elections, who were charged by the senate with the duty of investigating the right and title of Reed Smoot to a seat in the senate as a senator from the state of Utah, respectfully submit

the following report:

On the 23rd day of February, 1903, the credentials of Reed Smoot as a senator of the United States from the Utah were presented to the State of On the same day and at the same hour there was also presented and placed on file a protest from certain citizens of Utah, praying for an investigation into the right of Mr. Smoot to the seat to which he claimed to have been elected.

Subsequently, and on the 5th day of March, 1903, Mr. Smoot took the oath of office as senator from Utah. A A senate was, in behalf of the commiton privileges and elections, called to the method of procedure in cases like that of Mr. Smoot. It was then stated, without question on the part of any member of the senate, that in cases where the credentials of a sen-ator consist of "a certificate of his due election from the executive of his is entitled to be sworn in, and that all questions relating to his qualifications should be postponed and acted upon by the senate afterwards. Under this rule the credentials of Mr. Smoot, with the protest against his right to a seat in the senate, were referred to the committee on privileges and elections under a resolution adoptby the senate Jan. 27, 1904, directing the committee to investigate the right and title of Mr. Smoot to a seat in the senate as senator from the State of Utah.

The resolution is as follows:

Resolved, That the committee on privileges and elections of the senate or any subcommittee thereof, be auth orized and directed to investigate the right and title of Reed Smoot to a seat the senate as senator from the State of Utah; and said committee, or any subcommittee thereof, is authorized to sit during the sessions of the senate employ a stenographer, to for persons and papers, and to adminoaths; and that the expense of the inquiry shall be paid from the contingent fund of the senate upon vouchers to be approved by the chairman of the committee.

The Protest Against the Seating of Mr. Smoot.

The protest before referred to against the scaling of Mr. Smoot as a senator from the State of Utah is stated in such protest to be "upon the ground and for the reason that he is me of a self-perpetuating body of 15 men, who, constituting the ruling authorities of the Church of Jesus Christ of Latter-day Saints, or Mormon Church, claim and by their fol-lowers are accorded the right to claim, supreme authority, divinely sanc-tioned, to shape the belief and control the conduct of those under them all matters whatsoever, civil and religious, temporal and spiritual, and who thus uniting in themseives authority in church and state do so exercise the same as to inculcate and en-courage a helief in polygamy and polygamous cohabitation; who countenance and connive at violations of the state law prohibiting the same, regardless of pledges made for the purpose of obtaining statehood, and of cov-enants made with the people of the United States, and who by all the means in their power protect and honor those who, with themselves, violate the laws of the land and are guilty of practises destructive of the family and of the home.

In support of this protest the protestants make certain charges and asfollows 1. The Mormon priesthood, accord ing to the doctrines of that church, is vested with supreme authority in all things spiritual and temporal. The first presidency and twelve apostles (said Reed Smoot being one of said twelve apostles) are supreme in the exercise of the authority of the Mormon Church in all things tempor-al and spiritual. In support of this proposition instances are given of the interference of the first presidency and twieve apostles in the po-litical affairs of the State of Utah, and quotations at length are given from the declarations of officials in the Mormon Church regarding the authority of the leaders in said Church to dictate to the membership thereof concerning the political action of said members. 3 and 4. That the first presidency and twelve apostles of the Mormon Church have not abandoned the principles and practise of political dicta-tion; neither have they abandoned their belief in polygamy and polyga-mous cohabitation. 5. That the first presidency and twelve apostles (of whom Reed Smoot is one) also practise or connive at and encourage the practise of polygamy, and have without protest or objec-tion permitted those who held legislative offices by their will and con-sent to attempt to nullify enactments against polygamous cohabitation That the supreme authorities of 6. That the supreme autorities of the Mormon Church, namely, the first presidency and twelve apostles (of whom Mr. Smoot is one), not only con-nive at violations of the law against polygamy and polygamous cohabita-tion, but protect and honor the violators of such laws. The protest further asserts that the leaders of the Mormon Church (of whom Mr. Smoot is one) are solemnly anded together against the people of the United States in the endeavor of said leaders to baffle the designs and frustrate the attempts of the govern-ment to cradicate polygamy and polygamous cohabitation The protest further charges that the conduct and practises of the first presidency and twelve apostles (of whom Mr. Smoot is one) are well known to be, first, contrary to the public sentiment of the civilized world; second, contrary to express pledge which were given by the leaders of the Mormon Church in procuring amnesty; third, contrary to the express conditions upon which the escheated property of the Mormon Church was turned; fourth, contrary to the pledges given by the representatives of that Church in their plea for statehood; fifth, contrary to the pledges required in the enabling act and given in the State Constitution of Utah; sixth, contrary to a provision in the Constitu-tion of Utah providing that, "there shall no union of church and state, nor shall any church dominate the State or Interfere with its functions," and sev-enth, contrary to law. The protest con-cludes by asking that the senate make inquiry touching the matters stated in anid protest This protest is followed by certain charges made by one John L. Leilich under oath, which are in the main of the same tenor and effect as the charges made in the protest with the additional charge that Mr. Smoot is a polygamist, having a legal and a plura wife, and the further charge that Mr. oot has, as an apostle of the Mor mon Church, taken an oath "of such ; nature and character as that he is thereby disqualified from taking the cath of office required of a United States senator.'

The committee on privileges and charges made in the protest and by Mr. Leilich.

> Authority of the Senate and Nature of The Investigation.

Before proceeding to an examination of the protest and answer, and the testimony taken by the commit-tee, it may be well to examine, briefly, the authority of the senate in the premises and the nature and scope of the investigation. The Constitution privides (Art. 1

sec. V, par. 1) that "Each house shall be the judge of the elections, returns, and qualifications of its own mem It is now well established by bers. decisions of the senate in a number of cases that in order to be a fit representative of a sovereign state of he Union in the senate of the United States one must be in all respects obcdent to the Constitution and laws of the United States and of the state from which he comes, and must also be de-sirous of the welfare of his country and in hearty accord and sympathy with its government and institutions. If he does not possess these qualifications, if his conduct has been such as to be prejudicial to the welfare of soof the nation or its government, he is regarded as being unfit to perform the important and confidential duties of a senator, and may be deprived of a seat in the senate, although he may have done no act of which a court of justice could take cognizance. Thus William Blount, a senator from the state of Tennessee, was, in year 1797, deprived of his seat in the senate for conduct "inconsistent with his public trust and duty as a senator. His offense consisted in the writing of a letter to one Carey, an official interpreter to the Cherokee nation, the conduct of Mr. Blount in writing said letter being characterized by the com-mittee of investigation in that case as (ollows

"The plan hinted at in this extraordinary letter to be executed under the suspices of the British is so capable of lifferent constructions and conjectures that your committee at present i bear giving any decided opinion re-specting, it, except that to Mr. Blount's mind it appeared to be inconsistent with the interests of the United States and of Spain, and he was therefore anxious to conceal it from both. But when they consider his attempts seduce Carey from his duty as a faithful interpreter and to employ him as an engine to allenate the affections and confidence of the Indians from the public officers of the United States residing among them; the measures be has proposed to excite a temper which must produce the recall or expulsion of our superintendent from the nation: his insidious advice tending to the advancement of his own popularity and consequence, at the expense and hazard of the good opinion which the Indians entertain of this government and of the treaties sublisteing between as and them, your committee have no loubt that Mr. Blount's conduct has seen inconsistent with his public duty renders him unworthy of a further ontinuance of his present public trust n this body, and amounts to a high misdemeanor.

The vote on the expulsion of Mr. Blount resulted as follows: Yeas, nays, L. (Senate Election Cases, 3d PD. 929-933.)

In the year 1807, John Smith, a enator from the state of Ohlo, was accused of being associated with Aaron Burr in a conspiracy "against the peace and prosperity" of the United States. In the report of the commitec-of which John Quincy Adams was chairman -appointed to investigate the ase the committee say.

"In examining the question whether these forms of judicial proceedings or the rules of judicial evidence ought to be applied to the exercise of that authority which the senate of the United States possesses over the is the test of their application either he dictates of unfettered reason, the letter and spirit of the Constitution, or precedents, domestic or foreign, and our committee believe that the result will be the same that the power of exelling a member must, in its nature, be discretionary, and in its exercise al-ways more summary than the tardy process of judicial tribunals "The power of expelling a member or misconduct results on the prin liples of common sense, from the increst of the nation that the high trust of legislation should be invested in pure hands. When the trust is elective it is not to be presumed that the constituent body will commit the deposit to the keeping of worthless characters. But when a man whom his fellow-citizens have honored with their confidence on the pledge of his spotless reputation has degraded him-self by commission of infamous crimes. which become suddenly and unexpect-edly revealed to the world, defective indeed would be that institution which should be impotent to discard from its becom the contagion of such a member, which should have no remedy of amputation to apply until the pols-on had reached the heart. "The question upon the trial of a criminal cause before the courts of common law is not between guilt and innocence, but between guilt and the possibility of innocence. If a doubt an possibly be raised, either by the ingenuity of the party or of his counsel or by the operation of general rules it their unforeseen application to partic-ular cases, that doubt must be decisive for acquittal, and the verdict of not guilty perhaps in nine cases out of 10 neans no more than that the guilt of the party has not been demonstrated in the precise, specific and narrow forms prescribed by law. The humane spirit of the laws multiplies the barriers for the protection of Innocence and freely admits that these barrier may be abused for the shelter of guilt It avows a strong partiality favorable the person upon trial and acknowldges should escape rather than that one in-nocent should suffer. The interest of the public that a particular crime should be punished is but as one to 10 compared with the interest party that innocence should the be spared. Acquittal only restores the party to the common rights of every other citizen: it restores him to no public trust; it invests him with no public confidence; it substitutes the sentence of mercy for the doom of justice, and to the eyes of impartial real son in the great majority of cases must be considered rather as a pardon than a justification But when a member of a legislative body iles under the imputation of ag-gravated offenses and the determination upon his cause can operate only to remove him from a station of exten-sive powers and important trust, this disproportion between the interest of the public and interest of the individual disappears, if any disproportion exists, it is of an opposite kind. It is not better that ten traitors should be members of this senate than me innocent man should suffer expulsion. In either case, no doubt, the evil would be great. But in the former it would strike at the vitals of the na-tions: In the latter it might, though deeply to be lamented, only be the calamity of an individual.

who wished to dispose of an improve-ment in firearms. Some at least of

he senators who voted for Mr. Bright's expulsion asserted in effect that they id not claim that Mr. Bright had been guilty of treason, misprison of treason or any other offense against the law of this country. He was deprived of his seat in the senate because it was believed that his desires and conduct were opposed to the welfare and interests of the nation. In the course of the debate upon the

question of expelling Mr. Bright, Mr. Summer used the following language:

"But the question may be prop erly asked if this inquiry is to be con jucted as in a court of justice, under all the restrictions and technical rules of judicial proceedings? Clearly not. Under the Constitution, the senate, in a case like the present, is the absolute judge, free to exercise its power ac-cording to its own enlightened discretion. It may justly declare a senator unworthy of a seat in this body on evb dence defective in form, or on evidence even which does not constitute positive crime. . . . It is obvious that the sanate may act on any evidence which shall be satisfactory to show that one of its members is unworthy of his seat without bringing it to the test of any rules of law. It is true that the good name of the individual is in question; but so also is the good name of the senate, not forgetting also the welfare of the country; and if there are generous presumptions of personal innoso also are there irresistible in stincts of self-defense which compe us to act vigorously, not only to pre-serve the good name of the senate, but also to preserve the country." (Con gressional Globe, 2nd sess., 27th Cong. pt. 1, pp. 412, 413, 414.)

In the same debate Mr. Davis, of Kentucky, said:

"But what is the law? We are not sitting as a court trying the honorable senator. There are some genlemen, able men, very able men, men of enlarged patriotism, of eminent pubic and private virtue that have pursued the profession of the law so long. either as practitioners, counselors and olicitors, or as judges, that their minds have become too contracted for en-larged statesmanship and the great principles of policy and moral justice. ipon which governments ought to be dministered, and upon which they can be wisely administered. They tave dwarfed their minds to such an extent that they can not reason upon the expansive principle and sentiment and consideration that ought to guide and control the largest and wisest statesmanship.

"There is no law which defines any particular class of offenses that shall be sufficient to expel a senator from his seat. The common law does not. There is no statute law that does. There are 10 rules of evidence establishing technical rules of testimony that are to guide and control and govern this body n getting its lights and reaching its clusions when a senator is thus on

The general rule and principle of law and of reason and common sense is that whatever disqualifies nember of the senate from the proper discharge of his duties, whatever may be, is sufficient, and ought to be held sufficient, for his expulsion, and whatever evidence satisfies the mind easonably and according to moral cerainty and truth of the existence of sause is sufficient evidence withthat out resorting to the technical rules of estimony upon which to convict him. That is the law of this country, It is the law of England. It is the law of parliament. I will read from Story's Commentaries on the Constitution, section 836, a short paragraph:

vas expelled from the senate for a high misdemeanor entirely inconsistent with his public trust and duty as a The offense charged against him was an attempt to seduce an mong the Indians from his duty and to allenate the af-fections and confidence of the Indians public authorities of the the United States, and a negotiation for ervices in behalf of the British government among the Indians. It was not a statutable offense; nor was it committed in his official character; nor was it committed during the session of Congress, nor at the seat of govern-ment. Yet, by an almost unanimous yote (25 yeas to 1 may) he was expelled from that body and he was afterwards inpeached (as has already been stated) for this, among other charges. It seems, therefore, to be settled by the enute, upon full deltheration, that expulsion may be for any misdemeanor which, though not punished by any statute, is inconsistent with the trust and duty of a senator "There is the touchstone. Any conduct, any opinions, any line of actio as a senator which is inconsistent with the duty of a senator, is a sufficient ause for his expulsion and ought to be the rule of reason and of commo The principle deduced from the authorities is this: There is 110 common law, no statutory law, there s no parliamentary law that binds the senate to any particular definition of erime or offense in acting in this or any other case of the kind. On the ontrary, as these authorities establish it is a matter coming within the dis-cretion of the tribunal trying the sena-(Congressional Globe, 2nd sess, 37th Cong., pt. 1, pp. 434, 435.)

was expelled from the house of commons for being concerned in a conspir-acy to spread the false report that the French army had been defeated, Napoleon killed, and that the allied overeigns were in Paris, the object to be attained by such false report being "to occasion a temporary rise and in-crease in the prices of the public government funds," to the injury of those who should purchase such funds "dur last-mentioned temporary ing such rise and increase in the prices thereof. (69 Commons Journal, 427-433.)

The Protestants.

The main protest in this case was signed by 18 reputable citizens of the State of Utah. One of the signers, Dr. State of Utah. One of the signers W. M. Paden, is the pastor of o the leading Protestant churches of Salt Lake City and a gradutae of Princeton university; another, Mr. P. L. Wil-liams, is the general counsel of a railroad in Utah and the western states; another, Mr. E. W. Wilson, is the cashanother, Mr. E. W. Wilson, is the cash-ier of a national bank in Salt Lake City; another, Mr. C. C. Goodwin, tha editor of one of the leading papers of that city; another, Mr. W. S. Nelden, the president of a wholesale drug company doing business not only in Utah, but in other of the western states; another, Mr. Ezra Thompson, a gentle-man who has held the office of mayor of Salt Lake City for two terms; an-other, Mr. J. J. Corwin, a man engaged in real estate, who has been a rest Utah for about 16 years; ill dent of others, Mr. George R. Hancock, Mr. W. M. Ferry, Mr. Harry C. Hill, Hon. C. E. Allen, and Mr. H. G. McMillan, are men holding positions in the min-ing industry of Utah. Mr. Allen was the first representative in Congress from the State of Utah. Another of the signers of the protest, Mr. G. H. Lewis, was formerly assistant United States attorney and is now master in chancer. of the United States circuit court. Ret Abiel Leonard was, up to the time of his death, which occurred in Noveta 1903, the bishop of the diocese of h of the Protestant Episcopa Utah church. From the standing and char-acter of the signers, it is evident that the protest is not the offspring of sus-

picion or prejudice, but that such pro test emanates from men of such char acter and respectability as to be en! tled to serious and careful consideration, and the facts therein stated to b worthy of investigation by the senate As regards the charge that Mr. Smoo

has a plural wife, this fact, if proved, conceded by Mr. Smoot and his coun-sel to be sufficient to disqualify hit m holding a seat in the senate. But this accusation seems to have be made by Mr. Leilich, unadvisedly and on his own responsibility, and without sufficient evidence in support of the same. This charge is not made the main protest, and counsel for the protestants at the outset of the invest tigation very frankly admitted that they had no proof to offer in support of this allegation.

Encouragement of Polygamy and Polygamous Cohabitation by the Mormon Authorities.

The first reason assigned by the testants why Mr. Smoot is not entitle to a seat in the senate is in effect that belongs to a selfperpetuating body of 15 men who constitute the ruling ad thorities of the Church of Latter-do Saints, or Mormon Church, so callthat this ruling body of the Chur both claims and exercises the right of shaping the belief and controlling conduct of the members of that Church in all matters whatsoever, civil and it ligious, temporal and spiritual. It then alleged that this selfnerpetual body of 15 men, of whom Mr. Smoot one, uniting in themselves authority both Church and state so exercise th authority as to encourage a belief polygamy as a divine institution and by both precept and example encourage among their followers the practice of polygamy and polygamous cohabita tion.

That the first presidency and twelv apostles of the Morn selfperpetuating body of 15 me to be well established by the testia of one most competent to speak up that subject, the president of fi Church of Latter-day Saints, Mr. eph F. Smith, who testifies, as will seen on pages 91 and 92 of volume of the printed copy of the proceeding in the investigation, that vacancies of curring in the number of the twelf apostles are filled by the apostles they selves with the consent and approval the first presidency. The testimony of Mr. Smith is as fol CANS:

Church, the truthfulness of the claim of the protestants in this regard is shown by a great number of facts and circumstances, no one of which is perhaps conclusive in itself, but when taken together form a volume of testimony so cogent and convincing as to leave no reasonable doubt in the mind that the truth is as stated by the protestants. It is proved without denial that the book of Doctrine and Covenants, one of the leading authorities of the Mormon Church, and still circulated by that Church as a book equal in authority to the Bible and the Book of Mormon, contains the revelation regarding polygamy, of which the following is a part:

61. And again, as pertaining to the law of the priesthood: if any man espouse a virgin and desires to espouse another and the first give her cons and if he espouse the second, and they are virgins and have vowed to no other man, then he is justified-he cannot commit adultery, for they are given unto him; for he cannot commit adultery with that that belongeth to him and to no one else.

And if he have 10 virgins given 62. unto him by this law he cannot commi adultery, for they belong to him and they are given unto him; therefore to he justified

63. But if one or either of the 10 virgins, after she is espoused, shall ba with another man she has committed adultery and shall be destroyed, for they are given unto him to multiply and replenish the earth, according my commandment, and to fulfill the promise which was given by my Father before the foundation of the world; and for their exaltation in the eternal worlds, that they may bear the souls of men; for herein is the work of my Father continued, that he may be glori-

64. And again, verily, verily, I say unto you, if any man hath a wife whe holds the keys of this power and he teaches unto her the law of my priestas pertaining these things, then unto shall she believe and administer him or she shall be destroyed, said the Lord your God, for I will destroy her: for I will magnify my hame upon those who receive and abide in my law. 65. Therefore, it shall be lawful in me, if she receives not this law for him the to receive all tihngs whatsoever L. Lord his God, will give unto him, because she did not minister unto him according to my word; and she then comes the transgressor; and he is ex-empt from the law of Sarah who ministered unto Abraham according to the when I commanded Abraham to take Hager to wife.

It is also shown that numerous other publications of the Mormon Church are still circulated among the members of that Church with the knowledge and by the authority of the Church officials, which contain arguments in favor of polygamy. The Book of Doctrine and Covenants is not only still put forth the members of the Church as auhoritative in all respects, but the first presidency and twelve apostles have never incorporated therein the manifes to forbidding the practise of polygamy and polygamous cohabitation, nor have they at any time or in any way quall fied the reputed revelation to Joseph Smith regarding polygamy. And this book of Doctrine and Covenants, containing the polygamic revelation, is re-garded by Mormous as being of higher authority than the manifesto suspend ing polygamy.

Bearing in mind the authority of the first presidency and twelve apostles over the whole body of the Mormon Church, it is very evident that if polygamy were discountenanced by the leaders of that Church it would very soon be a thing of the past among the mem berg of that Church. On the contrary, it appears that since the admission Utah into the Union as a state the authorities of the Mormon Church have ourtenanced and encouraged the commission of the crime of polygamy in stead of preventing it, as they could

While the fact does not appear from any sworn testimony in the case, it is a matter of common report that Tay-lor and Cowley have recently been dropped from the list of apostles. But this fact in no way counteracts the influence of the Mormon leaders in their encouragement of polygamy. When Taylor and Cowley took their more recent plural wives they were numbered among the apostles in good standing. The fact that they had taken plural wives since the manifesto was well known to their associates for months and years. But they were continued as apostles, and no action was taken in case of either until the facts were revealed to the world by this investiga tion. And it is worthy of note that these apostles have not been com-plained of or brought to trial before the Church courts for disobeying the manifesto, nor have they been deprived

of their offices or honors in the Church (as was done in the case of Moses Thatcher for a political offense), but they are still members of the Church in good standing, each still holds the office of an elder in the Church, and each is still a member of the high priesthood of the Church. The dropping of Taylor and Cowley

from the quorum of the twelve apostles was so evidently done for popular effect that the act merits no consideration whatever, except as an admission by the first presidency and twelve apos. tles that Apostles Taylor and Cowley have each taken one or more plural wives since the manifesto.

It is also proved that about the year 1896 James Francis Johnson was ried to a plural wife, Clara Mabel Barber, the ceremony in this instance ing performed by an apostle of the Mormon Church. To these cases must be added that of Marriner W. Merrill, another apostle; J. M. Tanner, superin tendent of Church schools; Benjamin Cluff, Jr., president of Brigram Young university; Thomas Chamberlain, selor to the president of a stake; Bish-Rathall, John Silver, Winslow Farr, Heber Bennion, Samuel S. Newton, a man named Okey, who contracted a plural marriage with Ovena Jorgensen in the year 1897, and Morris Michelson about the year 1902. In the case of Benjamin Cluff, Jr., before referred to, the polygamous marriage was tacitly sanctioned by President Joseph F. Smith when he "referred to Sister Cluff and the work she had been doing among the children in Colonia Diaz, Mexico

It is morally impossible that all these violations of the laws of the State of Utah by the contracting of plural marriages could have been committed with-out the knowledge of the first presidenthe Mor cy and the twelve apostles of mon Church. In two of the above cases, that of George Teasdale and that of Benjamin Cluff, Jr., the fact of the plural marriage was directly communi cated to the president of the Church Joseph F. Smith, and in the other CASES, with the possible exception of James Francis Johnson, the fact of plural marriage having been celebrated was so well known throughout the community that it is not concelyable that such marriages would not have been called to the attention of the leaders of the Church. Indeed, there was no denial on the part of the first presidency or any one of the twelve apostles that they learned of the fact plural marriages were being con tracted by officials of the Mormon Church and that no attention was paid to the matter. The excuse given by them was that it was not their duty interfere in such matters; that the law furnished a remedy. Furthermore, t was shown by the testimony of of the twelve apostles and of other witnesses that "under the established law of the Church no person could secure a plural wife except by consent of the president of the Church."

Suppression of Testimony by Mormon Leaders.

It is a fact of no little significance in itself, hearing on the question whether vgamous marriag ently contracted in Utah by the con nivance of the first presidency and twelve apostles of the Mormon Church, that the authorities of said Church have endeavored to suppress, and have succeeded in suppressing, a great deal of testimony by which the fact of plural marriages contracted by those who were high in the councils of the Church might have been established beyond the shadow of a doubt. Before the in-vestigation had begun it was well known in Salt Lake Clip that it was expected to show on the part of protestants that Apostles George Teasdale, ants that Apostes George Teasdale, John W. Taylor, and M. F. Cowley and also Prof. J. M. Tanner, Samuel New-ton and others who were all high offi-cials of the Mormon Church had re-cently taken plural wives, and that in 1896 Lillian Hamlin was sealed to Apos-tle Abraham H. Cannon as a plural wife by one of the first presidency and twelve apostles of the Mormon Church All, or nearly all, of these persons ex-cept Abraham H. Cannon, who was deceased, were then within reach of service of process from the committee, But, shortly before the investigation began all these witnesses went out of

service of a subpoena to appear the committee and testify. These instances of the of testimony by the direct of tacit consent of the ruling aut suppr

of the Mormon Church committee in believing that pressed testimony would, if strongly corroborate the was given, showing th which who direct the affairs of Church countenance and polygamous marriages, as gamous cohabitation, and that allegations of the protestants in the regard are true.

Mormon Officials Living in Polygamon Cohabitation.

Aside from this it was shown by testimony, and in such a way that by fact could not possibly be ed, that a majority of th the law to the Mormon now, and have been fo ing in open, notorious at polygamous cohabitation, those who are thus guilty the laws of the state the public decency is headed b Smith, the first president Church, who testified in regard to the seer, and revelator sujcet as follows:

Mr. Tayler-Is the cohabitation

ne who is claimed to be a violation of the law of t as well as of the law of the land. Mr. Smith-That was the case, as is the case even today.

Mr. Tayler-What was the case what you are about to say? Mr. Smith-That it is co

the rule of the Church, and ell to the law of the land. to cohabit with his wives. I have cohabited with my win penly-that is, not in a thought would be offensiv eighbors-but I acknowled I have visited them. They h children since 1890. ione it, knowing the respon knowing that I was amenable as

Mr. Tayler-In 1892, Mr. See ow many wives did you have? Mr. Smith-In 1892?

Mr. Tayler-Yes. Smith-I had five. * * *

Mr. Tayler-My question is, by many children have been born to be by these wives since 1890?

Mr. Smith-I had eleva childre orn since 1890. Mr. Tayler-Those are all the chik

Iren that have been born to you she 18907 Mr. Smith-Yes, sir; those are all

Mr. Tayler-Were those children by all of your wives; that is, did all of your wives bear children? Mr. Smith-All of my wives bore

children Mr Tayler-Since 1890?

Mr. Smith-That is correct. The Chairman-I understand size

1890 Mr. Smith-Since 1890. 1 said that I have had born to me eleven childre

since 1890, each of my wives held children. . . . The Chiarman-Mr. Smith, I m

not press it, but I will ask you ! have any objection to stating ha many children you have in all Mr. Smith-Altogether?

The Chairman-Yes.

Mr. Smith-I have had been to ma ir. 42 children-21 boys and 21 gin and I am proud of every one them. The Chaliman-Do you shey a

law in having five wives at this is and having them bear to you lit. dren since the manifesto of 1460 Smith-Mr. Chairman, J h Mr. not claimed that in that case 1 have

beyed the law of the land The Chairman-That is all. Mr. Smith-I do not claim as I said before, that I prefer to stan my chances against the in

pp. 129, 133, 148, 197, 383

Answer of Mr. Smoot.

To the slatements made in the pro test and the charges by Mr. Leilich Mr. Smoot made answer, which answe is in the nature of a demurrer to all the charges contained in the protest and to the charges made by Mr. Lei-Hole. except two, namely, that Mr ot is a polygamist and that he is bound by some oath or obligation which is inconsistent with the oath taken by him as a senator. Both these he denies, and further denies, specifically and categorically, the

The resolution reported by the said committee declaring "That John Smith, a senator from the state of Ohio, by his participation in the conspiracy. Aaron Burr against the peace, union nd liberties of the people of the United States, has been guilty of conduct incompatible with his duty and sta-tion as a senator of the United States, and that he therefore, and hereby is, expelled from the senate of the Unit ed States," received 19 affirmative votes to 10 in the negative. (Senate Election Cases, 3rd ed., pp. 924-948.)

In 1862 Jesse D. Bright was expelled from the senate for writing a letter to Jefferson Davis, "president of the Confederation of States," in March, 1861, introducing one Thomas B. Lincoln,

In the progress of the debate Mr. McDougail said:

"It is no question of law, We have not asked whether the sevator rom indiana is guilty or not guilty We have to judge him in our best judgment, and by that we try him; and we say yea or nay, as we think, whether he be a true man or not to sli n the federal councils to conduct the effairs of the United States." (Congressional Globe, 2nd sess. 37th Cong. pt. J. p. 655.)

To the same effect were the remarks ade in the course of the same debate Mr. Lane, Mr. Howe, Mr. Johnson, by Mr. and Mr. Browning. (Congressional Globe, 2nd sess. 37th Cong., pt. 1, pp. 417, 418, 560, 584, 623, 624.) In the year 1867 Philip F. Thomas was denied a seat in the senate of the United States, to which he had been duly elected, for the reason that he ad resigned his seat in the cabinet of President Buchanan on account of his disagreement with the policy of the president in endeavoring to relleve the garrison of the forts in Charleston harbor, and also because Mr. Thomas had given to his son, who was about to enter the service of the Confederate states, a sum of money, not to assist the son in going to the camp of the Confederate forces, but "that in case he was imprisoned or suffering he might have a sum of money with him." There was no well-founded claim that Mr. Thomas had been guilty of any act or conduct of which any court would take cognizance; the most that was claimed was that his cinduct was such as to give "ald, countenance, and encouragement to persons engaged in armed hostility to the United States." Senate Election Cases, and ed., pp.

In the Hyltish parliament the same principle has been recognized in a mler of cases and is now fully esablished.

In the year 1812 Benjamin Walsh was xpelled from the house of commons as "unworthy and unfit to continue nember of this house," on account said Walsh having been guilty of "gross fraud and notorious breach of trust," hithough his offense was one "not amounting to felony." (67 Commons Journal, 175-176.) In that case the chancellor of the exchequer said:

"He could not think that because an act of parliament did not make a moral crime a legal one the house of comons should be prevented from taking gnizance of it" (Hansard's Parliacognizance of it. ary Debates, first series, vol. 21, p. 1199.)

In the year 1814 Sir Thomas Cochrane

Senator McComas-And the twelapostles were then first named?

Mr. Smith-Yes, sir. Senator McComas-When vacan scourred thereafter, by what bady were the vacancies in the twelve apos tles filled?

Mr. Smith-Perhaps I may say in this way: Chosen by the body, the twelve themselves by and with the consent and approval of the first presidency. Senator Hoar-Was there a revela-tion in regard to each of them? Mr. Smith-No. sir: not in regard 1 each of them. Do you mean in the be

ginning Senator Hoar-I understand you

say that the original twelve aposle were selected by revelation? Mr. Smith—Yes, sir: that is right. Senator Hoar—Is there any revel-

ion in regard to the subsequent ones Mr. Smith-No. sir; it has been the choice of the body. Senator McComas-Thea the apos

tles are perpetuated in succession their own act and the approval of the first presidency Mr. Smith-That is right.

To the same effect is the testimony of

Francis M. Lyman. It further appears that any one the twelve apostles may be removed by his fellow apostles without consulting the members of the Church in general It is also in proof that the first presidency and twelve apostles govern the Church by means of socalled revelations from God, which revelations ar given to the membership of the Churc as emanating from divine authority It is also shown that those members of the Mormon Church who refuse to obey the revelations so communicated by the presthood thereby become out of har-mony with the Church and are thus practically excluded from the blessings benefits and privileges of membership in the Church. It is also well established by

testimony that the members of the Mormon Church are governed in things by the first presidency and lye apostles. That this authority twelve apostles. That this authority is extended to the membership through series and succession of subordinate officials, consisting of presidents of seventies, presiding bishops, elders, presidents of stakes, bishops, and other officials. That one of the chief require-ments by the leaders of the Church is hat members shall take counsel their religious superiors in all things whatsoever, whether civil or religious, temporal or spiritual. That the failure to receive and obey counsel in any of these matters subjects the one who re-fuses to the discipline of the Church. That this discipline is administered in the first instance by the subordinate officials, subject to the right to appeal to the higher officials of the Church and ultimately to the first president and tweive apostles. These rules, enforced, as they are, by the discipline of the Mormon Church, constitute the president and twelve apostles a hierarchy, a body of men at the head of a religious organization governing their followers with absolute and unquestioned authority in all things relating to temporal and political, as well as to spiritual affairs.

The testimony taken before the com mittee also shows beyond a reasonable doubt that this authority of the first presidency and twelve apostles is so exercleed over the members of the Mor-mor Church as to inculcate a belief in the divine origin of polygamy and its rightfulness as a practise, and also to encourage the membership of that Church in the practise of polygamy and polygamous cohabitation. While this is denied on the part of the officials of the | ifesto.

NAG stances of the taking of plural wives since the manifesto of 1890, so called, have been shown by the testimony as having taken place smong officials of the Mormon Church to demonstrate the fact that the leaders in this t'hurch the first presidency and the twelve spostles, connive at the practice of tak-ing plural wives, and have done so ever since the minifesto was issued which imported to put an end to the prac-tise. It has been shown by the testi-meny, so clearly as to leave no doubt of the fact, that as late as 1826 on Lillian Hamlin became the plural wife of Abraham H. Caanon, who was then in apastic of the Mormon Church. This is shown by the proof of these facts: Down to the year 1855 Lillian Hamlin tas a single woman. In 1866 she rewas a single woman. In 1895 she ceived attentions from Abraham H. anon, these attantions being of haracter to indicate that there was note than a friendly relation existing etween the two. In June, 1906, Abrasam H. Cannon Informed his plural aife that he was going to California with Joseph F. Smith and Dillion Ham-in to be married to Lillian Hamilto at some place outside the United State While in California Joseph F. Smit ent with Abraham H. Cannon and failian Ham'in from Los Angeles to Catalina Island, After the return of the party to Los Angeles, Abraham H. Cannon and Lillian Hamba lived to. rether as hushand and wife. Returning to Salt Lake City, Abraham H. Cannon told his plural wife that he had been married to Lillian Hamlin. From that time it was generally reputed in the community and understood by the famflies of both Abraham H. Cannon Lillian Hamlin that a marriage had ta-ken place between them; that they had been married on the high seas by Jo-seph F. Smith, Lillian Hamlin assumed the name of Cannon, and a child to which she afterwards gave birth bears the name of Cannon and inherited a share of the estate of Abraham H. Car non. The prominence of Abraham H. Cannon in the Church, the publicity given to the fact of his taking Lillian Hamlin as a plural wife, render it prac-tically impossible that this should have been done without the knowledge, the consent, and the connivance of the headship of that Church

George Teasdale, another apostle of the Mormon Church, contracted a plural marriage with Marion Scholes since the manifesto of 1890. The president of the Mormon Church endeavors to ex-cuse this act upon the pretext that the first marriage of George Teasdale was not a legal marriage, but the testimony taken from the divorce proceedings which separated George Teasdale from his lawful wife, wholly controverts this assertion on the part of President Smith.

It is also in evidence that Walter Steed, a prominent Mormon, contracted a plural marriage after the manifesto of 1890. Charles E. Merrill, a bishop of the Mormon Church, took a plural in 1891, more than a year after the is-suing of the manifesto. The ceremony uniting said Merrill to his plural wife was performed by his father, who was then and until the time of his death an apostle in the Mormon Church. It is also shown that John W. Taylor, an-other apostle of the Mormon Church, has been married to two plural wives since the issuing of the so called mani-

Matthias F. Cowley, another of the twelve apostles, has also taken one or more plural wives since the manifesto. While the proof that Apostles Taylor and Cowley have married plural wives since the manifesto may not be so free from all possible doubt as is the proof in the case of Abraham Cannon, the 1100 fact that the proofs presented to the committee showing such matriages by Taylor and Cannon stand wholly controverted, and the further fact that Apostles Taylor and Cowley, Instead of appearing before the committee and denying the ellegation, evade service of process issued by the committee for their appearance, and refuse to appear after being requested to do so, warrant the conclusion that the allegation is true and that said Taylor and Cowley have taken plural wives since the man-

the country. Subpornas were issued for each of he witnesses named, but in the case of Samuel Newton only could the pro-Newton refused to obey the order of the committee, alleging no rea-son or excuse for not appear-ing. It is shown that John W. Taylor was sent out of the country by Joseph F. Smith on a real or pre-tended mission for the Church. And it is undeniably true that not only the apostles, but also all other of ficials of the Mormon Church, are at all times subject to the orders of the

all these most important witnesses chanced to leave the United States at about the same time and without erence to the investigation. All the facts and circumstances surrounding the transaction point to the conclusion that every one of the witnessas named left the country at the instance of the rulers of the Mormon Church and to avoid testifying before the committee. It is, furthermore, a fact which can not be questioned that ev-ery one of these witnesses is under the direction and control of the first presi-dency and twelve apostles of the Mor-mon Church. Had those officials seen fit to direct the witnesses named to return to the United States and give their testimony before the committee, they would have been obliged to do so. The reason why the said witnesses left the country and have refused to come before the committee is easy to understand, in view of the testimony showing the contracting of plural marriages by prominent officials of the Mormon Church within the past few years. It was claimed by the protestants

that the records kept in the Mormor temple at Sal! Lake City and Logan would disclose the fact that plural marriages have been contracted in Utah since the manifesto with the sanction of the officials of the Church. A witness who was required to bring the records in the temple at Salt Lake City refused to do so after consulting with President Smith. It is claimed by counsel for Mr. Smoot that this witness was not mentally competent to testify; but his testimory may be searched in vain for any internal evi-dence of such incompetency, and there was nothing in the appearance of the witness when testifying to suggest to the committee that he was not as com petent to testify as any witness who was examined during the course of the investigation.

The witness who was required to bring the records kept in the temple at Logan excused himself from attend-ing on the plea of ill health. But the important part of the mandate of the committee-ine production of the shie mind that the records-was not obeyed by sending protest are true, and the records, which could easily have been done.

In the case of other witnesses who were believed to have contracted plur-al marriages since the year 1890 all sorts of shifts, tricks, and evasions to such an extent as to call for the

and a start of the start of the

The list also includes Georg dale, an apostle; John W. apostle; John Henry Smith tle; Marriner W. Merril apostle; Heber J. Grant, M. F. Cowley, an apostle Penrose, an apostle; and F Lyman, who is not only at but the probable success F. Smith as president of Thus it appears that the first p dent and eight of the twelve apa a considerable majority of the rall authorities of the Mormon Chur are noted polygamists. In addition to these, the lit

cludes Brigham H. Roberts, who is one of the presidents of shares and a leading official of the thu J. M. Tanner, superintendent of Church schools: Andrew Jense assistant historian of the Church Thomas H. Merrill, a bishop of th Church; Alma Merrill, one of the pres idency of a Church stake; Angus M Cannon, patriarch of the Church; a man named Greenwai who is at the head of a Church school George Reynolds, one of the first set presidents of seventies and first ass t superintendent of Sunday school of the world; George H. Brimhal president of Brigham Young univer sity; and Joseph Hickman, teacher Brigham Young university. All th officials named were appointed, cith directly or indirectly, by the first pr idency and twelve apostles; and in t case of J. M. Tanner, his appointm to his present office was made at he had been compelled to resign ! position as president of the Artic tural college because of the fact that

he was a polygamist. These facts abund abundantly justily the assertion made in the protest that supreme authorities in the church whom Senator-elect Reed one, to wit, the first presidency iwelve apostles, not only confile violation of, but protect and he the violators of the laws against J nmy and polygamous cohabitation. It will be seen by the foregoing th

not only do the first pretwelve apostles encourage polyga by precept and teaching, but t majority of the members of that of rulers of the Mormon the practise of polygamy and greater encourageme the lives of polygamists, a ly and in the sight of all ers in the Mormon Church be doubted that this method aging polygamy is much cious than the teaching of by means of the writings tions of the leaders of the this upon the familiar prin "actions speak lounder than wi And not only do the preside

a majority of the twelve ap the Mormon Church practis amy, but in the case of each at one guilty of this crime who before the committee, the de tion was expressed openly and ly to continue the commission crime without regard to the of the law or the prohibition in the manifesto. And it is in that the said first president ing a large concourse of the of the Mormon Church at t nacle in Salt Lake City in the of June, 1901, declared the were to discontinue the porelation with his plural w be forever damned, and fore prived of the companionship and those most dear to him and those most dear to him out eternity. Thus it appears "prophet, seer, and revelator Mormon Church pronounces of eternal condemnation thr all eternity upon all member Mormon Church, who, havin plural wives, fall to continue th amous relation. So that the tes upon that subject, taken as a can leave no doubt upon any reprotest are true, and that those sa are in authority in the Mormor Church, of whom Mr. Smoot is one, sr