

quarter of the Mormons in the Territory practiced polygamy. Most of those who had been prosecuted set up the defense that they no longer practiced polygamy. Not all of the prosecutions had resulted in convictions, but it was seldom a case was lost. This was due not so much to the evidence as to the jurors. Jurors were not drawn by lot. They were selected by the Marshal, who, of course, did not summon any Mormons to sit on Mormon cases. Unless a Judge instructed the jury to acquit because of lack of evidence a conviction was certain.

Pressed by questions the deputy went on to say that there were two degrees of the offense. One was adultery, for which the Mormon could be given three years in the United States penitentiary at Sioux Falls; the other was unlawful cohabitation, the punishment for which was six months in the Territorial jail. It was a great deal easier to prove unlawful cohabitation than it was adultery. In the latter case there must be evidence as to the act itself. Unlawful cohabitation was sometimes proved by the statements of persons who had seen the defendant going in the direction of the house of his plural wife. Then the question sometimes arose in court how near to the house of a plural wife a Mormon's presence must be shown to make out a case of unlawful cohabitation.

At this point the Senator stopped the deputy's interesting explanation of Mormon prosecutions to tell another story.

"I defended a man once," said the Senator, "on a charge that he had killed a steer belonging to a neighbor named Sanders. Nobody had seen the killing, and about the strongest evidence was that of old man Sanders, who testified that he had seen the defendant going in the direction of the place where the blood was found.

"He had his killin' kit on his shoulders," the old man testified, "and I 'spicined then he was going to kill one of my steers."

[The rest of the Senator's story is a little too "racy" for reproduction in the DESERET NEWS.]

At this juncture the ex-Mormon asked the Senator if he had ever seen the test oath which every man in Idaho is required to take before he can vote. The Senator said he hadn't, and with the remark that he always carried a copy to show to his friends in the Church the ex-Mormon produced the elector oath.

The Senator read the oath carefully, smiled, and handed it back with the remark that it seemed to be pretty stiff.

"But it isn't stiff enough," said the constitution-maker. "The Mormons get around it. Last fall 150 of them in this county declared they had left the Church. They took that oath and voted. They cast all of their votes for the local democratic ticket and elected it. The republicans contested the election on the ground that the Mormons had not acted in good faith, that they had not really cut loose from the Church and that their votes

should not be counted. Evidence was taken and the court has just ruled that the Mormon votes shall be thrown out, which will scot the contestants. So you see the test oath is not always a test."

"How do you tell, then, that a man has cut loose from Mormonism if his oath doesn't go," asked the tenderfoot.

"We can size up an ex-Mormon almost every time," the Deputy Marshal replied, confidently. "If he is a genuine apostate, you will hear him, like our friend here (nodding toward the ex-Mormon), damning the Church of Latter-day Saints every chance he gets."

The Senator, who had been studying the far away mountain line, felt inspired at this point to say:

"In the early times, when the New England preachers levied on their congregations, somewhat as the Mormons collect tithes, there was an old Unitarian who used to get around to a Massachusetts neighborhood about so often. He had a kind of circuit. He would appear at a place, preach a few sermons, gather in what contributions he could and then move on to the next. As he preached a doctrine of universal salvation he had a rather ungodly set to depend on. His followers were the tavern-keepers, and that class. On one of his visits the Unitarian preacher had among his hearers a Presbyterian who had fallen from grace, and who manifested considerable interest in Unitarianism by asking a good many questions. The Unitarian preacher went on to the next place, enjoying the novelty of having made a convert. When in the course of time the Unitarian came there again to preach his half a dozen sermons and make his annual levy, he bethought him of his convert and asked his tavern-keeper:

"How is Brother So and So coming on?"

"Oh," said the tavern-keeper, "he's damning and cursing round like the rest of us Unitarians?"

"It seems," continued the Senator, "to be about the same way here. When an ex-Mormon 'cusses' the Church steadily and consistently you Gentiles extend to him the right hand of fellowship. That is it, isn't it?"

The answer was a rather self-conscious laugh on the part of the group and a hearty roar from the Jack Mormon.

"To speak seriously," resumed the Senator, "I don't see how you can handle this Mormon question any better than you are doing unless you put into your Constitution a further provision on the subject. You might say that after Idaho is admitted as a State Gentiles shall hold all of the offices and Mormons shall pay all of the taxes. You have, however, made a pretty fair start in that direction by the provisions forever disfranchising the Mormons."

After a pause the tenderfoot wanted to know if the non-polygamous Mormons in Idaho who were, it seemed, nine-tenths of the whole number, did not resent the trouble brought upon them by the polygamous minority.

"No," said the Deputy Marshal; "they all seem to hang together. There is no split between those with single and those with plural wives. Polygamy is not increasing. Still the Mormons with single wives all believe in the principle of polygamy, if they don't practice it. It is very seldom we get a Mormon to give evidence against a Mormon in one of these prosecutions. If he does, the whole community will cut him. They don't resort to white-cap methods of violence. But they make it mighty uncomfortable for one of their number who helps on a prosecution for polygamy. They do nothing unlawful, for they are law-abiding people in all other respects except in what concerns their religion. But by refusing to be neighborly and cutting off all business relations, they soon drive away from among them anybody who helps the Government in these cases."

"Do you ever meet with resistance in trying to arrest these polygamous Mormons?" asked the tenderfoot.

"No," said the deputy, "they never resist. They will try to hide, but when they are once caught they are the best of prisoners. When we took three of them to Sioux Falls under sentence of sixteen months each we left them for several hours unguarded in a depot while we were up-town, and there was no attempt to get away. We never handcuff them. Their promises are good. They will swear falsely on the witness-stand that they are not sustaining unlawful relations, but otherwise you can believe what a Mormon tells you."

"Yes, that's so," exclaimed the Jack Mormon. "I'll take the word of the average Mormon in this country quicker than I will that of the average Gentile, every time."

"How many men who belong to other churches, or to no church at all, are practicing secretly what the Mormons preach openly?" suddenly asked the Senator.

Nobody cast a stone in reply, and the Senator proceeded:

"There is no doubt the Mormon Church is an unrepugnant institution. But we have confiscated its property. We have sold \$250,000 worth of that property under the hammer for \$90,000. We are now leasing back to the Mormons some of that confiscated property. It isn't easy to say how far a government founded upon the idea of civil and religious liberty ought to go. We have crushed the open and notorious practices of the Church. Now shall we proceed to follow this up by punishing, not to say prosecuting, men for something they hide away down in their boots? Reforms are sometimes carried too far. When I was at Garfield Beach the other day Judge Zane called my attention to a young woman of attractive appearance who passed us and said he hadn't any doubt she had been virtually driven into a life of bad repute because this Government had made it impossible for her polygamous father to support her."

The Senator paused. Nobody else