty of wives-Mr. Tayler-No. I quote from the Doctrine and Covenants, which de-scribes, as Doctor Talmage persisted in my remembering, a revelation on the elements of the marriage covenants in

ternity of the marriage covenants, in ing plurality of wives. nator & moot-That is right-ineluding

cluding plurality of wives. I want to get it right; that is all. Mr. Tayler—That came directly from

God?

Senator Smoot-I understand so. Mr. Tayler-When God commands, as you interpret it, it is equally a com-nand whether it is to do one thing or unother is (2.2).

another, is it? Senator Smoot-I think so; but He

lid not command a man to go into polygamy or to practise it. Mr. Tayler—I understand. Senator Smoot—It was permissive and

ot mandatory. The Chairman-It is a command only

n the man who receives the revela-

Senator Smoot-I think if He com nanded me. Mr. Chairman, to go into t, then it would be a command to me, nd I would have to obey it; but ather-

vise I would not. Senator Foraker-But you do not un-derstand that He ever did make any such command? Senator

Smoot-Not on the Church He said it was permissive. I under-stand from the revelation that he did make a command on Joseph Smith, and e is the only one

Presidency into a stake or anywhere, to go there, and if sent by him, to attend to whatever matter there may be to attend to.

Mr. Tayler-Are you still at the head of the Provo Woolen mill?

Senator Smoot-I am not now the manager. I used to be the manager-up to the time I was elected senator-I am still president of the Provo

Woolen mills, Mr. Tayler-You continued to manager after you became an Apostie and antil you became Sensior? id until you became Senator? Senator Smoot-I did. I was manager

Mr. Tayler-That was for about how long?

nator Smoot-About three years. Mr. Tayler-Were you and are you engaged in any other business?

Senator Smoot-1 am. Mr. Tayler-You stated the facts nerally in your direct examination. Mr. I do not mean to ask you whether you have a business relation, as having in-vestments, but what other business nave you that takes your time and at-

Senator Smoot-I am president of th Provo Commercial and Savings bank, and I am a director in a good many of the institutions in Salt Lake-ine Deseret Savings bank, the Deseret Na-ional bank, and Clark Eldredge & Co. nd Zion's Co-operative Mercantile Ir

Mr. Tayler-By the way, there was question asked here the other day about the branches of the Zion Co-op-erative Mercantile Institution?

Senator Smoot-Yes. Mr. Tayler-How many branches are

there Senator Smoot-The Zion Co-opera senator Bmoot-The Zion Co-opera-tive Mercantile Institution has a whole-sale branch at Provo, for the distribu-tion of goods in the south. They have a wholesale and retail branch at Ogden, and they have

nd they have a little cetail store up a daho Falls. Mr. Tayler-And none elsewhere? Smoot-None elsewhere Senator Tayler-No branch of any kind

lsewhere Senator Smoot-Not elsewhere.

Senator Dubols-Idaho Falls is Idaho?

Senator Smoot-Yes; Idaho. But rather think we will close that out jus as soon as we get a chance. It is only retail store. Mr. Tayler-Now, Senator, to what

extent do you understand what you may call the hierarchy-whatever is composed in the ruling authorities of the Church--have authority or jurisdion over the affairs of the Mormon

Mr. Worthington-I suggest that yo had better state what authorities you include in that description.

Mr. Tayler-Whatever the authori-les are. I do not care who they are; whether one man or a thousand. I am mily asking as to the hierarchy. Senator Smoot—I do not know what you mean by that. I can tell you what

he general authorities of the Church

Mr. Tayler-They are who? Senator Smoot-The general authori-tiles of the Church are the Presidency f the Church, the quorum of the welve Apostles, the seven presidents f the Seventies, the presiding Bishop-

and the presiding Patriarch. Mr. Tayler-Now you may answe the question which I asked you. W have had explained to us who the au thorities are and how they act. Now what authority or jurisdiction do they

xercise over the people? Senator Smoot-In what respect?

Mr. Tayler-In respect to spiritual r temporal affairs. Senator Smoot-In regard to spiritual iffairs they have the direct charge of all the organizations, spiritual organzations or Church organizations, tha there are in the Church. As to tem poral affairs, they have simply the con rol of whatever temporary matters owned by the Church within the hurch.

very glad indeed if from the beginning the proceedings here had been such as Mr. Tayler-The interests of the people of the Church, in so far as those interests are related to the urch, are the subject of their jurisliction, are they not? Senator Smoot-They have no inter-

one, and if any objection is made on either side it should be addressed to st whatever in the people's affairs, Mr. Tayler-For instance, Senator d the testimony here in th

theory upon which the Church entertains such a case. "Senator Smoot-They do not entertain such cases, but-

"Mr. Tayler-They entertained that case.

Senator Smoot-I was in the presi-

dency of Utah stake for five years, and I know positively that the instructions

we received were not to entertain any

case where titles to land or titles to water or anything of that sort were

Mr. Tayler-Then do you deny that

Mr. Tayler-I say upon what theory o you say they did entertain it?

Senator Smoot-I think it was inad-vertently done by the Presidency of the

and they busy as they are. I rather think it was inadvertently done by them, because their letters are of such

character that they prove that they

had taken just the opposite position. Now, I am not referring to the letter

that was written in this case here. That may have been written, and no

of the Bishop's court was inadvertently

Senator Smoot-That I cannot say.

Mr. Tayler-Do you think that the action of the High Council of the stake was inadvertently taken? Senator Smoot-I know that the presi-

en letter from the Presidency of the

Church teiling him that these cases were not to be tried.

Tayler-Before or after this?

Senator Smoot-As the letter so states

Mr. Tayler-You will remember that

the woman in the case, the accused in the case, communicated with the First

Senator Smoot-I think she did. Mr. Tayler-And you know that she got more than one letter from the First Presidency on the subject, do you not? Senator Smoot-I would not say that. I do not remember that.

Mr. Tayler-She got one letter signed by all three of them in their own hand-

ay it is so, I would accept it. Mr. Tayler, The language of that an-wer is not formal, is it? It is printed

Senator Smoot-Yes; it is in the rec-

Mr. Tayler-It is not formal lan-

Mr. Tayler-It refers to the case, does

Senator Smoot-I rather think it does

Mr. Tayler-It shows that the writer of the letter knew what the case was

Mr. Worthington-Do you remember what is in the letter? Senator Smoot-I do not. Mr. Worthington-Let the letter speak

Mr. Tayler-No; I am cross-examin-

ng the witness. I am trying-Senator Balley-Mr. Chairman

object to counsel conducting this as

they alone were concerned. Counse has a perfect right to make objections

to questions or to the method of exam

ination, but that objection should be made to the chairman. The course slt at the other end of the table and proceed to talk with each other, and

o order the stenographer to put a thing

own or to omit it, and it appears

me clearly an improper method of procedure. I suggest, in the best of humor, but I shall insist upon it, where objection is made, that it shall be made

o the chairman, after the manner of a

Mr. Worthington-I would have been

are ordinarily pursued in court. The Chairman-The suggestion of the

cenator from Texas is a very proper

tuage; it is explicit. Senator Smoot—I could not say.

o which reference was made? Senator Smoot-1 think so.

ator Smoot-If you suggest it, and

Senator Smoot-I think she did

lent of that stake had received a

Senator Smoot-Before.

Tayler-Before

was, by them, out I believe it

Tayler-Do you think the action

urch, the case coming there as it did

hey entertained this case? Senator Smoot-1 do not.

was inadvertently done

akén?

Mr

Presidency

riting?

not?

Senator Mr. We

1 nuo

tere in the record

bere

oncerned.

Senator Smoot-The law of the land.

Senator Beveridge-Then the revela tion, even though received in that way and even though contirmed by the membership of the Church, would if it conflicted with the law of the land, be

a nullity Senator Smoot-As to members of the

Church: yes. Chairman-You say as to mem-The

bers of the Church?

Senator Smoot-That is the only way it could be, Mr. Senator, The Chairman-Do you make any dis-

tinction? You say it would be a null-ity as to members of the Church. De ou mean to the officers and all? Senator Smoot-To all.

The Chairman-Even when the person who receives the revelation and the Church itself believe it to be from God direct'

Senator Smoot-Well, I think the person who received it—of course, each person would have to act upon his own judgment in the matter; but I think that that would be required of the people of the Church by the revelations we have already received. Senator Overman-I understand you

to say, if I apprehend your answer rectly, that when a divine revelation is given to the President of the Church divine revelation submitted to the Church conference and is accepted by the conference, the free agent, any member of the

Church has a right to disobey it? Senator Smoot-They have, Senator, Senator Overman-The manifesto is i revelation from God, which was a mitted to the Church and accepted the Church. Then any member of the Church as a free agent has a right to disobev it?

Smoot-They have, They have the free agency. Senator Dubois-Senator Smoot, if

you refused as an Apostle to accept a revelation received by Joseph Smith and sustained by the Church, could you retain your position as an Apostle in the Church?

Senator Smoot-If I did not under-stand that revelation, I think so, Senator Dubois-My question is if you

refused to accept it? refused to accept 11.7 Sepator Smoot-I rather think so; the same as a member of the Church would in not living up to any of our principles that they may not live up to. would be derelict.

Senator Dubois-Could you answer directly whether or not you would reain your position as an Apostle of the

Senator Smoot-I could not answer that direct, yes or no, because I not know what the Church would de Senator Dubols-You would be out of

harmony, would you not? Senator Smoot-I say I would be

derelict, I think. derelict, I think. Senator Dubols-You do not know what the consequences would be as regards your Apostleship? Senator Smoot-I could not say, Mr.

Senator Knox-Senator Smoot, let me ask you what I consider a question that should have followed Senator

I understand you, then, that funda-mentally and primarily it is a law of the Mormon Church that you must obey the law of the land? Senator Smoot—That is correct. Reveridge's question.

Senator Knox-If there should be revelation now that commanded you to disobey the law of the land, that rev-elation would be in conflict with one of fundamental principles of your re-Itgion?

nator Smoot-It would.

Senator Knox-Is that correct? Senator Smoot-That is correct.

Senator Knox-That is all. Senator Foraker-I understand you say that rather than to undertake to

obey such a revelation you would leave

Mr. Tayler-The section to which efer as to rulers, states and governments, was not a revelation? Senator Smoot—I think there is a rev. slation. If you will hand that book to me I will try to find it. There is a rev

n there. Tayler-There is a revelation which requires that you shall keep al constitutional laws?

Senator Smoot-There is another one That is a revela here, Mr. Tayler. ion, and it is mandatory, Mr. Tayler—And that is mandatory'

Senator Smoot-That is mandatory Mr. Tayler-That came from God. De

you not think God could revoke that evelation Senator Smoot-Well, I rather think

God could. Tayler-You rather think He M

ould? Senator Smoot-Yes; but I do not

think He would. Senator Foraker-You think God is

mnipotent? Senator Smoot-I do.

The Chairman-Then why do you say ou rather think He could? Have you any positive opinion on that sub

Senator Smoot-He could, Mr. Chairnan, but I said that I do not think he vould

Mr. Tayler-Your people, or many of them, persisted in the violation of the law against polygamy up to 1890 on the claim that there was no law against U?

Senator Smoot-On the claim that

thought it was interfering with

digions liberty. Mr. Tayler—I am not going to touch his particular subject any more, and if any senator has any particular ques-don to ask about it, this would be an

prortune time. To what order of the Priesthood do

ou belong, Senator? Senator Smoot-To the Melchisedec

Mf. Tayler-That is the highest or-

Senator Smoot-There are two orders, he Aaronic and the Melchisedec.

Mr. Tayler-That is the higher order. Senator Smoot-The higher order. Ms. Tayler-The Mslchisedec is the higher?

nator Smoot-I hold the same

riesthood that an Elder holds, or tha Seventy holds, or that a High Priest

Mr. Tayler-As high as anybody

Senator Smoot-As high as anybody

Senator Overman-Does your Church elieve in apostolic succession Senator Smoot-I would have to ash

ou to make that more specific Senator Overman-Christ held the or

er of the Melchisedec Priesthood. Do ou succeed him-Sonator Smoot-I understand that

Senator Smoot-1 understand that Drist held the Melchisede Priestbood. Sonator Overman-And these Apos-les succeed him in the same degree hat he was of that order? Senator Smoot-Not only the Apos-

les, but anybody who holds the office f an Elder, who is of the Meichisedee Priesthood. The difference is simply in the calling of the Priesthood. The Chairman-Proceed, Mr. Tayler, Mr. Tayler-The fact that you are an apoutle does not affect in one way or

postle does not affect in one way on nother the quality of your Priesthood Senator Smoot-Not in the least Mr. Tayler-What are your duites as

n Apostle Senator Smoot-My dutles as an

Apostle are to preach the Gospel. Mr. Tayler—At any particular place? Senator Smoot—No special place; nig as directed by the Presidency of he Church I have the presidency of the Church. I have other duties, of

course. Mr. Tayler-What other duties are

there Senator Smoot-Wherever sent by the

Birdsall case, did you not? Senator Smoot-Yes; I heard that Mr. Tayler-You have heard it re-

erred to often?

Senator Smoot—Yes. Mr. Tayler—There one party brought omplaint in a Bishop's court against a woman, claiming that she had title o a piece of land that he ought to ave title to. Senator Smoot-By the way, in that ase, I have understood, having re-eived word, that Mr. Leavitt did not

belong to the Church at all. He is not a member of the Church. I state this to show you how far wrong that case has gone Mr. Tayler-The case was there, Sen-

ator? Senator Smoot-It was,

Mr. Tayler-Do you dispute that the ase did occur?

Senator Smoot-I do not. Mr. Tayler-So that they permit their

ourts to be used by Gentiles? Senator Smoot-Not by any law of he Church

Tayler-Not by any law of the Me hurch Senator Smoot-Or rule of the Church

Mr. Tayler-Do you suppose that the Bishop and his counselors who tried this case knew that Mr. Leavitt was

ot a member of the Church Senator Smoot-I do not know that. Mr Tayler-Anyway, they enterained that case?

Senator Smoot-They entertained that

Mr. Tayler-And they did not ask efter written to her states that----"This is in answer to yours of the 10th Miss Birdsall whether she was willing

Senator Smoot-I rather think they

Mr. Tayler-The record does not show

Senator Smoot-The record shows

they asked him. Mr. Tayler—They asked him. Senator Smoot-But— Mr. Tayler—But not her.

Senator Smoot-But she made the ap-peal, and if she had not made the ap-peal she certainly would-I mean by making the appeal she certainly had High Council and from the High Coun-cil to the First Presidency. "We would advise you to follow the order provided of the Lord to govern iven her consent. n your case. Mr. Tayler-After the Bishop's cour! hich had brought her in before it, to you read? ade an order that she must make a leed to Joseph Leavitt for this land what would have happened if she had Senator Smoot-I think the letter neans this, that she had started the ase in the Bishop's court, and after ot appealed and had refused to make Senator Smoot-I think they would and was dissatisfied she then wanted had

have disfellowshipped her if she had Mr. Tayler-They would have excomunicated her?

Senator Smoot-Yes; I think so. Mr. Tayler-Now, then, you recall that letter on, April 10, 1903, the Presi-dency of the Church, Joseph F. Smith, John R. Winder, and Anthon H. Lund, Mr. Tayler-I use the word "excom-nunicated" because we understand that ford a little better than the other Senator Smoot-In order that there nay not be any doubt in your mind as may not be any sould in your films as to why I hesitate in regard to excom-munication or disfeliowship, I will say this. If it had been a man holding the Priesthood the Bishop's court could not have excommunicated him. It would "We have carefully read your com-munication of the 23rd ultimo, setting It would Birdsall, and are perfectly satisfied that the points raised by you are not suff

have had to go to the High Council. Mr. Tayler-You are an Apostle of the Church. I want to get at the thery upon which the Church entertains

ach a case. Senator Smoot—They do not entertain cases, but-

Mr. Tayler-They entertained that сане.

case. Mr. Worthington-Let the witness finish his answer. I insist that the wit. ness be allowed to finish his answer. Mr. Tayler-Let him go on. Mr. Worthington-Read the question

and the answer as far as it has been The reporter read as follows, "Mr. Tayler Von

"Mr. Tayler-You are an Apostle of Senator Smoot-Those the Church. I want to get at the any moral wrongdoing.

the chair, so that the committee may pass upon it. Mr. Tayler-Do you recall, Senator, that in the letter from the First Presi dency reference was made to the fact that Miss Birdsall wanted either to apbeal directly to the First Presidency r go to law!

Senator Smoot-I do not remember lt. Mr. Tayler-And that the statement was that she should obey the order of

Mr. Tayler-Yes. Senator Smoot-I so testified yester-Senator Smoot-I would not like to senator Beveridge-What is that?

Senator Smoot-I would not like to estify with respect to what is in that etter without knowing positively.

said how many. It was the number to which I was attaching importance. Tayler-I call your attention to Mr. he letter,\* printed on page 328 of the nd volume.

Mr. Worthington-The original let-

letters. They are printed Mr. Worthington-I will say that af er we got through using them I hand-d them to Senator Smoot, and asked him to retain them until the commit ee had given some order in regard to

The Chairman-Have you the letters Senator Smoot-I received the letters from Mr. Worthington, and I think I ave them to Mr. Van Cott, did I not Mr. Van Cott-I do not think so, Sen-

itor, although you may have done so f I have them they are at the rooms Mith the other papers, Mr. Worthington-I am informed hat they are in the senator's office in

The Chairman-Proceed, Mr. Tayler. Mr. Tayler-Do you recall that that

nstant, in which you express a desire

appeal your case direct to us from Bishop's court or go to law.

In answer we would say that in all

such matters all members of the Church are expected to follow the order

of the Church governing them, and that order provides that an appeal may

e taken from the Bishop's court to the

Mr. Worthington-From what page

had received the Bishop's decision

Senator Smoot-Well, the case was

started, and she was a party to the

orth exceptions to the decision ered by the High Council of th

ler stake in the case of Leavitt

cient to justify you in refusing to rea ognize former rights to the land in question, and we therefore have af-

irmed the decision in the case and in formed the stake presidency accord

Senator Smoot-I say that I believe

that was done inadvertently by the Presidency of the Church, because

know I have received instructions ab-solutely contrary to that, as a member of the presidency of the Utah stake, and we never tried a case of that kind, Mr. Tayler-What kind of cases do

Smoot-Those that include

he Maltby building.

Mr. Tayler-328,

rote to her, saying:

the case?

ingly

they try? Senator