THE POLITICS OF AMERICAN RELIGIOUS IDENTITY

THE SEATING OF SENATOR REED SMOOT, MORMON APOSTLE

KATHLEEN FLAKE

The University of North Carolina Press
Chapel Hill & London
Is not a man’s duty as a citizen perfectly consistent with any conception that exists in this country of his religious duty?

—Senator Joseph W. Bailey, Proceedings (1904)

On Wednesday, 2 March 1904, the president of The Church of Jesus Christ of Latter-day Saints was called to the witness stand and placed under oath. The typical first questions introduced the witness better than most could appreciate: Name? “Joseph F. Smith.” Place of residence? “Salt Lake City.” Duration of residence? “Fifty-six years.”

Each of the witness’s answers was a critical marker of both his identity and the crux of the matter before the Senate committee. “Joseph” was the patriarchal name in the family, having been shared by Joseph F. Smith’s grandfather and uncle, the church’s first president. “Fielding” was the surname of his English immigrant mother, with whom he had made the forced march from Illinois to the Rockies. He had lived in Salt Lake City for fifty-six of his sixty-five years, making him an original citizen of the Mormon kingdom and firsthand participant in every phase of the nation’s Mormon Problem. In both his personal history and his ecclesiastical office, Joseph F. Smith embodied the conflict of authority between a nation with the soul of a church and a church with the soul of a nation.

Joseph F. Smith’s character and personality were shaped in an envi-
environment of extraordinary personal sacrifice and by experiences of abject loss and extreme terror. Born in 1838, Smith was immediately caught in the Latter-day Saints’ brutal flight to Illinois, catalyzed by the Missouri governor’s extermination order. Over the next few years, Smith saw the Latter-day Saint utopia, Nauvoo, Illinois, created out of a swamp on the Mississippi River and soon evacuated by force of mob violence. Three decades later, on his thirty-sixth birthday, Smith wrote in his journal, “My soul has never thoroughly dispelled the darkening shadows cast upon it by the lowering gloom of that eventful period.”

The church’s second forced exodus in six years and arduous trek to Utah was precipitated by the murder of both Smith’s father and uncle while they were in protective custody of the governor of Illinois. The event so traumatized the five-and-a-half-year-old Smith that he did not visit the site of his father’s death until 1906, notwithstanding his having been in the vicinity several times. Of this visit, a traveling companion reported that Smith “sank down in a chair and wept in the little jail room.”

The more immediate effect of the mob violence on Smith is implied in a letter he wrote to his wife when he passed through Nauvoo on his way to England in 1860. “I could pick out nearly every spot that I had known in childhood,” he said, including “the little Brick Out house where I shut myself up to keep from going to prison—as I supposed.” Throughout his six-day ordeal on the witness stand in the Smoot hearing, Smith wore on the lapel of his coat a miniature of his father. One can only guess its significance, but it must have reminded the son that no sacrifice was too great for the family faith.

Joseph F., as he was called within the church, matured in the Utah Territory under circumstances that continued to school him in the destructive antagonism between his church and the United States. His mother died from the hardships of homesteading the barren Salt Lake Basin, making him an orphan at thirteen. Two years later Joseph F. was expelled from school for beating a schoolteacher who had threatened to discipline his sister with a whip. This precipitated the imposition of church discipline on the boy in the form of an early mission call to the remote Sandwich Islands. When he returned five years later, he found “all Utah . . . afame with the war spirit . . . preparing to resist the impending invasion of Salt Lake Valley.” The U.S. Army had been sent to subdue the Mormon kingdom, and Smith’s first night home was spent, he said, “molding rifle bullets from a pig of lead. . . . I then proceeded to the front.”

Subordinating to the State 57
years, though the battle between his church and nation shifted to legal and political forums, Smith remained on the front line of the church’s defenses. Smith was a curious combination of frontier toughness, political sophistication, and religious certainty. He had participated in every stage of the church’s colonization of a vast territory in the American West and had traveled widely throughout the United States, the Pacific Islands, and Europe. For a self-educated frontiersman, he had a surprising breadth of knowledge and facility with argument, as the Senate committee would discover. While he was his people’s undisputed leader in spiritual matters, having served in the highest counsels of church government since 1867, he was also captain of the church’s many industrial and commercial enterprises. Politically, he had served both his church and state as colonist, city councilman, legislator, Washington lobbyist, and drafter of Utah’s constitution. No wonder, then, that the Latter-day Saints regarded him as “a reflex of the best character of the ‘Mormon’ people—insured to hardships, patient in trial, God-fearing, self-sacrificing, full of love for the human race, powerful in moral, mental and physical strength.” When he came to Washington in 1904 with a lifetime of personal trials coterminous with

58 Subordinating to the State
Joseph F. Smith’s family, 1904. Taken shortly after his testimony in Washington, this family portrait shows Smith seated in the center with three wives to his right and two to his left. His first wife, Julina Lambson (m. 1866; 13 children), is on Smith’s immediate right, and second wife, Sarah Ellen Richards (m. 1868; 11 children), sits immediately to his left. Next to Julina is her sister and Smith’s third wife, Edna Lambson (m. 1871; 10 children), followed by wife number four, Alice Ann Kimball (m. 1883; 7 children). To the left of second wife Sarah is fifth wife Mary Taylor Schwartz (m. 1884; 7 children). After being absent on church missions for five of the first six years they were married, Smith was divorced by Levira Annett Clark (m. 1859; no children) in 1866; she apparently objected to his marriage that same year to Julina. Smith’s forty-eight children included five who were adopted. Courtesy of LDS Family and Church History Library.

the history of the church, Smith embodied the church no less than his martyred father, whose portrait he wore on his lapel during the trial. As the chief hierarch of the L.D.S. Church, husband to five wives and father of forty-eight children, Joseph F. Smith served an equally representative function for the protests, however.

Newspapers for 2 through 7 March described the trial’s atmosphere, as well as Smith’s testimony, in great detail. “The Mormons sit in a stolid row . . . on the right-hand side of the great table that extends down through the middle of the room,” said the New York World. The protestants and their

Subordinating to the State 59
attorneys, Robert Tayler and John Carlisle, sat opposite Smoot and his brethren. The Senate Committee on Privileges and Elections was arrayed at the head of the table, and spectators were crammed into every nook of the remaining space. How they viewed the defendants is conveyed by the World’s “Graphic Pen Picture”: “Nearest the door is President Joseph F. Smith, a man of five feet eight or nine, with broad shoulders, a short neck and a general appearance of squattiness. . . . His eyes are small and shifty. They sparkle behind his glasses and are never still. . . . His words are well chosen. It is evident that he has had much practice in talking to the public. His temper is not well in hand, for at times he flares up and answers questions sharply. He rarely moves when other witnesses are on the stand. He watches each man closely, but betrays neither satisfaction at nor disapproval of the testimony.”

Smoot’s witnesses were read in terms of the anti-Mormon literature of the day. Here, Smith is portrayed as the personification of the Mormon viper on the hearth. Having projected their fears of religious authority and sexual activity onto Smith, most Americans were transfixed by the spectacle of his six-day cross-examination by some of their finest lawyers. A Salt Lake City paper reported, “The gallery corridors on the senate side of the capitol building were lined with people anxious to catch a glimpse of the men who had a multiplicity of wives.” Likewise, a stringer for the Associated Press concluded, “At times, the trend of questions indicated that counsel for the protestants proposed to lift the bed curtains in the homes of every official of the Church.” The Washington Evening Star headlined in bold type, “NOW HAS FIVE WIVES / Admission by ‘President’ Smith of Utah,” adding that the interest in Smith’s testimony made it “necessary to post policeman at door; no one allowed in except those directly interested; others blocked the passageway.” Directly behind the Mormon hierarchs sat forty or more representatives of the women’s groups in a section reserved for their use. Notables included Margaret Dye Ellis, general superintendent of and chief lobbyist for the Woman’s Christian Temperance Union; Teunis S. Hamlin, treasurer-general of the Association of Women’s Clubs and wife of the pastor of Washington’s Church of the Covenant; and Iowa suffragist Phoebe Cousins. Everyone else had to scramble for a seat. On any given day, as many as twenty members of the House as well as several senators not on the committee were in attendance; some were forced to stand along the walls of the hearing room.

Directly across from the “stolid row” of Latter-day Saints, the protestants took their seats at the table, “more sanguine of success than at any time heretofore during the campaign,” reported the Baltimore Sun. The

60 Subordinating to the State
protestants’ “campaign has now progressed to the point where the church, rather than one of its apostles, is about to be placed on trial before the nation.” On the eve of the hearing, the Senate committee had permitted the protestors to modify their complaint to charge that “the President [of the L.D.S. Church] and a majority of the Twelve Apostles now practice polygamy and polygamous cohabitation and some of them have taken polygamous wives since the Manifesto of 1890; [and] that these things have been done with the knowledge and countenance of Reed Smoot.”

Joseph F. Smith and the church’s apostolic quorum were now the express object of the Senate’s investigation. Though it was doubtful that their conduct was legally relevant to a determination of Smoot’s qualifications, the political nature of the hearing overwhelmed such scruples. After a year of having his objections to relevance overruled, Smoot’s lawyer could only find comfort in sarcasm. “It would be well,” he observed to the committee, “in the course of the investigation to have his [Smoot’s] name mentioned once in a week at least.”

The Senate continued to look past Smoot to his church, however. Because the government was concerned primarily with the extent of L.D.S. Church power and its exercise at the expense of republican institutions, the Senate committee was willing to hear any evidence of the church’s ability to control those who came within the sphere of its influence. Economic and political matters were of especial interest to the senators on the hearing panel, and they interjected their own questions into the examination of the witness by the protestors’ attorney Robert Tayler. Tayler was the ideal advocate for the protestors’ case. Not only was he a former prosecuting attorney, but Tayler had served as Ohio’s representative in the U.S. House, where, as chair of the Committee on Elections in 1899, he led the successful campaign to deny B. H. Roberts a seat in Congress.

The first substantive question Tayler asked Smith concerned the extent of his business holdings. The answer covered four pages and included references to major commercial and financial institutions operating in the intermountain region: banks, utilities, railroads, newspapers, manufacturing plants, and retail outlets. It was soon established that Smith’s engagement in these businesses was as president and that the boards that supported him were also comprised of Latter-day Saint ecclesiastical officers. This information shocked and dismayed his audience. The 1887 Edmunds-Tucker Act had dissolved the church and confiscated its property, not returning it until 1894 and only in part. Yet from Smith’s testimony, merely ten years later the church appeared to be no worse for the experience and was back in control. Such testimony could have only added to the fear of
the church’s imperviousness to federal authority and the suspicion that it was less than forthcoming about the actual extent of its holdings. Neither does it appear that the church was averse to extending its economic power. In December 1903, one month before the Smoot hearing began, Smith directed the consolidation of transportation and power companies in Salt Lake City and Ogden that gave the church control over street railways in two of Utah’s most populous cities and electric power plants in the state’s two most populous counties.

Equally as distressing as the church’s commercial dominance was its apparent political control in the West. Judge Orlando W. Powers, Gentile lawyer, resident of Utah for nineteen years, and former associate justice of its supreme court, testified that “from the earliest history of the Mormon Church it has been more or less a political institution.” Powers explained that the church’s history of conflict with the American people and government made it at best disinterested in and at worst hostile to “our national policies.” Moreover, since most church members had emigrated from the “Old World” and were, therefore, “unacquainted with our institutions and our system of government,” there was no impediment to their being “taught to look up to and follow the leaders of the Mormon Church.” They were, he said, easily instructed in “the necessity of obeying counsel . . . of not questioning that which may be said to you by men claiming to be inspired.” As evidence, Judge Powers described naturalization hearings of Latter-day Saint immigrants who insisted repeatedly that they would obey the authorities of the L.D.S. Church, even if in conflict with the law of the United States.

The most electric revelation from the hearing was that polygamy was still practiced. Despite efforts by the church to keep it secret, examples of post-Manifesto polygamy were generally known by Utahans. Several witnesses testified to the post-Manifesto marriages of four of the quorum and to cohabitation by virtually all of the rest. In addition, the protesters produced testimony that four apostles had performed plural marriages for the general membership: John W. Taylor, George Teasdale, Matthias Cowley, and Marriner W. Merrill. Evidence of new polygamy shocked the country and produced an emotional response that swamped Smoot’s defense. Utah’s delegate in the House of Representatives warned a friend in Utah, “It looks more serious for the Mormon people than they seem to realize at home. It is summed up in this: The question is not, Shall Reed Smoot keep his seat in the Senate? but, Shall the Mormon Church be declared an alien organization, and its members unfit to hold the rights of citizenship?”

It was not a given, however, that Smoot should be held accountable for

62. Subordinating to the State
the actions of his co-religionists. Even those unsympathetic to him thought this a violation of his rights and corrosive of religious liberty for all. “Mormonism is bad if not rotten,” opined the Independent magazine, “but bad men have political rights. The cure for Idaho or Utah is religious, and educational, and social, not political.” Harper’s Weekly worried,

In other words, a majority of the Committee on Privileges and Elections will ask the United States Senate to declare that no man holding a post of honor and power in the Mormon hierarchy is eligible to a seat in either House of the Federal Legislature. This, although he is admitted to be personally innocent of any violation of a State or Federal law. Is the establishment of such a precedent by the Senate reconcilable with the third section of Article VI of the Federal constitution, which provides that no religious test shall ever be required as a qualification to any office or public trust under the United States? . . . Where religious duty and duty to civil power conflict, as might conceivably be the case in the minds of Roman Catholics, could more be required constitutionally of a Catholic citizen than personal obedience to the law? This is a question the seriousness of which will be recognized by statesmen who have an eye to future contingencies.

Opponents were not without a persuasive rebuttal, however. An exchange between competing editorialists in Poughkeepsie, New York, captures the contrasting views inspired by Smoot’s trial. The Daily Eagle announced, “We think it is high time that the American people . . . realized just what all this talk means. It means simply that a man is to be excluded from public office because he believes things which we do not believe.” The Eagle’s voice was the minority. Two days later the Poughkeepsie Press retorted, “Much that the Eagle says about the rights of men to freedom of conscience is excellent, although there are a few left in this bigoted age who do not recognize freedom of conscience as a license to violate the statutes and outrage the decent sense of the whole nation.” As in Poughkeepsie, so also in the Senate and the nation. Minority scruples over personal conscience and religious liberty were overwhelmed initially by the majority’s fear of Mormon lawlessness. As Chairman Burrows told Smoot, “It is the Mormon Church that we intend to investigate, and we are going to see that these men obey the law.”

Two kinds of unlawful conduct were put at issue by the protestants: polygamy and unlawful cohabitation. Polygamy had been statutorily forbidden since the Morrill Act of 1862. Because the church claimed
that it did not keep written records of marriages, however, polygamy was practically impossible to prove, and convictions were virtually nonexistent. Latter-day Saint juries were disinclined to find guilt on any evidence, much less the circumstantial kind, and cooperating witnesses were not to be found. Consequently, in 1882 Congress passed the Edmunds Act, which created a category of crime named “unlawful cohabitation” and which was provable by inferences from social conduct.

The ultimate goal of the antipolygamy laws was not merely to proscribe sexual activity among multiple partners but also to enforce the regnant concept of American marriage as a partnership between one man and one woman. Certainly, polygamy’s sexual dimension was its most scandalous and titillating aspect. But antipolygamy sentiment was equally aroused by the assumed negative social and psychological effects of plural marriage on women, the moral wellspring of the home and, thereby, of the nation. Consequently, antipolygamy law was intended to delegitimize plural marriage in all its dimensions as a domestic partnership. This was the purpose of the new crime of unlawful cohabitation and its application to a variety of behaviors that permitted the inference of a marriage. As one exasperated Utah judge instructed an otherwise law-abiding Mormon lay bishop, “You shall not cohabit and live with your plural wives as your wife, must not hold her out to the public, and your associations must not be such as the people who are unacquainted with your relations would naturally infer that you were husband and wife.” The judge insisted, however, that the defendant’s duty as a father was unchanged because “the limitations on your conduct that the law imposes are not such that you shall not visit there to look after your children in times of distress and sickness, but you are expected to give them your care and attention.” In sum, a father must maintain his relationship with his children but not with his children’s mother. “The law does not expect and will not permit you,” the judge emphasized, “to go and cohabit with the woman as your wife and rear children by her; to be plain about it, to occupy the same couch and live and sleep with her and associate with her as your wife.”

Visiting as a father but not as a husband was easier said than done, of course. As one non-Mormon witness testified during the Smoot hearing, “If they go there, if they visit the home, this other thing is bound to occur.” The protestants did not take such a lenient view of human nature, however, and believed any argument to the contrary a ruse to mask sexual license. Robert Tayler, counsel for the protestants, demanded of Joseph F. Smith, “Do you consider it an abandonment of your family to maintain relations with your wives except that of occupying their beds?” Smith replied, “I do not wish to be impertinent,
but I should like the gentleman to ask any woman, who is a wife, that question.”

Smith would not budge from his assertion that pre-Manifesto marriages, including his own, were legitimate and that the families produced by them had a higher claim on the Latter-day Saints than did the civil law. The fact that these unions, including Smith’s, had continued to produce children was especially galling to Senator Burrows, chairman of the committee, who challenged Smith’s representation that he was law-abiding. Burrows interrupted Senator Beveridge to demand of the witness, “Do you obey the law in having five wives at this time and having them bear you eleven children since the Manifesto of 1890?” Smith attempted to answer, “Mr. Chairman, I have not claimed that in that case I have obeyed the law of the land.” The chairman interposed, “That is all.” Smith doggedly continued, “I do not claim so, and I have said before that I prefer to stand my chances against the law.” To which the chairman huffed, “Certainly.” But Smith hung on for the last word: “rather than abandon my children and their mothers. That is all there is to it.”

The newspapers reported that Smith’s testimony “displayed a spirit of defiance to the Senate and to the United States government. He said almost in so many words that it was none of the business of the rest of the world what the people do in the state of Utah so long as they do not actually contract plural marriages.”

Smith’s sore temper on the subject of plural marriage was a function of his experience. During the 1880s, increased numbers of federal agents conducted “cohab hunts” or raids on Latter-day Saint settlements to arrest polygamists. Julina Lambson remembered it as a time when “our families were scattered and, to obey the laws of the land, changes were made in our family customs, which grieved us all.” Her husband, Joseph F. Smith, called it “the reign of Judicial Terror.” Eventually more than 1,300 L.D.S. men and women were fined and assigned to prisons in Arizona, Michigan, South Dakota, Idaho, and Utah. The extent of the practice of polygamy in the Latter-day Saint community was virtually impossible to calculate under the circumstances. Modern scholars have arrived at various estimates. A reliable summary is provided by Thomas Alexander: “At present, perhaps the best estimates of the number of polygamous families among late-nineteenth-century Latter-day Saints range between 20 and 30 percent. Nevertheless, studies of individual communities show a wide variation in the incidence of plurality.” By 1904 these percentages had been reduced, but it is impossible to tell by how much. Understandably, the issue was hotly contested during the Smoot hearing. Smith testified that “only about 3 or 4 percent of the entire male population of the church...
have entered into that principle.’’ Senator and former federal marshal Fred Dubois argued that this was merely the number convicted.38 Popular belief among the Latter-day Saints reversed this percentage. A relative confided in Smoot’s secretary that “when he went into polygamy, it was popular ‘all the rage’; all worthy men entered ‘the principle’, and monogamy was a badge of unworthiness. . . . He said this tack about 2% of the people only having gone into polygamy was all untrue; that at one time that was nearer the proportion of the marriageable persons not polygamists.”39

Pursuing information on domestic arrangements was a thankless task for some and a satisfying crusade for others in Latter-day Saint communities. “Mind your business” became part of the Latter-day Saint creed during a time when bribes were offered to anyone who would testify against another, the credibility of accusers went untested, and the presumption of innocence was reversed.40 Because bounties were offered for information leading to arrest of church leaders, the majority lived in hiding or out of the country for years at a time. Wives, too, “went on the underground” to avoid federal marshals who would force them to testify against their husbands. The effects of the law were, as intended, thoroughly disruptive of Latter-day Saint society and morale. A polygamist wife later described the period in her autobiography:

It is difficult to picture the unsettled conditions in Utah and Idaho during the raid against polygamists. Homes were broken up and families scattered among relatives or friends. . . . Some had secret hiding places in their own homes; others trained the children to watch for the Deputy Marshal, and to evade or deceive when asked questions by strangers or deputies about family relations. If people were at any public gatherings and the federal marshal entered the town, there was a scattering of local Church authorities. . . . Mothers ran with their babies to the neighbors; old men took to the fields. . . . It was almost impossible for a stranger, who may have had only innocent motives, to get any reliable information about resident members of a town, because of the suspicious attitude of the citizens and their aversion to answering questions.41

One mother instructed her children to say that, if asked, “they didn’t know what their name was; they didn’t know where they lived; they didn’t know who their dad or mother was.”42 Church officials, too, engaged in “double speak” about the doctrine of plural marriage, especially after the 1890 Manifesto. Increasingly, they avoided reference to it where non-Mormons were likely to be present and denied its practice when asked. Obfuscation and even prevarication appears to have become commonplace when

66 Subordinating to the State
dealing with federal officials and the national press. The campaign for and against polygamy made Utah a society of deceivers and snoops.

As the majority of polygamous families aged, cohabitation was increasingly a crime of relationship inferred from otherwise innocent conduct, such as visiting too often or too late, giving gifts to ostensibly unrelated children, or being seen at public gatherings with different women. Persons best able to observe such quotidian events were also least inclined to prosecute. J. W. N. Whitecotton, attorney for Smoot’s bank in Provo and sympathetic non-Mormon witness, explained to the Senate committee, “When it comes [to] . . . making complaint against a neighbor . . . it calls up to us all these things of an unpleasant character among neighbors; throwing the only support the women have into the penitentiary maybe, or taking the substance of the man to pay the fine. It makes a man hesitate, and a man who would do that must be a man peculiarly made for seeing nothing but the law.” 43 The non-Mormon chair of Utah’s Republican Party expressed an even more lenient view when cross-examined by Senator Dubois, who asked him incredulously, “Mr. Booth, do you not understand that these children who are now being born into the world in this polygamous relation come into the world contrary to the laws of God and man?” Booth replied, “Well, they do contrary to the laws of man. The other law is not so well defined and definitely settled as to enable me to testify concerning it. . . . I would despise a man who would abandon these women.” 44 Even the otherwise anti-Mormon witness Orlando Powers said of the Latter-day Saints, “They are a God-fearing people, and it has been a part of their faith and their life. Now, to the eastern people their manner of living is looked upon as immoral. Of course it is, viewed from their standpoint. Viewed from the standpoint of a Mormon it is not. The Mormon wives are as sincere in their belief in polygamy as the Mormon men, and they have no more hesitation in declaring that they are one of several wives of a man than a good woman in the East has in declaring that she is the single wife of a man.” 45

While they did not endorse polygamy, most non-Mormons who lived among the Latter-day Saints believed in their sincerity and agreed with them as to their familial duties. Moreover, these neighbors were convinced that the practice of polygamy was moribund and, if not given further energy by persecution, would be quashed by the church’s younger generation. They believed time, not prosecution, was the preferred cure for polygamy. The national reform movements, however, were convinced that local tolerance was the cause of new polygamy. They advocated a more
exacting standard of enforcement. As Burrows told Smoot, “If a man was seen with a plural wife he was guilty of polygamy.” To the Senate committee chairman and the protesters, Joseph F. Smith’s defense of cohabitation was an act of defiance and his homes were “houses of prostitution.” The reformers recognized, however, that Utah could not be compelled to enforce laws against polygamy and unlawful cohabitation. Having joined the union of states, Utah’s citizens had the power to govern themselves within constitutional limits.

As the testimony of post-Manifesto polygamy and cohabitation continued to mount during the trial, those concerned about Utah’s lackadaisical enforcement called for revocation of the state’s charter on the grounds it had entered the union on false pretenses. No one knew exactly how to do that, however, and few, even among those willing to punish Smoot for his church, wanted the entire state penalized. Most were content with demanding a constitutional amendment, modeled on the Idaho test-oath statute, that would disfranchise persons who belonged to an organization that espoused the practice. The Buffalo Express editorialized, “The facts brought out by this investigation call, not so much for the expulsion of Smoot, as for a constitutional amendment which will really stop the practice of polygamy in Utah.”

By separate letters, two of Smoot’s political contacts advised him that a constitutional amendment was likely. One had information that the committee would recommend “passing Constitutional amendment providing that ‘Congress shall be given exclusive jurisdiction over all matters pertaining to marriage and divorce, with power to legislate in any manner to carry out its provisions’ and that TR has seen draft amendment.” The other warned that some were lobbying the committee “to the effect that the only way to solve this Mormon problem is to disfranchise our people. There is but very little question, but the majority of these fellows are working for a Constitutional amendment to that effect. If they fail in the attempt to unseat you they hope to have raised such a storm that the committee will be forced to recommend an anti-polygamy amendment to the Constitution.”

The protesters’ hope that the Smoot hearing would galvanize the public over Mormon lawlessness was being realized in the early months of 1904, during Joseph F. Smith’s testimony. Goodwin’s Weekly observed, “The people of this country are being stirred to the depths over this attempt to push into the Senate a man who holds another government as more binding upon him than the government under which he is born.” The Senate, too, was outraged. “The admissions made by President Smith were received with astonishment by the committee,” reported the New
York Times. “Evidently the Senators had not believed the allegations that had been made against the Mormons.” Of course, Senator Smoot had been working the halls for months to achieve this end, but Smith’s testimony undid his efforts in a matter of days. “If a vote could be taken at the present time,” reported the Chicago Daily Tribune, “Senator Smoot would be expelled almost unanimously. There might be a few on either side of the chamber who would hold out for certain legal forms, but it is believed few senators could resist the strong tide of public opinion.”

The day before the hearing began, Smoot’s young secretary Carl Badger wrote in his journal, “The answer [to the protestants’ new charges against church leaders] seems a very difficult one to meet. The contradictions at home are peculiar, and if they hold the Senator responsible for them out he will go.” “Contradictions” was Badger’s euphemism for the fact that, while the church maintained an official policy against polygamy,
its members continued to practice it. The Latter-day Saints had lived with such contradictions for a long time. Only the young among them, like Badger, could think the contradictions “peculiar.” They did not have the history to recognize in these contradictions the church’s traditional defense for its practice of plural marriage. As early as 1835, church officers had issued a formal statement on marriage, providing in part that “inasmuch as this Church of Christ has been reproached with the crime of fornication and polygamy, we declare that we believe that one man should have one wife, and one woman but one husband.” The assertion was true only in the most technical sense. If “we” were construed to apply to the church collectively and not its members individually, “we” were not practicing polygamy. Similar denials were published in 1837 and 1838. Church president Joseph Smith appears to have practiced polygamy as early as 1833, but he did not institutionalize the practice until the early 1840s and, even then, only among a select group of church authorities. Smith was absent when the articles on marriage were announced and endorsed by an assem-

70 Subordinating to the State
ably of the church, but he knew of them and probably directed others to

draft them.58

In 1890 a similar strategy was used in the Manifesto, which provided,

“I [Wilford Woodruff] hereby declare my intentions to submit to those
laws, and to use my influence with the members of the Church over which
I preside to have them do likewise.”59 By its terms, the Manifesto did not
explicitly commit the church to any course of conduct. It merely advised
church members to obey the law of the land. The logical and, no doubt,
intended inference to outsiders was that Woodruff was acting in his offi-
cial capacity as president to dictate church policy. To insiders, the message
was simply a continuation of the policy under which many had lived for
fifty-five years. It was an announcement that members were to take per-
sonal responsibility for deciding whether to obey the law of their god or
their government. Thus, in 1899 the apostolic quorum could agree that “a
man must take care of his family, but he must be responsible for his own
acts.”60

Records of quorum meetings show also that, as late as October 1903,
Apostle Marriner W. Merrill exhorted his younger brethren to take addi-
tional wives.61 Though President Joseph F. Smith had left the meeting prior
to Merrill’s comments, based on the remarks of others and evidence of
marriages authorized by him after the Manifesto, it is probable he would
not have objected to Merrill’s exhortation. For example, Matthias Cowley
instructed a local church leader “in confidence that it was not the policy of
Prest. Joseph F. Smith to censure any man for entering the order of plural
marriage since the days of the Manifesto, provided he had acted wisely and
done so with the sanction and by the authority of the proper authority.”62
Many such indications exist in private letters and journals that polygamy
was being preached and practiced by Latter-day Saint leadership in the
early twentieth century. Probably the most telling evidence is from quorum
minutes taken on the day after Smoot filed his answer to the protest and
eleven days before opening arguments. One of the eight apostles present
reported, “The principle topic of discussion was the present agitation in
Congress. . . . The brethren were cautioned not to exercise the keys of seal-
ing in plural marriage at present and to be wise and prudent in all their
doings.”63

The consequences of exposure were clear. “Anyone who enters the
Principle [of plural marriage] these days must bear his own burden,”
Apostle John W. Taylor is reputed to have said. “I have been charged. If
I can’t protect myself, I will be dropped from the Quorum.”64 He was

Subordinating to the State 71
right. When evidence of new polygamous marriages was produced at the Smoot hearing, church lawyer Franklin D. Richards wrote Smoot, “I feel sure of one thing that if half of what is rumored . . . is true, they [Apostles Taylor and Matthias F. Cowley] have done a great wrong to their brethren and to the church and they, not the church, will eventually have to answer for it. I feel sorry for them, but they must take the consequences, I must defend the church.”

Although evidence during the Smoot hearing showed that four apostles had performed new plural marriages, Teasdale’s and Merrill’s advanced age and ill health had made Taylor and Cowley more suitable targets for Senate attention. When Taylor and Cowley gave no reason for avoiding Senate subpoena power, the “great wrong” of new polygamy was attached to them with additional force. For Latter-day Saint attorney Richards, however, the wrong of performing new plural marriages was compounded by getting caught. Taylor and Cowley had committed the “great wrong” of putting the church at risk.

In addition to attempting to protect the church by treating it as a corporate entity with an existence separate from the activities of its directors and officers, church leaders endeavored also to shield the church’s president and his counselors from both direct knowledge of and public accountability for the continuing practice of polygamy. As a consequence, the church’s presidency could advise Smoot, “We telegraphed you to deny knowledge of violations of law on the part of the Presidency and Apostles. We did so judging you by ourselves, for we could not say that we knew of any one of them violating the laws of the State and we did not think you knew of any either. If there be violations they are not by the counsels of the church, but contrary to our counsel, and therefore the law-breakers, if any there be, must be held responsible for their own acts.”

Because Smoot’s diary for these years is missing, his feelings about this defense cannot be known. Seven years later, however, when the church was again accused of new polygamy, Smoot recorded in his journal that his brethren “seem to think that the fact that the church has not approved or sanctioned the marriages [means] it cannot be held responsible for them.” Smoot did not “seem” to agree, but he did not break ranks publicly during the contest over his seat. His formal answer to the protest stipulated that the church had abandoned “belief in the practice of polygamy and belief in and practice of polygamous cohabitation. . . . Where continued it is on the sole responsibility of such persons, and subject to the penalties of the law.”

Though church leaders were intent upon maintaining the defense that they were acting individually in exercising their priestly authority to per-

72 Subordinating to the State
form marriages, church control over these men and their constant counsel-
ing with one another made their position untenable. For those who heard
the testimony, it was simply unbelievable that this close-knit group of fif-
ten men, bound by work, faith, and even familial kinship, did not know
the identity and number of one another's wives and whether their mar-
riages had occurred after 1890. More than unbelievable, the testimony was
at times absurd. When Apostle Marriner Merrill was proved too ill to tes-
tify, his adult son Charles Merrill was put in the docket. Asked whether
his father had married him to his plural wife, Charles testified, “I do not
know that he knew that I was living with a wife [already].” Charles had
to admit, however, that he and his plural wife lived across the street from
his mother, one of his father's six wives, who did know of her son's do-
metric arrangements. Charles could “not remember him [his father] ever
being present when she [Charles's plural wife] was there.” Hearing such
testimony made Smoot's secretary admit, “I feel sick sometimes and some-
times I just feel unwell. The Committee is insisting that John W. [Taylor]
and Brother Cowley come and they ought to, but I do not want them to
come and lie, and I do not know whether I want them to tell the truth. So
there you are,—the devil and the deep sea.”

Since trial attorneys are schooled to ask only those questions to
which they know the answer already, witnesses are given only a choice
between confession or perjury. Thus trials, especially political trials, fos-
ter those “forms of lying [that] are ethically permissible and [demonstrate]
how to lie in the most enlightened, constructive, successful, pleasurable,
and humane ways possible.” For all the litigants, the Smoot hearing was
rife with moral dilemmas, the more so because each party felt the stakes
were high and each thought the other was a superior power. The church
saw in its opponents the might of the national government and a cabal of
Protestant agencies. The protestants believed they were tackling “an oli-
garchy working under an autocrat beside whom the Czar is a weakling.”

Moreover, each side was conscious of being at war with the other. The
Senate decided not to subpoena polygamous wives and their children be-
cause “it was not desired to ‘make war on women and children.’” For
their part, the Latter-day Saints referred to Washington as “the seat of
war.” This attitude affected their assumptions of what was morally per-
missible under the circumstances. A few years later, on trial before his
brethren for his church membership, Apostle Matthias Cowley reminded
them that the church’s ethics were situational: “I am not dishonest and
not a liar and have always been true to the work and to the brethren[,
but] . . . we have always been taught that when the brethren were in a tight place that it would not be amiss to lie to help them out.” 76 But for the fact that the Latter-day Saints are a religious group battling on religious grounds, their deception on the subject of polygamy would be so predictable as to escape comment. As Sissela Bok concluded in her classic study on the subject of lying, “If the designation of a foe is open, as in a declaration of war, deception is likely to be expected on all sides. While it can hardly be said to be consented to, it is at least known and often acquiesced in.” 77 Or, as observed by the press during the hearing, “the non-Mormon witnesses in the rear of the committee room chuckled as the clever parrying proceeded and the head of the church was brought nearer and nearer to where he must make a direct reply.” Even Robert Tayler’s “impassive countenance lighted up at the clever maneuvering.” 78 The Smoot hearing provides a classic example of deception by foes or “clever maneuvering.”

Only one of the protestants was placed in the docket: Edward B. Critchlow, a former assistant U.S. attorney who drafted and signed the Smoot protest. Thus the protestants’ vulnerability under oath was limited. Still, no less than the accused, Critchlow exemplified the witness who is led to make admissions against his own interests. For Critchlow this meant testifying that Protestant churches were active in Utah politics and some Latter-day Saints had opposed Smoot’s election without suffering church sanction. He admitted to campaigning for polygamist apostle John Henry Smith and for failing to prosecute polygamists during his tenure as U.S. attorney. He contradicted himself on the extent of L.D.S. Church control over its members. Finally, he admitted that the protest against Smoot was religiously motivated and dominated by clergy. 79 Secretary Badger was there to record Critchlow’s undoing: “In regard to church influence it was made strongly to appear that the Salt Lake Ministerial Alliance has been just as much in politics, and as successful, as it is claimed the Mormon church has been. I, for one, felt like forgiving Critchlow for all of his meanness when he gave away his case with such readiness, he owned up like a gentleman even though it knocked a hole in the bottom of his tongue, he had a rather sickly smile on his face before he got through though.” 80 In their conduct of the case, however, the protestants were not so “gentlemanly.” For example, though they had stipulated in 1903 that Rev. John Luther Leilich’s claim of polygamy against Smoot was false, the protestants later used the same allegation to reopen the hearing. They also padded the evidence. Smoot’s only recorded outburst during the entire hearing came when Charles Mostyn Owen, the protestants’ investigator and Utah’s resident rumormonger, introduced a list of persons whom
he represented to be polygamists. At that point, Badger was delighted to
tell his wife, the always reserved Smoot “leaned over and called Owen a
‘liar’ and Owen told the Senator he was not a gentleman.” Though Owen
“said [his list] did not contain any mistakes. The truth,” Badger claimed,
“is that it contains many.”

Press reports show that even among the Senate committee, veracity was
sometimes challenged: “The hearing was enlivened by a controversy be-
tween Senators Hoar and Foraker, who renewed their recent scrap on the
floor of the Senate, and each informed the other in parliamentary terms
that he was not speaking the truth.” Later, Senator Beveridge would call
his chairman “‘a damn liar’” for inferring that Smoot had a second wife
and telling the committee that the rules permitted it to gather “secret evi-
dence, not under oath, and which the Senator [Smoot] has no opportu-
nity of meeting by cross-examination.”

There is no question, however, that the Latter-day Saint witnesses were
most often backed onto the moral ropes of the fight. A close reading of
the record permits the conclusion that Joseph F. Smith was sufficiently
concerned for his personal integrity and skilled in casuistry to avoid lying
outright. But it is obvious that he intentionally misled his interlocutors
and used every conceivable strategy to deceive and frustrate them. For ex-
ample, Smith was asked whether he performed the rumored plural mar-
rriage of then deceased apostle Abraham H. Cannon. Burrows phrased the
question carefully: “When you were in Los Angeles and went out to an
island [with Cannon and company] . . . was any ceremony performed by
you?” The reference to “any ceremony” was an attempt, no doubt, to pre-
vent evasion on whether and what kind of a marriage was performed. Yet
Smith was able to answer absolutely, “No, sir . . . none whatever,” because
Cannon’s marriage appears to have been performed in Salt Lake City by
Smith. And so it went throughout all six days of Smith’s testimony. When
asked to enumerate the wives of absent apostle Grant, Smith answered,
“only two that I know of,” telling the committee only what it already knew
from Grant’s indiscreet donation four months earlier. Chairman Burrows
interjected, “Only two?” Smith replied tersely, “Only two. Pardon me for
saying ‘that I know of;’ Mr. Chairman. I am like other men; I only know
what I know.”

It appears that Smith’s standard of knowledge was rigidly empirical.
Smoot’s attorney returned to the issue three days later, and Smith an-
swered, “All I know about it, sir, is that these men who are in the polyga-
mous status with myself take their own chances individually as to the
consequences of living with or abstaining from living with their families.

Subordinating to the State 75
They are amenable to the law.” Worthington noticed the evasion and replied, “That does not answer my question . . . What knowledge [do] you have . . . in any way—as to whether or not they are actually cohabiting with more than one woman?” Smith responded, “Not having inquired into the matter at all, I am really not in a position to say. I do not know.” As indicated, it is also clear that Smith did his best not to know. In 1900 Smith had written a colleague, “I know nothing about his [Benjamin Cluff, who would be come a subject of the Smoot hearing] domestic arrangements nor do I want to, the less I know about some things the better for me at least and perhaps for others concerned. . . . My motto is and always has been to protect to the uttermost in my power the rights and the secrets, if secrets there may be, of my friends and the friends of the kingdom of God.”

With respect to the critical question of whether the L.D.S. Church continued to practice polygamy, Smith testified repeatedly that “there never has been a plural marriage by the consent or sanction or knowledge or approval of the church since the Manifesto.” Later he said, “I wish to say again, Mr. Chairman, that there have been no plural marriages solemnized by and with the consent or by the knowledge of the Church of Jesus Christ of Latter-Day Saints by any man, I do not care who he is.” The next day he repeated, “Let me say to you, Mr. Senator [Beveridge]—I have said it, but I repeat it—that there has not been any man, with the consent or knowledge of approval of the church, who ever married a plural wife since the Manifesto.” Thus, to the critical question of whether post-Manifesto polygamous marriages had been performed, Smith employed repeatedly the traditional distinction between the church and its members. In doing so, he belied the fact that he himself had performed such marriages. As protestor E. B. Critchlow testified, “When he [Smith] says that plural marriages have stopped, I understand him to use the words in a different sense from what I would use them, or anyone else would use them.” But neither opposing counsel nor the committee was able to shake Smith from his testimony.

Smith was equally sophisticated and resolute in answering a second set of questions that put him between a meaner devil and a deeper sea than did concerns about post-Manifesto polygamy. These questions had to do with the nature of church authority in general and Smith’s power in particular. The protestants had placed these issues at the heart of their complaint against Smoot. L.D.S. Church leaders exercise, said the written protest, “supreme authority, divinely sanctioned, to shape the belief

76 Subordinating to the State
and control the conduct of those under them in all matters whatsoever, civil and religious, temporal and spiritual.” Polygamy was only the most obvious example of the strength and perversity of Mormonism’s priestly hierarchy. The real problem, according to the protestants, was the prophetic and priestly character of the L.D.S. Church. The insult of the Latter-day Saints’ “visible oneness” was directly related to the political injury of their conflation of the temporal and spiritual. This allegation required the committee to consider matters normally exempt from political inquiry—sometimes to the discomfort of its own members. Senator Bailey, troubled by the extended cross-examination of Smith on matters of belief, interjected, “Before we proceed any further, I assume that all these questions connected with the religious faith of the Mormon Church are to be shown subsequently to have some relation to civil affairs.” Senator Hoar, without disagreement from his colleagues, simply instructed the senator from Texas that “what we might think merely civil or political they deem religious matters.”

The problem of Mormonism’s “externality of the kingdom of God” was compounded by the Latter-day Saints believing themselves led by one who spoke for God. Though titled “president,” the head of the church was considered by the faithful to have all the rights and powers of an Old Testament prophet, priest, and king. It did not matter that all male members of the church were considered priests. Because they were organized hierarchically in a system that culminated in the designation of a living prophet, the Latter-day Saints seemed to have achieved a “visible oneness [that] is the very essence of popery.” To Protestants, this “foreign,” even “barbarian” conception of church, analogous to Roman Catholicism but worse, natively American, made the Latter-day Saints primarily loyal to their prophet and, thus, fundamentally disloyal to their nation. “The only reason why they do not rise up in revolt against the United States government is because they are too infinitesimally weak. At heart they are all traitors,” said a non-Mormon resident of Utah to a Michigan newspaper.

That the Latter-day Saints espoused a different order of marriage may have put them in violation of law. That they violated the law in obedience to a higher authority—not in heaven, but on earth—made them lawless. And it made Smoot a representative of a competing authority in the national legislature. America’s Mormon Problem was a conflict of laws, not merely of morals. While the battle was joined over differences in marital ethic and order, the war itself was over the Saints’ nondemocratic, nonrational system of authority expressed through prophets and prophecy. Hence the senators found themselves uncomfortably, but necessarily, en-

Subordinating to the State 77
tangled in questions of “religious faith” when trying to determine whether
the Saints were loyal to their god or their country.94

The subject of conflicting authorities was introduced by prosecuting at-
torney Tayler, who questioned Smith “as to the method in which a reve-
lation is received and its binding or authoritative force upon the people.”
Smith responded that the “guidance” he received from God was “the same
as any other member of the church.”95 Moreover, he said, all members of
the church were free to accept or reject any revelation presented to them
by their prophet. Revelation was not binding upon the church by virtue
merely of its enunciation by the hierarchy, but only upon acceptance by
vote of the congregation, and even then some latitude was allowed. Smith
emphasized that all may receive divine guidance through “the spirit of
revelation.” Similarly, he portrayed Smoot’s authority as “no more than
[that of] any other member of the church, except as a body or a council of
the church.”96 With the unwelcome help of Senator Hoar, Smith admitted
he knew of no revelation from church leadership that had been rejected
by church members as a whole.

Chairman Burrows and Senator Overman wanted to know what hap-
pened to individuals who disagreed: Are they “unchurched”? To the ex-
tent they were, Smith answered, they “unchurched themselves . . . by not
accepting [the revelation].” The remainder of the exchange bounced back
and forth between equally frustrated and frustrating answers and ques-
tions. Finally Senator Hoar declared, “The point is, which, as a matter of
obligation, is the prevalent authority, the law of the land or the revela-
tion?” Smith replied, “Well, perhaps the revelation would be paramount.”
Hoar erupted, “Perhaps? Do you think ‘perhaps’ is an answer to that?”
Smith tried again: “With another man the law would be accepted, and
this was the condition the people of the Church were in until the Mani-
ifesto settled the question.” At this point Smoot’s attorney Worthington
tried to bail him out: “Let me ask you a question in that connection.”
Hoar would not allow it. “I had not quite gotten through, Mr. Worthing-
ton,” Hoar warned. Worthington begged the senator’s pardon, and Hoar
resumed: “I want to go a little farther. Suppose you should receive a divine
revelation, communicated to and sustained by your church, commanding
your people to-morrow to do something forbidden by the law of the land.
Which would it be their duty to obey?”97

To answer this question, Smith had to find a way to rationalize con-
vincingly the subordination of prophecy to democracy and do so without
undermining L.D.S. Church order. Theoretically, all Americans would
have agreed with the Latter-day Saints, as Belva Lockwood pointed out

78 Subordinating to the State
in a public letter of refusal to sign an anti-Smoot petition: “You say that
the Mormon church claims to be superior to the government. So do all
orthodox churches, and the thirteen united colonies were founded on the
principle that conscience is superior to law, and I say to you that although
a law-abiding woman and a lawyer by profession for twenty-five years,
whenever a law impinges on my conscience, as the old Fugitive Slave law
did, it is conscience first and not the law. God is above the law and the
constitution.” 98 What the Smoot hearing makes clear is that while God
may be above the Constitution, churches are not.

As devout men themselves with strong ties to their respective denomi-
nations, the senators on the committee could pursue their questioning of
Smith and other Latter-day Saint witnesses because they had a naive con-
fidence in the compatibility of church and state. Senator Bailey spoke for
his colleagues when he asked rhetorically, “Is not a man’s duty as a citi-
zen perfectly consistent with any conception that exists in this country of
his religious duty?” 99 The committee’s lack of identification with the pre-
dicament of the Latter-day Saint witnesses may also reflect the senators’
low opinion of Mormonism as a religion. “Any conception” of religious
duty that conflicted with U.S. law was per se not truly religious or, in
Rev. Meade Williams’s terms “utterly foreign to that on which our Chris-
tendom has been built.” Thus there could be no point of identification
with the question posed to the Latter-day Saint witnesses: “Suppose you
should receive a divine revelation, communicated to and sustained by your
church, commanding your people to-morrow to do something forbidden
by the law of the land. Which would it be their duty to obey?” 100 Smith
gave the only possible answer under the circumstances: “They would be
at liberty to obey just which they pleased.” 101

Smith’s answer turned the protestants’ argument back upon itself: the
church could not force its members to obey the law of the land. Smith as-
sumed the committee that church members were “at liberty to obey just
which they pleased. There is absolutely no compulsion.” As has been de-
scribed, this was the church’s traditional, public position on plural mar-
riage. In addition, Smith asserted that Latter-day Saint obedience to civil
authority was one of its doctrinal tenets. He proffered scriptural support
from Latter-day Saint canon: “Let no man break the laws of the land,
for he that keepeth the laws of God hath no need to break the laws of
the land.” 102 This statement, like so much else in the trial, was a defi-
nitional bait-and-switch, however. What the committee heard and what
Smith meant were most certainly two different things. In 1882, the same
year the Edmunds Act was passed, Smith had interpreted this scripture

Subordinating to the State 79
differently for church members gathered in general conference. “The law of the land, which all have no need to break, is that law which is the Constitutional law of the land, and that is as God himself has defined it,” said Smith. But, he noted with particular emphasis, “if lawmakers have a mind to violate their oath, break their covenants and their faith with the people, and depart from the provisions of the Constitution where is the law human or divine, which binds me, as an individual, to outwardly and openly proclaim my acceptance of their acts?”

In short, the divine injunction to the Latter-day Saints to obey U.S. civil law was limited to those laws that comported with the divinely inspired Constitution. Since the antipolygamy statutes violated the First Amendment, Smith stated in 1882, they need not be obeyed. Clearly, the Smoot hearing was not the place for Smith to state his theory of broken oaths of governance and nonbinding legislation.

Smith was answerable not only to the Senate committee but also to the Latter-day Saints, for whom his words were of critical importance. For their benefit and his own sense of integrity, no doubt, Smith consistently refused to apologize for his own family relations or, more generally, the Latter-day Saint belief in and practice of plural marriage. He reiterated also that the church’s belief in plural marriage was based in revelation to its founding prophet. Antipolygamy law, he said, “did not change our belief at all.” Furthermore, when asked why the church was now willing to obey civil law instead of the revelation, Smith asserted that even the change in Latter-day Saint action was a response to their god, not their government. Senator Beveridge wanted to make sure he understood, asking, “Is the committee to understand that you and your church regard the law of the land as more binding upon your actions than your religious beliefs?” Smith responded, “No, sir: not in that sense. I understand that we are under injunction by the Manifesto not to practice plural marriage . . . not to continue plural marrying. Under that injunction we refrain from teaching it, inculcating it, and advocating it, and out of respect both to the law and to the Manifesto of President Woodruff.” In this manner, Smith attempted to appease the committee and not displease his people. As we shall see, in achieving the former, Smith failed at the latter. Publication of his characterization under oath of his office as inspirational, not revelatory, created a crisis for Smith when he returned home.

Moreover, the ten witnesses who followed Smith during the remainder of March 1904 were not as successful in walking the line between perjury and confession. Each in his or her own way provided evidence that plural marriage was still a way of life among many in the L.D.S. Church,

80 Subordinating to the State
especially its leadership. The witnesses included a woman who testified that an apostle performed her post-Manifesto polygamous marriage, an apostle who testified that he would have to defend the principle of plural marriage if it were assailed, and a former bishop who argued that he had committed adultery rather than admit to polygamy and gave Smoot the credit for his arrest. Of course, Smoot won a few victories, such as the testimony of the anti-Mormon Utahan who had to admit there was no difference between “good Methodist brothers” and Mormons with respect to political interference, except the latter were “more effectual.”

At times even the participants could not resist laughing at the absurdity of the situation and the answers it inspired. But no one was amused by the increasing evidence during the first phase of the hearing that the nation still had a Mormon Problem. Indeed, through Smith’s testimony the protestants had shown that the church’s political, economic, and polygamous kingdom was largely intact though diminished since its zenith under Brigham Young.

The protestants squandered their advantage, however. Smith had set a high standard of sensational disclosure, and the protestants had trouble sustaining public interest in the witnesses who followed. Much of what was said was simply repetitious, and repetition robbed the case of its power to titillate. The public was further distracted by a hiatus in the proceedings. For fear the hearing would prejudice Roosevelt’s campaign, Chairman Burrows’s fellow Republicans convinced him to adjourn on 24 April 1904 and resume after fall elections. Democrats concurred for their own political reasons. In particular, the protestants’ chief ally on the committee, Democratic senator Dubois of Idaho, hoped to use anti-Mormon sentiment to help his own reelection and, therefore, supported the delay.

The eight-month interruption in the proceedings broke the protestants’ momentum and gave the Latter-day Saints much needed time to control the damage done in Washington and Salt Lake City during the first phase of the hearing.

Subordinating to the State 81