

# ***Cutting Down the Tree of Life to Build a Wooden Bridge***

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There are four topics discussed in this paper. They are plural wives, ordination of black African men, pressure to ordain women, and same sex marriage. The history of changing LDS doctrine, past, present and the likely future, are illustrated using these four subjects to show doctrinal changes required to build a necessary bridge between LDS Mormonism<sup>1</sup> and the American public.

Religion moves through two stages. In the first, God reveals Himself to man. This is called “restoration.” It restores man to communion with God as in the Garden of Eden. In the second, man attempts to worship God according to His latest visit. This stage is always characterized by scarcity<sup>2</sup> and inadequacy. This is called “apostasy.” Apostasy always follows restoration.

Abraham, Moses and Isaiah ascended the bridge into God’s presence.<sup>3</sup> God descended the Celestial bridge to live with man through Jesus Christ. They all show God wants to reconnect with us. Unfortunately, the witnesses of a restoration leave only an echo of God’s voice. Unless we remain with God through continual restoration, we lapse back into scarcity and apostasy.

Whether the echo is preserved through a family organization, like ancient Israel, or

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<sup>1</sup> I refer to The Church of Jesus Christ of Latter-day Saints as “LDS Mormonism” or “the LDS Church.” It is the most successful of the offshoots claiming Joseph Smith as a founder. I belonged to that denomination until 2013, when I was excommunicated for “apostasy” because I did not withdraw from publication the book *Passing the Heavenly Gift*, Mill Creek Press, (Salt Lake City, 2011).

<sup>2</sup> See, e.g., 1 Sam. 3: 1: “And the word of the Lord was precious in those days; there was on open vision.” Omni 1; 11: “I know of no revelation save that which has been written, neither prophecy; wherefore, that which is sufficient is written.”

<sup>3</sup> Each of them was the subject of an “ascension” text (*The Assumption of Moses*, *The Ascension of Isaiah*, and *The Apocalypse of Abraham*) as a testimony it is possible for man to ascend to God’s presence.

churches,<sup>4</sup> like Christianity,<sup>5</sup> some organization acts as a substitute for God's presence during the apostasy. Unfortunately, organizations can only imitate God's involvement.<sup>6</sup>

Though Moses helped Joshua into the abundance of restoration, through Joshua's own direct contact with God,<sup>7</sup> Israel forfeited their opportunity to do likewise.<sup>8</sup> Abraham established a restored dynasty in Isaac,<sup>9</sup> Jacob<sup>10</sup> and Joseph.<sup>11</sup> Abraham's success was the greatest since the time of Adam.<sup>12</sup> Apostasy is the rule, restoration the exception. It is a curious failure, since God declared His works and words never cease.<sup>13</sup>

Institutions cannot control God.<sup>14</sup> As faith in God is institutionalized, it becomes part of this world and necessarily influenced by cultural, social, legal and economic pressure. Those forces erode faith. Religious institutions are where the ideal comes into conflict with the less-than-ideal.

LDS Mormonism illustrates this dynamic.<sup>15</sup> Through compromises of its ideals we see

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<sup>4</sup> Contrary to the claims of "Restorationist" movement, out of which both Mormonism and the Stone-Campbell churches (both Sidney Rigdon and Parley Pratt belonged to this movement prior to their conversion to Mormonism), there was no single form of New Testament Christianity. The apostles left behind various churches, not a single organization. For a discussion of this see S.S. Raymond E. Brown, *The Churches the Apostles Left Behind*, Paulest Press, (New Jersey, 1984).

<sup>5</sup> The New Testament word ("ekklesia") would be better rendered "assembly" or "congregation" rather than "church."

<sup>6</sup> If it is impossible to serve both God and mammon (Luke 16: 13), religions administering tithes and offerings seem invariably to hate the first and love the second.

<sup>7</sup> Exo. 24: 13-17.

<sup>8</sup> See D&C 84: 21-25; Exo. 20: 18-21.

<sup>9</sup> Gen. 26: 24.

<sup>10</sup> Gen. 28: 12-15.

<sup>11</sup> Gen. 37: 5-7, 9.

<sup>12</sup> Adam was able to hand down a living connection to God through eleven generations: Adam, Seth, Enos, Cainan, Mahalaleel, Jared, Enoch, Methuselah, Lamech, Noah, and Shem/Melchizedek. Abraham was second, with only half that number.

<sup>13</sup> Moses 1: 4.

<sup>14</sup> D&C 1: 31; D&C 38: 11-12.

<sup>15</sup> LDS leaders assert their status has not changed, and their version of Mormonism preserves the ideal, unchanged. However, two quotes illustrate the difference between its founding generation of leaders and today's. Oliver Cowdery admonished the first Quorum of Twelve their ordination as an Apostle was not complete until Christ visited and laid hands on them. (*DHC* 2:194-198.) This charge was dropped in

the pattern unfolding in our lifetime.

Religion has always frustrated good men. Churches fail to practice the ideal. This frustration produces reformers who reject the inevitability of scarcity and long for the return of a revelatory God. St. Francis lived the ideal inside the institutional church.<sup>16</sup> It is gratifying to see Pope Francis chose his Papal name, and then follow St. Francis' example.

Martin Luther,<sup>17</sup> John Calvin, Roger Williams, John Wycliffe and other Protestant fathers thought the church compromised, and sought God outside the dominant church body. They formed offspring churches, but failed to restore God's presence.

Joseph Smith claimed to have bridged the gulf and entered God's presence again. Some few, myself included, believe his claim. I regard him the equal of Abraham, Moses and Isaiah. But the various denominations claiming Joseph Smith as their founder again suffer scarcity and struggle to cope with God's silence.

Man is born and then dies. In this world entropy overtakes everything, including religion. Faith does not pause between restoration and apostasy. There can be no stasis in religion. God's voice is heard anew when restoration is underway and scarcity ends.<sup>18</sup> But it returns as the influences of this world take over.

With time, all religious bodies confront the complex challenge of holding onto God's word. The ever-changing present causes cracks in every church. The church will try to patch the cracks. This leads to fractures, then defections. Former believers either lose faith in the religion

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1911. In this year's Priesthood and Relief Society Manual, LDS Church President Joseph Fielding Smith is quoted, "I did not live in the days of our Savior; he has not come to me in person. I have not beheld him. His Father and he have not felt it necessary to grant me such a great blessing as this. But it is not necessary." *Teachings of the Presidents of the Church: Joseph Fielding Smith*, (LDS Church, 2013) p. 49.

<sup>16</sup> Toward the end of his life, St. Francis said an angel visited him on September 14, 1224.

<sup>17</sup> Luther began as a reformer inside the Catholic Church, but ultimately became the father of the Lutheran Church.

<sup>18</sup> This is because God's voice is heard through the minister. See, John 10: 27.

altogether, or faith in the church. Without a restoration's abundance, pragmatic choices become first policy, then doctrine. God's silence does not curtail doctrine, but often compels it.

After nearly a millennium-and-a-half,<sup>19</sup> there was a great gulf between God's last revelation and Catholic doctrines. When Gutenberg's 1439 press and an increasingly literate population made it impossible for the Roman hierarchy to control information, Catholicism fractured. The Internet is to LDS Mormonism what Gutenberg's press was to Catholicism. It is no longer possible for an institution to control the narrative.<sup>20</sup>

Catholicism attempted to regain control in two ways. First, the "Dogs of God"<sup>21</sup> were unleashed to confront heresy and suppress dissent. After two-and-a-half centuries of pursuing this ill-advised course, the failure was recognized even in Rome.<sup>22</sup> Pope Paul III reversed course

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<sup>19</sup> The 10<sup>th</sup> Century split between Eastern Orthodoxy and Roman Catholicism is not relevant to the point in this paper, and therefore not considered.

<sup>20</sup> LDS Church Historian Marlin K. Jensen entertained questions at Utah State University. In response to a question about people leaving the church, he compared current events to the Kirtland Apostasy. A transcript and recording of that interview was posted on the Internet on a site titled "Simple Mormon Spectator" ([www.simplemoremonspectator.blogspot.com](http://www.simplemoremonspectator.blogspot.com)). The site subsequently took it down putting up a notice, which read, in part: "This audio and commentary has been removed out of respect for friends, most especially Elder Jensen. This audio was not fulfilling the purpose I had hoped it would: of inspiring more good, respect, tolerance, and love in the church." Despite removing the material, a cached copy was posted on another site "New Mormon Apostasy" ([www.newmormonapostasy.blogspot.com](http://www.newmormonapostasy.blogspot.com)) where it presently remains available.

<sup>21</sup> This nickname for the Dominicans was used by historian James Reston, Jr. in the title to his 2005 book, *Dogs of God: Columbus, the Inquisition, and the Defeat of the Moors*, (Doubleday, New York). Saint Dominic founded the Order in 1216, with approval by Pope Honorius III, to combat heresy. This order was responsible for later leading the Inquisition, an attempt to forcibly compel orthodoxy and convert Jews. Torquemada, a Dominican, was the First Grand Inquisitor.

<sup>22</sup> The outcome of this struggle was inevitable. Power has its limits that those in power seem to ignore. Throughout history, those in power lose their claim to legitimacy through their abuse. The theme is embedded in LDS scripture. D&C 121: 34-42. Therefore it would seem much easier for LDS Mormonism to avoid making Catholic mistakes, but the allure of power is blinding. As one writer recently put it: "It has been said that most revolutions are not caused by revolutionaries in the first place, but by the stupidity and brutality of governments," Sean MacStiofain, the provisional IRA's first chief of staff once said, looking back on those early years. "Well, you had that to start with in [Northern Ireland], all right." Malcom Gladwell, *David and Goliath: Underdogs, Misfits, and the Art of Battling Giants*, Little, Brown and Company, (New York, 2013), p. 204. "And when the law is applied in the absence of legitimacy, it does not produce obedience. It produces the opposite. It leads to backlash." *Id.*, at p. 222. Often it is the most reluctant who are drawn into battle with the powers wrongly seeking to control what is not their right to even influence, much less dictate, like the conscience of a man. Religion in particular is ill fitted

and launched the Counter-Reformation. A new order called the Society of Jesus (Jesuits) was established at the Council of Trent to focus on needed reforms. The LDS Church is following this pattern. Their first approach is to suppress dissent. The Correlation infrastructure of the LDS Church has been put into place to protect doctrine and practice. An LDS group of “Dominicans,” the Strengthening the Members Committee,<sup>23</sup> has been empowered to find and then remove perceived threats.<sup>24</sup> Ironically, the original targets of the Strengthening the Members Committee were fundamentalist groups advocating the practice of plural marriage. At one time this practice was the hallmark of orthodoxy for the LDS Church. The juxtaposition of advocacy first, followed by prohibition of plural marriages, illustrates a passage. Brash confidence in God’s restoration makes the organization brave. Then faced with opposition, a quiet and distant God no longer fortifies the church. They appease the worldly forces of government and economics. From heaven’s silence men conjure “doctrines” they attribute to God. Plural marriage bespeaks this larger dynamic.

Because LDS Mormonism has “correlated” a great deal of what it once was has been trimmed away. History and doctrine have been forgotten or rejected. By reworking history, the LDS Church has managed to brand even those who believe in Joseph Smith, and accept the same scriptures, as nevertheless “apostate” if they also challenge the newly correlated part-truths. Within LDS Mormonism a short memory is necessary to accept the history and doctrine now taught. Long memories get its members into trouble.

For LDS Mormonism, the Internet is a bastion of unsettling or unwanted information.

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to do more than give advice, letting men and women govern themselves.

<sup>23</sup> We await LDS “Jesuits” still. Apparently significant damage must be done first to LDS Mormonism, as with Catholicism, before the lessons of history can be learned anew. Sad experience will teach when nothing else will.

<sup>24</sup> The Counter-Reformation was Pope Paul III’s effort to reform the church and deal with corrupt bishops, indulgences and financial abuses. Strengthening the Members Committee presently attempts to “reform” only targeted dissidents by compelling them to retract, obey or be cast away.

Some of it is inaccurate. The more effective challenges, however, come from on-line sources telling the truth. When the false narrative perpetuated by the institution<sup>25</sup> is confronted by truth, the institution loses. To deal with this, the LDS Church uses “search engine optimization,”<sup>26</sup> meaning the LDS Church pays money to have their sites come up first on search engine result pages. This directs traffic to church approved sources.<sup>27</sup> LDS websites recount history designed to soothe the troubled Saint. It is not effective.<sup>28</sup> All an inquirer need do is press through the first page or so of LDS Church website referrals to locate other independent sources.

On their webpage, “mormonchurch.org,” the church states plural wives “was not mandatory and not required for salvation[.]”<sup>29</sup> This is both true (artfully using the term “salvation”) and false. It is true that plural wives are not necessary for salvation according to LDS Mormonism. But, then again, neither is faith in Christ, repentance, baptism or a good life. All are “saved” in Mormon theology, other than sons of Perdition.<sup>30</sup> Therefore, this LDS Church

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<sup>25</sup> It doesn’t matter if the false narrative misstates history or merely gives an incomplete account. The effect is the same. The institution breaks the trust of its followers, and cannot be repaired.

<sup>26</sup> This was the term LDS Church Historian Marlin Jensen used in his discussion at Utah State University. The Jensen interview is described in footnote 13, supra. The “search engine optimization” subject is discussed in the blog entry: [mormon-chronicles.blogspot.com/2011/08/lds-church-and-search-engine.html](http://mormon-chronicles.blogspot.com/2011/08/lds-church-and-search-engine.html).

<sup>27</sup> Additionally the church employs a form of on-line “astro-turf” by having paid employees or volunteer missionaries post to discussion groups and blogs to present the church’s position or direct discussions to be favorable by posting more sympathetic contributions.

<sup>28</sup> The bureaucracy of the Church Office Building (“COB”) has a large paid staff whose livelihoods are dependent upon such ill-advised experimentation. A former COB employee, Daymon Smith, wrote an amusing account of his tenure in this costly, inefficient and foolish system (*The Book of Mammon: A Book About A Book About the Corporation That Owns The Mormons*, CreateSpace Publisher, (2010)). It was written as a fictional account in order to avoid a violation of the “non-disclosure agreement” required of COB employees.

<sup>29</sup> See the LDS Church owned website [www.mormonchurch.org/mormon-beliefs/mormon-polygamy](http://www.mormonchurch.org/mormon-beliefs/mormon-polygamy).

<sup>30</sup> See, e.g., *Encyclopedia of Mormonism*, “Salvation,” p. 1256; [mormon.org/beliefs/plan-of-salvation](http://mormon.org/beliefs/plan-of-salvation) has this explanation: “IMMORTALITY—ONE OF GOD’S GREATEST GIFTS: If you could have one wish, what would it be? Most of us would probably say we want to live forever. That’s exactly what God gave to each of us when He sent His son, Jesus Christ, to earth to die for us and to atone for our sins. It’s called resurrection and everyone born on earth, even wicked people, will receive this gift of immortality (1 Corinthians 15:22). On the third day after His Crucifixion, Jesus Christ became the first person to be resurrected. His spirit was reunited with His glorified, perfected body and He could no longer die. When

on-line assertion is true enough. But the LDS Church once claimed, as a matter of doctrine, plural wives was an absolute requirement for exaltation.<sup>31</sup> A reader lacking familiarity with LDS vocabulary will get the wrong impression. To those who are familiar with the vocabulary, this appears to be purposeful in some church announcements.<sup>32</sup>

Multiple wives doctrine was so secretive during Joseph Smith's life that his widow could deny it was actually practiced.<sup>33</sup> It was not until 1852 that the LDS Church publicly advocated belief in this form of marriage.<sup>34</sup> The announcement caused national outrage, with Abraham Lincoln's upstart Republican Party denounced it as one of the "twin relics of barbarism," the other being slavery.<sup>35</sup> Beginning with the Morrill Act signed by President Lincoln in 1862, the full weight of national ire was brought to bear against the LDS Church. The dispute lasted three decades before the church surrendered. The final victory was achieved through the draconian measures imposed on the institution by the Edmunds-Tucker Act. The act dis-incorporated the

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Christ's friends went to visit His tomb, angels said, 'He is not here: for he is risen, as he said' (Matthew 28:6). 'WILL I GO TO HEAVEN?' Yes! God will judge all men fairly and reward them appropriately with a place within His kingdom."

<sup>31</sup> Exaltation means to become "like God" and inherit Celestial glory. See, e.g., D&C 76, D&C 132 and *Encyclopedia of Mormonism*, "Exaltation," p. 479.

<sup>32</sup> LDS Mormonism has employed evasive language throughout its history of public statements. That is too broad a topic to be addressed here. Language distinctions like "Celestial Marriage" allowed the church for years to deny the practice of "polygamy" for example. A series of recent press releases and editorials about church disciplinary councils likewise seeks to distance the hierarchy from responsibility for excommunications driven by the top of the LDS Church. The "truthfulness" of their announcements depends upon whether the necessary final act (which must be done locally) can be said to be outside of the hierarchy's control (even when the impetus for discipline originated and was sustained by constant pressure from above).

<sup>33</sup> "No such thing as polygamy, or spiritual wifery, was taught, publicly or privately, before my husband's death, that I have now, or ever had any knowledge of ... He had no other wife but me; nor did he to my knowledge ever have." (*History of the Reorganized Church of Jesus Christ of Latter Day Saints*, Vol. 3, pp. 355-56.)

<sup>34</sup> The LDS canon of scripture added *Doctrine and Covenants* Section 132 (allowing plural wives) in 1876, and at the same time Section 101 (requiring only one wife) was deleted from their scripture. Section 101 stated, in part: "we declare that we believe, that one man should have one wife; and one woman, but one husband."

<sup>35</sup> The Republican platform adopted in Philadelphia in 1856 included this language: "It is the duty of Congress to prohibit in the territories those twin relics of barbarism, polygamy and slavery."

LDS Church and the Perpetual Emigrating Fund Company, giving their assets to the public schools of the territory. It mandated an oath denouncing polygamy to be taken before any person could vote, sit on a jury, or serve as a public official. It removed local judges (who were LDS) and replaced them with federally appointed judges (certain to be anti-polygamy). The act rearranged family law by requiring marriage licenses, disinheriting illegitimate children, and abrogating the spousal privilege that prevented wives from testifying against their husbands in polygamy prosecution cases.

Although the LDS Church fought these laws through appeals to the US Supreme Court, they lost the fight. Faced with the dire prospect of remaining an outlaw organization, the church relented. The struggle and surrender inform LDS Church conduct in ways that remain part of the institution's psyche.<sup>36</sup>

We begin the story five years after Joseph Smith's death, when the doctrine of taking plural wives was first made public.<sup>37</sup> Wisely, Joseph deliberately limited the practice and kept it secret.<sup>38</sup> Personally, I believe plural wives should never have been publicly adopted<sup>39</sup> and

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<sup>36</sup> For a discussion about law and social change, see Scott L. Cummings, *Empirical Studies of Law and Social Change: What is the Field? What are the Questions*, Wisconsin Law Review, 2013:171. In the article he discusses the whole approach of litigation as a shortcut tool to achieve societal change rather than through slower political processes. In the case of LDS Mormonism, both political will and litigation united to achieve change within the church.

<sup>37</sup> Dealing with this subject during Joseph Smith's lifetime is too complicated and adds too much to the discussion. From Fanny Alger in the early 1830's to John C. Bennett's activities in Nauvoo, the history is too great to deal with cursorily. The three volume series by Brian C. Hales is the most recent and extensive effort to preserve the events. (*Joseph Smith's Polygamy, Volume 1: History, Joseph Smith's Polygamy, Volume 2: History and Joseph Smith's Polygamy, Volume 3: Theology* are published by Greg Kofford Books.)

<sup>38</sup> Young explained: "But were you not persecuted for teaching that odious doctrine called polygamy?" No. We were planted in these valleys before it was publicly made known to the people. Only a few of Joseph Smith's intimate friends knew it previous to its being published to the world, which was several years after his death." *The Complete Discourses of Brigham Young*, Volume 4, p. 2044 (hereafter "CDBY 4:2044"), Smith-Pettit, (Salt Lake, 2009). "When we left Nauvoo did they drive us for polygamy? No. It was not publicly known of." CDBY 4:2259.

<sup>39</sup> Even in Joseph's day the full meaning and practical mechanics of sealing together families to effect salvation was elusive. The doctrinal basis did not roll out in a single revelation, but began perhaps as early



preached by the LDS Church, and was never essential to “exaltation.” Much of the content when preaching it publicly was based on advice Brigham Young received from a US Senator. To win protection under the First Amendment, it was necessary to portray plural wives as essential to the religion, which it was not. But it was portrayed as salvific as part of a strategy to win in the courts. When the LDS Church lost the fight, they were faced with the conundrum of undoing an oversold doctrine. However, this paper does not deal with those questions.<sup>40</sup>

President Brigham Young asserted the practice was constitutionally protected if it was a fundamental part of the Latter-day Saint religion. When he presided, Brigham Young, made plural wives essential to the church.<sup>41</sup> He was encouraged in this view by an unnamed US Senator. He explained it was protected by:

...the sacred liberty which the Constitution of our country guarantees unto us... The world have known, long ago, even in brother Joseph’s days, that he had more wives than one. One of the senators in Congress knew it very well. Did he oppose it? No, but he has been our friend all the day long, especially upon that subject. He said pointedly to his friends, “If the United States do not adopt that very method—let them continue as they are now—pursue the precise course they are now pursuing, and it will come to this—that their generations will not live until they are 30 years old. They are going to destruction; disease is spreading so fast among the inhabitants of the United States, that they are born rotten with it, and in a few years they are gone.” Said he, “Joseph has introduced the best plan for restoring and establishing strength and long life among men, of any man on earth; and the Mormons are a very good and virtuous people.”

Many others are of the same mind, they are not ignorant of what we are doing in our social capacity. They have cried out, “Proclaim it.” But it would not do, a few years ago; everything must come in its time, and there is a time to all things. I am now ready to proclaim it.<sup>42</sup>

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as 1828 and continued periodically thereafter. Section 132 is an amalgamation, consisting of perhaps five or more different revelations spanning 1828 to 1843. Even with Section 132, there are questions and mechanics, which are not clarified by what we received from Joseph Smith.

<sup>40</sup> Fundamentalist Mormons have more faithfully preserved observance of this faulty practice and therefore claim to be of superior purity than LDS Mormonism. However, I believe them to only be perpetuating an LDS mistake.

<sup>41</sup> Brigham Young’s latest biographer writes: “Young also connected plural marriage with exaltation into the celestial kingdom.” John G. Turner, *Brigham Young, Pioneer Prophet*, p. 205, Harvard University (Cambridge, 2012).

<sup>42</sup> *CDBY* 1:582.

The unidentified Senator was likely Steven A. Douglas, who had been elected to the Senate in 1846.<sup>43</sup> Mormon leaders defended the right to practice plural marriage as constitutional,<sup>44</sup> and delivered sermons for three decades to define the practice as a fundamental part of their religious beliefs. Young continually asserted it was both “wholesome” and constitutionally protected.<sup>45</sup>

Orson Pratt first announced why the church was confident of their right to engage in the practice. As the talk began, he declared:

I think, if I am not mistaken, that the constitution gives the privilege to all the inhabitants of this country, of the free exercise of their religious notions, and the freedom of their faith, and the practice of it. Then, if it can be proven to a demonstration, that the Latter-day Saints have actually embraced, as a part and portion of their religion, the doctrine of plurality of wives, it is constitutional. And should there ever be laws enacted by this government to restrict them from the free exercise of this part of their religion, such laws must be unconstitutional.<sup>46</sup>

The preceding month President Brigham Young made a similar declaration; “There is not a

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<sup>43</sup> Steven A. Douglas had a long association with LDS Mormonism, beginning in Illinois. He was among the delegation sent by Governor Ford to negotiate the departure from Nauvoo. The assignment was to persuade the Mormons to leave the state quickly and peacefully. See *Brigham Young—Pioneer Prophet*, supra, at p. 125.

<sup>44</sup> Three years later, while Congress was considering a resolution against polygamy, Young added an additional constitutional restraint on outlawing the practice: Such legislation would be ex post facto, and therefore invalid: “True we have more wives than one, and what of that? They have their scores of thousands of prostitutes, we have none. But polygamy they are unconstitutionally striving to prevent: when they will accomplish their object is not for me to say. They have already presented a resolution in Congress that no man, in any of the Territories of the United States, shall be allowed to have more than one wife, under penalty not exceeding five years imprisonment, and five hundred dollars fine. ...the Constitution of the United States forbids making an ex post facto law. The presenting of the resolution alluded to shows their feelings, they wish the Constitution out of existence, and there is no question but that they will get rid of it as quickly as they can, and that would be by ex post facto law, which the Constitution of the United States strictly forbids. ...If we introduce the practice of polygamy it is not their prerogative to meddle with it; ...it is not their prerogative to meddle with these affairs, for in so doing they would violate the Constitution.” *CWBY* 2:1160-61.

<sup>45</sup> “In all the revelations God has given it does not infringe in the least upon the laws of our land, and when he reveals to Joseph Smith it is the privilege of a man to raise up posterity to the name of God, that a holy nation may rise and a royal priesthood a mighty kingdom may spring up before him, where is the constitutional laws against it? They are not to be found. It is just as wholesome a doctrine as any other wholesome doctrine promulgated by any Christians sect in this Government, and the constitution is bound to protect us.” *CWBY* 3:1883.

<sup>46</sup> *Journal of Discourses*, Volume 1, p. 54, (hereafter “*JD* 1:54”).

single constitution of any single state, much less the constitution of the Federal Government, that hinders a man from having two wives; and I defy all the lawyers of the United States to prove the contrary.”<sup>47</sup>

President Young frequently declared this practice was essential. He claimed his sermons were “as good Scripture as is couched in this Bible.”<sup>48</sup> Taking him at his word, the following quotes show what the LDS Church believed during its second phase<sup>49</sup> following Joseph Smith’s death.

“Now if any of you will deny the plurality of wives, and continue to do so, I promise that you will be damned,”<sup>50</sup>

“The only men who become Gods, even the Sons of God, are those who enter into polygamy.”<sup>51</sup>

Young preached it was monogamy that was a great evil, imposed by the Romans who, you will recall, were responsible for killing Peter and Paul. Romans were a band of robbers who imposed monogamy to further the Empire’s lust for prostitution. But polygamy was, according to

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<sup>47</sup> *CDBY* 1:552.

<sup>48</sup> *JD* 9:312. At another time Pres. Young declared: “I am here to answer. I shall be on hand to answer when I am called upon, for all the counsel and for all the instruction that I have given to this people. If there is an Elder here, or any member of this Church, called the Church of Jesus Christ of Latter-day Saints, who can bring up the first idea, the first sentence that I have delivered to the people as counsel that is wrong, I really wish they would do it; but they cannot do it, for the simple reason that I have never given counsel that is wrong; this is the reason.” *JD* 16:161.

<sup>49</sup> I have previously broken LDS Church history into four phases, the second phase beginning at Joseph Smith’s death and lasting until polygamy was abandoned. My position is set out in *Passing the Heavenly Gift*, Mill Creek Press, (Salt Lake City, 2012). The transition between these phases was not clean. The Manifesto ostensibly ending plural wives was issued in 1890, but later issued a second “manifesto” from Pres. Joseph F. Smith in 1904. During the fourteen-year interim, plural marriages continued to be performed by church leaders in quiet. (See, *LDS Church Authority and New Plural Marriages, 1890-1904*, D. Michael Quinn, *Dialogue: A Journal of Mormon Thought*, Spring 1985, pp. 9-105.)

<sup>50</sup> *JD* 3:266.

<sup>51</sup> *JD* 11: 269. The LDS Church today denies this was ever a teaching: “Polygamy was openly practiced during the time of Brigham Young. It was not mandatory and not required for salvation, unlike the teachings of some modern offshoots.” See [www.mormonchurch.org/mormon-beliefs/mormon-polygamy](http://www.mormonchurch.org/mormon-beliefs/mormon-polygamy).

Young, the only religion practiced in heaven.<sup>52</sup>

This Roman imposed monogamy had at its foundation the objective of producing an excess of unmarried women. According to Young this was responsible for prostitution and whoredom throughout the Christian world.<sup>53</sup>

Young warned women they risked servitude in eternity if they objected to their husband taking plural wives in this life. They would serve those who live polygamy in this life and will be elevated into godhood in the afterlife.<sup>54</sup>

Even speaking against plural wives could imperil your eternal reward: “those who spoke

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<sup>52</sup> “Monogamy, or restrictions by law to one wife, is no part of the economy of heaven among men. Such a system was commenced by the founders of the Roman empire....Rome became the mistress of the world, and introduced this order of monogamy wherever her sway was acknowledged. Thus this monogamic order of marriage, so esteemed by modern Christians as a holy sacrament and divine institution, is nothing but a system established by a set of robbers.... Why do we believe in and practice polygamy? Because the Lord introduced it to his servants in a revelation given to Joseph Smith, and the Lord's servants have always practiced it. “And is that religion popular in heaven?” it is the only popular religion there,...” *CWBY* 4:2031.

<sup>53</sup> “Since the founding of the Roman empire monogamy has prevailed more extensively than in times previous to that. The founders of that ancient empire were robbers and women stealers, and made laws favoring monogamy in consequence of the scarcity of women among them, and hence this monogamic system which now prevails throughout Christendom, and which had been so fruitful a source of prostitution and whoredom throughout all the Christian monogamic cities of the Old and New World, until rottenness and decay are at the root of their institutions both national and religious.” (*JD* 11:128.) In another talk Young declared: “Just ask yourselves, historians, when was monogamy introduced on to the face of the earth? When those buccaneers, who settled on the peninsula where Rome now stands, could not steal women enough to have two or three apiece, they passed a law that a man should have but one woman. And this started monogamy and the downfall of the plurality system. In the days of Jesus, Rome, having dominion over Jerusalem, they carried out the doctrine more or less. This was the rise, start and foundation of the doctrine of monogamy; and never till then was there a law passed, that we have any knowledge of, that a man should have but one wife.” (*CWBY* 5:2582.)

<sup>54</sup> “But if the woman is determined to not enter into plural marriage, that woman, when she comes forth, will have the privilege of living in single blessedness through all eternity. Now sisters, do not say, ‘I do not want a husband when I get up in the resurrection.’ You do not know what you will want. If, in the resurrection, you really want to be single and alone and live forever and ever and be made servants, while others receive the higher order of intelligence, and are bringing worlds into existence, you can have the privilege. They who will be exalted cannot perform all the labor, they must have servants, and you can be servants to them.” (*JD* 16:166.) The idea of servitude in eternity remains a Mormon expectation. Joseph Fielding Smith said in the April, 1968 General Conference: “[T]he Lord is going to make a great segregation after the resurrection of mankind, and many—in fact, the greater part of the inhabitants of this earth—will not be called the sons and daughters of God, but they will go into the next world to be servants.” (*Conference Report*, April 1968, p. 11.)

against a Plurality of wives & in there [sic] feelings will not receive it will never inherit the Celestial Kingdom of God, for it has always been practiced there and always will be.”<sup>55</sup>

Young saw God’s plural wives implied in Isaiah’s description of the Lord: “The Scripture says that he, the Lord, came walking in the Temple, with his train;”<sup>56</sup> I do not know who they were, unless his wives and children;...”<sup>57</sup>

This was as “Christian” a doctrine as Martin Luther’s Reformation. According to Young, Martin Luther preached it as Biblical and true.<sup>58</sup> Polygamy, according to Young, should unite all who believe the Bible. In particular, all who oppose Rome should welcome its return.

For Mormonism, it was an essential part of the “royal priesthood” advocated by Young: “the Lord instituted Polygamy to raise up a royal Priesthood a kingdom of Priest[s]. It is an institution of heaven.”<sup>59</sup> Plurality of wives was obligatory, not optional. If you rejected it, you were damned.<sup>60</sup>

Young absolutely rejected the idea of surrendering to government pressure. Doing so

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<sup>55</sup> *CWBY* 5:2671, all as in original.

<sup>56</sup> Isaiah 6: 1: “...I saw also the Lord sitting upon a throne, high and lifted up, and his train filled the temple.”

<sup>57</sup> *JD* 13:309.

<sup>58</sup> “The Protestant reformers believed the doctrine of polygamy. Philip, Landgrave of Hess, one of the principal lords and princes of Germany, wrote to the great reformer Martin Luther and his associate reformers, anxiously imploring them to grant unto him the privilege of marrying a second wife, while his first wife, the princess, was yet living. He urged that the practice was in accordance with the Bible, and not prohibited under the Christian dispensation. Upon the reception of this letter, Luther, who had denounced the Romish church for prohibiting the marriage of priests, and who favored polygamy, met in council with the principal Reformers to consult upon the letter which had been received from the Landgrave. They wrote him a lengthy letter in reply, approving this taking a second wife[.]” (*CWBY* 4:2281-82; citing to *History of the Variations of the Protestant Churches*, a book written by Jacques Benigne Bossuet, and printed by Richard Coyne Publisher to the Royal College of St. Patrick (Dublin, 1836).)

<sup>59</sup> *CDBY* 4: 2290.

<sup>60</sup> “I will now give you, in short, my opinion with regard to plural marriage. It is of God, and He has revealed it from the Heavens and made it obligatory upon the Saints in the last days. ...It is obligatory upon me to tell them the truth, to teach them correct doctrine, and leave them to take their choice, whether they receive it and live by it, and be saved, or reject it and be damned.” (*CDBY* 4: 2313.)

would be surrender to the devil. Polygamy was God’s command and could not be disobeyed.<sup>61</sup> Only God’s law could save. Ideals governed, and anything less than the ideal would lead to damnation.

Young called out the hypocrisy of the society condemning the Saints. LDS women were wives and mothers. Congress was against that, but tolerated adultery and illegitimacy. Young replied, “I would say to Congress that if they will pass a law, making it death for any man to hold illicit intercourse with any woman but his lawful wife, we would meet them half way on that ground.”<sup>62</sup> He went on to discuss Queen Victoria’s approval of a bigamist son-in-law.<sup>63</sup> It was the inconsistency of society’s reaction, a generation of adulterers who wanted to make polygamy illegal, that Brigham Young rightly condemned.<sup>64</sup>

This doctrine was essential for the faithful to practice. Mormonism held forth the promise man could become like God. But becoming gods in the afterlife demanded polygamy here and now. The only men who would qualify as “sons of God” were those whose quiver was filled with children<sup>65</sup> produced by multiple women bearing offspring for him.<sup>66</sup>

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<sup>61</sup> “We are told that if we would give up polygamy—which we know to be a doctrine revealed from heaven and it is God and the world for it—but suppose this Church should give up this holy order of marriage, then would the devil, and all who are in league with him against the cause of God, rejoice that they had prevailed upon the Saints to refuse to obey one of the revelations and commandments of God to them.” (*CDBY* 4: 2333-34.)

<sup>62</sup> *CWBY* 4: 2353.

<sup>63</sup> “A recent case occurred in Europe which illustrates this point. Prince Christian of Holstein, who has recently married one of the daughters of Victoria, Queen of England, has what is termed a morganatic wife in Germany, by whom he has several children, yet the first lady in Europe is not shocked by an alliance of this kind, no more than is the first society of this country by similar occurrences in the cities east. Men may do as they please with women, have numerous children by them, and take as many liberties with them as if they were wives, and yet not call them wives, and modern society smiles upon them. But whenever a man applies the sacred name of wife to the mother of his children, if he happen to have more than one, then the world professes to be wonderfully shocked at the idea. What inconsistency!” (*Id.*, p. 2353-54.)

<sup>64</sup> Congress has distinguished itself by its inability to live up to standards it imposes on others, both in Brigham Young’s day and ours.

<sup>65</sup> “Lo, children are an heritage of the Lord: and the fruit of the womb is his reward. As arrows are in the hand of a mighty man; so are children of the youth. Happy is the man that hath his quiver full of them;

Brigham Young died August 29, 1877 and was succeeded by John Taylor. When Taylor took over the LDS Church, history was more the product of Young than Joseph Smith. Smith led the church for 14 years, Young for 33. The doctrine of plural wives had become public and essential under Young. Whatever price had to be paid,<sup>67</sup> the doctrine had been carved in stone as the necessary ideal.

As the president of the church, Taylor was just as emphatic about the necessity of plural wives to qualify for exaltation. He had a full quiver from nine wives,<sup>68</sup> who bore him thirty-four children. Taylor preached it was apostasy to oppose polygamy.<sup>69</sup>

Facing Federal prosecution under anti-polygamy legislation, Taylor spent years of his presidency in hiding. He wrote a revelation on September 27, 1886 confirming to his mind the

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they shall not be ashamed, but they shall speak with the enemies in the gate.” Psalms 127: 3-5.

<sup>66</sup> “I wish here to say to the Elders of Israel, and to all the members of this Church and kingdom, that it is in the hearts of many of them to wish that the doctrine of polygamy was not taught and practiced by us. It may be hard for many, and especially for the ladies, yet it is no harder for them than it is for the gentlemen. It is the word of the Lord, and I wish to say to you, and all the world, that if you desire with all your hearts to obtain the blessings which Abraham obtained, you will be polygamists at lest [sic] in your faith, or you will come short of enjoying the salvation and glory which Abraham has obtained. This is as true as that God lives. You who wish that there were no such thing in existence, if you have in your hearts to say: ‘We will pass along in the Church without obeying or submitting to it in our faith or believing this order, because, for aught that we know, this community may be broken up yet, and we may have lucrative offices offered to us; we will not, therefore, be polygamists lest we should fain obtaining some earthly honor, character and office, etc.’ –the man that has that in his heart, and will continue to persist in pursuing that policy, will come short of dwelling in the presence of the Father and the Son, in celestial glory. The only men who become Gods, even the Sons of God, are those who enter into polygamy. Others attain unto a glory and may even be permitted to come into the presence of the Father and the Son; but they cannot reign as kings in glory, because they had blessings offered unto them, and they refused to accept them.” *CWBY* 4:2357.

<sup>67</sup> As Turner put it: “The church had managed to carve out a measure of sympathy from other Americans because of its forced expulsion from Illinois, but the open practice of polygamy made the narrative of the ‘suffering Saints’ viable no longer.” *Brigham Young: Pioneer Prophet*, supra, p. 205.

<sup>68</sup> His wives included Leonora Cannon, Elizabeth Kaighin, Jane Ballantyne, Mary Ann Oakley, Sophia Whitaker, Harriet Whitaker, Margaret Young, and Josephine Elizabeth Roueche.

<sup>69</sup> “Where did this commandment come from in relation to polygamy? It also came from God...When this commandment was given, it was so far religious, and so far binding upon the Elders of this Church that it was told them if they were not prepared to enter into it, and to stem the torrent of opposition that would come in consequence of it, the keys of the kingdom would be taken from them. When I see any of our people, men or women, opposing a principle of this kind, I have years ago set them down as on the high road to apostasy, and I do today; I consider them apostates, and not interested in this Church and kingdom.” *JD* 11:221.

necessity of complying with the practice of plural wives. The revelation does not mention “plural wives” but refers instead to “the New and Everlasting Covenant” which he and Mormon fundamentalists, regard necessarily to include plural wives.<sup>70</sup> He died in exile, firmly defending the practice, and preaching its continuation.

Taylor was succeeded by Wilford Woodruff, likewise a full-quivered polygamist, having seven wives (or more)<sup>71</sup> and fathering thirty-three children. He was equally adamant about the indispensable practice of plural wives. Mormons would practice it “come life or come death” he declared.<sup>72</sup>

Like Taylor before him, Woodruff wrote a revelation confirming polygamy was not to be abandoned.<sup>73</sup> The document was read to the Twelve on December 19, 1889 and Apostle

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<sup>70</sup> The text is as follows: “My son John: You have asked me concerning the New and Everlasting Covenant, and how far it is binding upon my people. Thus saith the Lord: All commandments that I give must be obeyed by those calling themselves by my name unless they are revoked by me or by my authority and how can I revoke an everlasting covenant. For I the Lord and everlasting and my covenants cannot be abrogated nor done away with; but they stand forever. Have I not given my word in great plainness on this subject? Yet have not great numbers of my people been negligent in the observance of my law and the keeping of my commandment, and yet have I borne with them these many years and this because of their weakness because of the perilous times. And furthermore, it is more pleasing to me that men should use their free agency in regard to these matters. Nevertheless I the Lord do not change and my word and my covenants and my laws do not. And as I have heretofore said by my servant Joseph all those who would enter into my glory must and shall obey my law. And have I not commanded men that if they were Abraham’s seed and would enter into my glory they must do the works of Abraham. I have not revoked this law nor will I for it is everlasting and those who will enter into my glory must obey the conditions thereof, even so Amen.” (A photocopy of the handwritten document is in possession of this author.)

<sup>71</sup> Phoebe Whittemore Carter, Mary Ann Jackson, Mary Meek Giles Webster, Emma Smoot Smith, Sarah Elinore Brown, Sarah Delight Stocking and Eudora Young Dunford. Post-Manifesto marriages were possible, but concealed, and therefore cannot be adequately confirmed from available records. Diaries make cryptic and ambiguous references I am not willing to use as clear enough proof to decide the matter.

<sup>72</sup> “If we were to do away with polygamy, it would only be one feather in the bird, one ordinance in the Church and kingdom. Do away with that, then we must do away with prophets and Apostles, with revelation and the gifts and graces of the Gospel, and finally give up our religion altogether and turn sectarians and do as the world does, then all would be right. We just can't do that, for God has commanded us to build up His kingdom and to bear our testimony to the nations of the earth, and we are going to do it, come life or come death. He has told us to do thus, and we shall obey Him in days to come as we have in days past.” *JD* 13:165-66.

<sup>73</sup> In the November 24, 1899 revelation among other things Woodruff wrote: “If the Saints will hearken unto my voice, and the counsel of my Servants, the wicked shall not prevail. Let my servants, who officiate as your Counselors before the courts, make their pleadings as they are moved upon by the Holy



Abraham H. Cannon recorded: “The word of the Lord was for us not to yield one particle of that which He had revealed and established.”<sup>74</sup> First Presidency Secretary John Nuttall recorded in his diary: “As I wrote at his dictation, I felt better all the time and when I completed I felt as light and joyous as it is possible to feel, for I was satisfied that Prest. Woodruff had received the word of the Lord.”<sup>75</sup>

Despite heaven urging them to continue, both society and the US Government were pulling in the opposite direction. Legal setbacks continued to accumulate. *Reynolds v. United States*<sup>76</sup> upheld the Morrill Anti-Bigamy Act. The polygamist church leadership was guilty of a federal crime. *Davis v. Beason*<sup>77</sup> upheld the Idaho test oath designed to disqualify Mormons from jury duty and public office. *The Late Corporation of the Mormon Church v. United States*<sup>78</sup> upheld Federal seizure of LDS Church property. It was expected the government would take possession of all LDS Temples.

When *The Late Corporation of the Mormon Church* decision was announced on May 19, 1890, a member of the Twelve Apostles recorded the internal reaction:

The U.S. Supreme Court today rendered one of the most important decisions of its existence. By the provisions of the Edmunds Tucker act the property of the Church was ordered escheated for the use of the schools. In pursuance of this provision some \$750,000 worth of church property was seized and placed in the hands of a receiver. ...Justice Bradley read the decision in which the law is upheld, and the property is confiscated. The principal ground for

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Spirit, without any further pledges from the Priesthood, and they shall be justified.” For a complete transcript, see *In the President’s Office: The Diaries of L. John Nuttall, 1879-1892*, pp. 395-96, Edited by Jedediah S. Rogers, Signature Books (Salt Lake City, 2007).

<sup>74</sup> *Candid Insights of a Mormon Apostle: The Diaries of Abraham H. Cannon, 1889-1895*, p. 38, Edward Leo Lyman, editor, Signature Books (Salt Lake; 2010).

<sup>75</sup> *In the President’s Office: The Diaries of L. John Nuttall, 1879-1892*, p. 393, Edited by Jedediah S. Rogers, Signature Books (Salt Lake City, 2007).

<sup>76</sup> 98 US 145 (1878).

<sup>77</sup> 133 US 333 (1890). This was a particularly clear loss for the LDS Church. In a 9-0 decision the opinion stated, “Few crimes are more pernicious to the best interests of society, and receive more general or more deserved punishment.”

<sup>78</sup> 136 US 1(1890).

this unjust ruling is that the Church upholds polygamy, and doubtless uses this means for the promotion of its doctrine.<sup>79</sup>

Events unfolded quickly once the church lost its property. US Secretary of State, James G. Blaine prepared a document June 12<sup>th</sup> for church leaders to sign renouncing plural marriage. In the only existing document referring to a pre-Manifesto policy change (prepared two months prior to the Manifesto), Apostle Abraham H. Cannon's diary records on July 10<sup>th</sup>: "The resolution of the First Presidency of June 30/90 in regard to plural marriages was read. It is to the effect that none shall be permitted to occur even in Mexico unless the contracting parties, or at least the female, has resolved to remain in that country."<sup>80</sup>

The church's worst fears were confirmed August 26<sup>th</sup> when the former Federal receiver, Frank Dyer related the US would soon attempt "to confiscate the Logan, Manti and St. George temples on the grounds that they are not used for public worship."<sup>81</sup>

On September 24<sup>th</sup> Wilford Woodruff issued the press release now called the "Manifesto" in which he denied plural marriages were taking place. The LDS Church would continue to perform plural marriages until a second "Manifesto" issued by President Joseph F. Smith in 1904.<sup>82</sup> Plural marriage began in the LDS Church in secret. It remained secret after the 1890 Manifesto, ultimately dying out sometime after 1904. It is now denounced<sup>83</sup> and those who practice it are excommunicated.

Finally, the LDS Church was motivated by popular disapproval and federal legislation to

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<sup>79</sup> *Candid Insights of a Mormon Apostle: The Diaries of Abraham H. Cannon, 1889-1895*, supra, p. 95.

<sup>80</sup> *Id.*, p. 104.

<sup>81</sup> *Id.*, p. 124.

<sup>82</sup> This topic has been discussed by others including D. Michael Quinn in *The Mormon Hierarchy: Extensions of Power*, Signature Books, (Salt Lake City, 1997), Richard Van Wagoner, *Mormon Polygamy: A History*, Signature Books, (Salt Lake City, 1989), and Drew Briney, *Apostles on Trial: Examining the Membership Trials of Apostles Taylor and Crowley*, Hindsight Publications, (Salt Lake, 2012), among many others.

<sup>83</sup> "Today, the practice of polygamy is strictly prohibited in the Church, as it has been for over a century." (LDS.org website, mormonnewsroom.org in the article titled "Polygamy.")

abandon plural wives. In a sacrament meeting of the First Presidency and Quorum of the Twelve, on April 2, 1891, President Woodruff defended the Manifesto by claiming he had been “inspired” by God to issue the document, but polygamy would yet be restored in the Church.<sup>84</sup>

Resistance to the popular will and federal legislation had proven impossible. The LDS Church would not have survived as a legal enterprise if their members could not vote, serve on juries, hold public office, and if their temples were taken, their property escheated to the government, and their officials jailed. If the church wanted to remain a corporate entity, possess property, and practice their religion, there was no other choice. Polygamy had to go. The church chose to keep its corporate status and property. It wanted to continue as it had developed. Likewise, today the LDS Church wants to retain its tax preference, and keep its considerable property. A recent acquisition of property in Florida resulted in one newspaper headline: “*Mormon Church purchases 2% of the state of Florida for half a billion dollars.*”<sup>85</sup>

The likelihood of the LDS Church ever becoming embroiled in a similar battle of wills with the US government is improbable. The church will always find some way to bridge the gulf between its teachings and governmental ire. It has much more at stake today than the estimated \$750,000 taken at the time of Edmunds-Tucker. It would lose more than that perhaps weekly if its tax-exempt status were now revoked. The LDS Church must be more nimble regarding public opinion than ever before because today it has more at risk than ever before.<sup>86</sup>

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<sup>84</sup> “In the name of Jesus Christ I say that God has not forsaken the Presidency or Twelve. He inspired me to issue the manifesto and if he had not done so I should never have taken that course even though all ordinances for the living and the dead had ceased, and our temples had fallen into the hands of our enemies. The principle of plural marriage will yet be restored to this Church, but how or when I cannot say. God will hold this nation responsible for the wrongs done this people.” *Candid Insights of a Mormon Apostle: The Diaries of Abraham H. Cannon, 1889-1895*, supra, p. 196.

<sup>85</sup> See, Home/USA/rt.com article dated November 8, 2013.

<sup>86</sup> NBC News estimated the LDS Church earns \$7 billion annually from tithing and owns \$35 billion in temples and meeting houses. *Mormon Church Earns 7 Billion A Year From Tithing Analysis Indicates*, Peter Henderson, NBC News.com, August 13, 2012. In addition to church property, the business holdings include the 14<sup>th</sup> largest radio chain in the US (Bonneville International), 228,000 acres in Nebraska,

Another abandoned LDS doctrine involves the status of black Africans. While welcomed as members, blacks were denied ordination. Brigham Young propounded,<sup>87</sup> and other leaders echoed, teachings relegating black Africans to doctrinally inferior status.

Slavery in America began centuries before the United States was a nation. From the late 1400's African slaves<sup>88</sup> were transported to the Americas. By the end of the 19<sup>th</sup> Century there had been five times as many Africans in the Americas than Europeans. African slavery was a fact of life in the English colonies before the American Revolution. Once the US was independent, it had an economic infrastructure wherein African slavery was a fact of life. Before considering or condemning teachings of the LDS Church, the larger social, legal and economic setting should be remembered. Context is everything. Allowing black membership, integrated congregations, and opposition to slavery shows early Mormonism was more racially tolerant than the nation at large.

In 1856 the Republican Party was formed, in part to oppose the spread of slavery into the western territories acquired through the Mexican-American war that ended in 1846.<sup>89</sup> In 1857,

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51,600 acres in Oklahoma, 312,000 acres in Florida (Farmland Reserve, Inc. with a dba Deseret Cattle and Citrus), properties in Hawaii including pineapple orchards and the Polynesian Cultural center (Hawaii Reserves, Inc.), the largest nut production in the US (AgReserves, Inc.), and the over \$2 billion City Creek Center in downtown Salt Lake City. Other retail/office and condominium development projects similar to City Creek are underway or planned for Philadelphia and Arizona. Newspaper Agency Corporation, Deseret Book, Zions Securities, Deseret Digital Media, Brigham Young University and divisions of the university in Hawaii and Idaho, as well as other investments managed by Deseret Management Corporation are all part of the church asset portfolio.

<sup>87</sup> There are certainly reasons to associate the ban on ordination to Joseph Smith, who was clearly against interracial marriage between whites and blacks. (See, *Teachings of the Prophet Joseph Smith*, p. 269, Deseret Book, Salt Lake City). However, during his lifetime there were ordinations of black church members. These included Elijah Able and Walker Lewis. But Zebedee Coltrin, who ordained Elijah Able, later claimed Joseph Smith had Elijah cease exercising priesthood authority. Two scriptures through Joseph Smith also add to the conclusion the ban originated at the time of Joseph Smith: Moses 7: 22 and Abraham 1: 27.

<sup>88</sup> Slavery was not limited to the African race, but included Europeans and Native Americans, as well. However, that issue is beyond the scope of this paper.

<sup>89</sup> This resulted in a Democratic Party reaction to woo Mormon votes, and many southern Democrats opposed the anti-polygamy legislation. See *Brigham Young—Mormon Pioneer*, supra, p. 247. It did not

the US Supreme Court issued the *Dred Scott* decision.<sup>90</sup> The ruling established that blacks free or slave, have no citizenship rights and therefore no standing to sue in federal courts.

On January 16, 1852, Young explained to the Utah Territorial Legislature Africans were the “seed of Cain” and could not hold priesthood. He described them as black, uncouth, uncomely, disagreeable, wild, and unintelligent members of the human family. “[A]ny man having one drop of the seed of [Cain] ... in him cannot hold the priesthood and if no other Prophet ever spake it before I will say it now in the name of Jesus Christ I know it is true and others know it.”<sup>91</sup>

The curse was not just to protect the right to priesthood; it was also to prevent intermarriage. Said Young, “If the white man who belongs to the chosen seed mixes his blood with the seed of Cain, the penalty, under the law of God, is death on the spot. This will always be so.”<sup>92</sup>

The nation fought the Civil War to resolve the national debate on slavery. In 1863 Abraham Lincoln issued the Emancipation Proclamation (arguably an illegal and unconstitutional<sup>93</sup> decree) to begin the process. The end of slavery came by adoption of the 13<sup>th</sup>

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last, however, and a few years later the national popularity of suppressing polygamy resulted in even the Democratic Party getting aboard. *Id.*, at p. 268.

<sup>90</sup> *Dred Scott v. Sandford*, 60 U.S. 393.

<sup>91</sup> *JD* 7:290. He continued: “You see some classes of the human family that are black, uncouth, uncomely, disagreeable and low in their habits, wild, and seemingly deprived of nearly all the blessings of the intelligence that is generally bestowed upon mankind .... Cain slew his brother. Cain might have been killed, and that would have put a termination to that line of human beings. This was not to be, and the Lord put a mark upon him, which is the flat nose and black skin. Trace mankind down to after the flood, and then another curse is pronounced upon the same race—that they should be the ‘servant of servants’; and they will be, until that curse is removed; and the Abolitionists cannot help it, nor in the least alter that decree.” (On the bright side, he did describe them as fellow members of the human family.)

<sup>92</sup> *JD* 10: 104.

<sup>93</sup> The 5<sup>th</sup> Amendment to the Constitution prevented taking “property” (and slaves were regarded at the time as property) without “just compensation.” Lincoln relied upon a claim of wartime authority under the constitutional war powers given to the Commander-in-Chief to justify the Proclamation. Then post-war amendments ended any need for resolving the question of Lincoln’s actual right to order slaves be freed.

Amendment in 1865.<sup>94</sup> To make the 13<sup>th</sup> Amendment a restriction on State conduct, the 14<sup>th</sup> Amendment was likewise adopted. The 14<sup>th</sup> Amendment reads, in relevant part:

No State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The post-Civil War constitutional amendments were only the beginning of the process to establish equality for former slaves and their descendants. Segregation in post-Civil War America was legal, having been approved by the Supreme Court.<sup>95</sup>

Although Brigham Young's comments about interracial marriage seem offensive in 2014, the United States had widespread laws making such marriages illegal. These were referred to as "Anti-Miscegenation" statutes. In 1948, California became the first state to strike down an anti-miscegenation statute.<sup>96</sup> The US Supreme Court did not decide the issue until 1967, making all State statutes against interracial marriages illegal.<sup>97</sup>

The Civil Rights movement, establishment of the NAACP,<sup>98</sup> Rosa Parks,<sup>99</sup> Martin Luther King<sup>100</sup> and the Civil Rights Acts<sup>101</sup> were all required to change the social status of the

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<sup>94</sup> The Amendment reads, in relevant part: "Neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

<sup>95</sup> *Plessy v. Ferguson*, 163 U.S. 537 (1896).

<sup>96</sup> *Perez v. Sharp*, 198 P.2d 17 (Cal 1948).

<sup>97</sup> *Loving v. Virginia*, 388 U.S. 1 (1967).

<sup>98</sup> Founded in 1909.

<sup>99</sup> She refused to move to the back of a public transportation bus in Montgomery, Alabama on December 1, 1955 and was arrested for her refusal. Her act of defiance became a national symbol. Congress passed a resolution calling her "the first lady of civil rights" and "the mother of a freedom movement." (Public Law 106-26.)

<sup>100</sup> Martin Luther King became a national figure with the 1955 Montgomery Bus Boycott. He was awarded the Nobel Peace Prize in 1964 and slain in 1968 at age 39.

<sup>101</sup> One adopted in 1964 banned discrimination in employment practice and public accommodations, followed by the Voting Rights Act of 1965, then a second Civil Rights Act in 1968 that banned discrimination in housing.

descendants of former slaves in America. Notwithstanding these events, racial disharmony remains a persistent source of continuing antagonism in the United States.

While the Civil Rights Movement was gaining momentum, LDS Church leaders remained committed to their racial teachings. Apostle Mark E. Peterson defended the church's position on race and priesthood in an address to BYU audience of Institute and Seminary teachers in 1954 at Brigham Young University. He said:

The reason that one would lose his blessings by marrying a negro is due to the restriction placed upon them. 'No person having the least particle of negro blood can hold the priesthood' (Brigham Young). It does not matter if they are one-sixth negro or one-hundred and sixth, the curse of no Priesthood is the same. If an individual who is entitled to the priesthood marries a negro, the Lord has decreed that only spirits who are not eligible for the priesthood will come to that marriage as children. To intermarry with a negro is to forfeit a "nation of priesthood holders."<sup>102</sup>

The question was so well settled that when LDS Church leader Bruce R. McConkie assembled an encyclopedic summary of Mormon beliefs titled *Mormon Doctrine*, he could state with authority the beliefs of the church. Under the entry "Negroes" he summarized:

The negroes are not equal with other races where the receipt of certain spiritual blessings are concerned, particularly the priesthood and the temple blessings that flow therefore, but this inequality is not of man's origin. It is the Lord's doing, is based on his eternal laws of justice, and grows out of the lack of spiritual valiance of those concerned in their first estate.<sup>103</sup>

However, clearly the legal trends were against discrimination. Institutional racial discrimination had been targeted by civil rights organizations for years. As would be expected, the LDS Church came to the attention of the NAACP, and efforts were made to negotiate for change. In 1963 the NAACP leadership attempted to meet with LDS Church leaders, but the church refused. A meeting took place two years later in 1965 when the LDS Church agreed to

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<sup>102</sup> *Race Problems—As They Affect The Church*, copy available at [lds-mormon.com/racism.html](http://lds-mormon.com/racism.html).

<sup>103</sup> *Mormon Doctrine*, "Negroes", p. 527-28, Deseret Book (Salt Lake City, 1966). My copy was in the 12<sup>th</sup> printing in 1973.

support civil rights legislation pending in the Utah legislature. They agreed to publish an editorial in the church-owned newspaper, the Deseret News. The church failed to keep the agreement. N. Eldon Tanner explained “We have decided to remain silent.”<sup>104</sup>

By March 1965, the NAACP took more public means to pressure the LDS Church. They organized an anti-discrimination march in Salt Lake City to protest church policies. The next year the NAACP issued a statement criticizing the church, complaining it “maintained a rigid and continuous segregation stand” and has made “no effort to counteract the widespread discriminatory practices in education, in housing, in employment, and other areas of life.”<sup>105</sup>

Although the institution was hesitating, its membership was increasingly willing to see more racial equality.<sup>106</sup> The culture was changing, and it began to exert pressure inside the LDS Church.<sup>107</sup> In addition, Brigham Young University offered a visible target for protests. The University of Texas at El Paso (UTEP) was confronted with a protest by their track team. “After

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<sup>104</sup> See, Glen W. Davidson, *Mormon Missionaries and the Race Question*, The Christian Century, September 29, 1965, pp. 1183-86.

<sup>105</sup> Deseret News, May 3, 1966.

<sup>106</sup> Newell G. Bringhurst and Darron T. Smith, *Black and Mormon*, pp. 94-97, University of Illinois Press (Urbana, 2004).

<sup>107</sup> In this year’s Mormon History Association meeting there was a good deal of praise for the LDS Church’s recent essay on the history of blacks and the priesthood. (See Tad Walch, *LDS Blacks, Scholars Cheer Church’s Essay on Priesthood*, Deseret News June 8, 2014.) The collective relief from changing the position is palpable. Prior doctrinal teachings have been first reduced to “theories” and then condemned by “a crystal-clear disavowal of those theories.” Now LDS Mormons get to join ranks with others in decrying racism, with little regard for their history or their ancestor’s beliefs. BYU Professor Randy Bott was interviewed by the Washington Post and truthfully restated earlier teachings of the LDS Church: “Bott points to the Mormon holy text the Book of Abraham as suggesting that all of the descendants of Ham and Egyptus were thus black and barred from the priesthood. ...church leaders suggested that the ban on blacks resulted from consequences of the ‘conduct of spirits in the pre-mortal existence.’ As a result, many Mormons believed that blacks were less valiant in the pre-Earth life, or fence sitters in the war between God and Satan. ... ‘God has always been discriminatory’ when it comes to whom he grants the authority of the priesthood, says Bott, the BYU theologian.” (Jason Horowitz, *The Genesis of a Church Stand on Race*, Washington Post, February 28, 2012.) The LDS Church responded less than a day later denouncing Bott: “Bott’s comments, the church, said, ‘absolutely do not represent the teachings and doctrines of The Church of Jesus Christ of Latter-day Saints.’ It went on to say that ‘the church’s position is clear—we believe all people are God’s children and are equal in his eyes and in the church. We do not tolerate racism in any form.’” (Peggy Fletcher Stack, *Mormon Church Disputes BYU Prof’s Remarks About Blacks*, Salt Lake Tribune, February 29, 2012.)



the assassination of Dr. Martin Luther King, black members of the track team approached their coach and expressed their desire not to compete against Brigham Young University in an upcoming meet. When the coach disregarded the athletes' complaint, the athletes boycotted the meet."<sup>108</sup> In 1969 members of the University of Wyoming football team intended to protest during a BYU football game by wearing black armbands. The protest was aborted when the university suspended the players, which in turn resulted in a lawsuit in Federal Court. One of the athletes testified, "they were protesting against racial policies" referring to "the Mormon Church." Others likewise testified they intended to "protest the views of the Mormon Church."<sup>109</sup> In November 1969, Stanford University's President Kenneth Pitzer suspended all athletic relations with BYU.<sup>110</sup> Legal pressure on this issue was reminiscent of earlier conflicts with the federal government.<sup>111</sup>

There were rumors the LDS Church faced a threat to remove its tax-exempt status. These rumors were denied by an LDS spokesman.<sup>112</sup> However, the issue of racial discrimination was before the US courts years prior to the LDS announcement of a change in positions. Because of institutional opposition to interracial marriage, Bob Jones University only admitted black

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<sup>108</sup> Gil Fried & Michael Hiller, *ADR in Youth and Intercollegiate Athletics*, *BYU Law Review*, pp. 631-32, Vol. 1977, Issue 3.

<sup>109</sup> See *Williams v. Eaton*, 468 F2nd 1079 (10<sup>th</sup> Cir. 1972).

<sup>110</sup> James J. Kilpatric, *A Sturdy Discipline Serves Mormons Well*, December 11, 1969, *Evening Independent*.

<sup>111</sup> Outside the US there were legal challenges as well. In Costa Rica a lawsuit by a black lawyer sought to disenfranchise the church under the law of that country prohibiting racial discrimination by a church in its proselyting. The missionaries were using a "genealogical survey" as a technique to determine if the contact had African ancestry. (See Edward L. Kimball, *Spencer W. Kimball and the Revelation on Priesthood*, *BYU Studies* 47, no. 2, (2008), p. 42.

<sup>112</sup> "It's one thing to distort history, quite another to invent it. Kathy Erickson (Forum, March 11) claims that the federal government threatened The Church of Jesus Christ of Latter-day Saints with its tax-exempt status in 1978 because of the church's position regarding blacks and the priesthood. We state categorically that the federal government made no such threat in 1978 or at any other time. The decision to extend the blessings of the priesthood to all worthy males had nothing to do with federal tax policy or any other secular law." Bruce L. Olsen, Public Affairs Department, The Church of Jesus Christ of Latter-day Saints, *Distorted History*, Salt Lake Tribune, April 5, 2001.

students if they were married. The IRS threatened to revoke their tax exemption in 1970. The university sued in 1971 and the US District Court granted an injunction against the IRS. The Fourth Circuit reversed for lack of jurisdiction, and the US Supreme Court affirmed. In 1975 the IRS notified the university their tax exemption was revoked. The university paid \$21 and sued for a refund in US District Court. The IRS counterclaimed for \$489,675.59 in back taxes. The case was pending in 1978 and decided by the District Court in December, six months after the LDS Church changed its policy.

The case ultimately decided by the US Supreme Court, allowed the IRS to revoke tax-exempt status because of racial discrimination.<sup>113</sup> A direct threat by the US Government would not have been unnecessary in the circumstances. At the time the case was pending in the US District Court, it came to the attention of law students at BYU, myself included. When the case was finally argued, Rex E. Lee, former law school Dean at BYU, was the US Solicitor General.<sup>114</sup> Lee undoubtedly was aware of the case and its implications for BYU and ultimately the LDS Church. Former BYU President Dallin H. Oaks was on the Utah Supreme Court when *Bob Jones University* was decided.

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<sup>113</sup> *Bob Jones University v. US*, 461 U.S. 574 (1983). Bob Jones University prohibited interracial dating. The IRS revoked tax-exempt status because of this policy. The majority opinion read, in part: “The governmental interest at stake here is compelling. As discussed in Part II-B, supra, the Government has a fundamental, overriding interest in eradicating racial discrimination in education – discrimination that prevailed, with official approval, for the first 165 years of this Nation's constitutional history. That governmental interest substantially outweighs whatever burden denial of tax benefits places on petitioners' exercise of their religious beliefs. The interests asserted by petitioners cannot be accommodated with that compelling governmental interest, see *United States v. Lee*, supra, at and no ‘less restrictive means,’ see *Thomas v. Review Board of Indiana Employment Security Div.*, supra, at 718, are available to achieve the governmental interest.”

<sup>114</sup> Rex E. Lee was the Dean while I attended the J. Reuben Clark Law School. He served as Dean until 1981, when President Reagan appointed him US Solicitor General. The *Bob Jones University* case was argued in October 1982. Rex Lee recused himself from arguing the case because of his prior involvement with BYU at a time when a racially discriminatory policy was in place with the school's sponsoring church.

The threat of taxation can ultimately destroy any institution, including the LDS Church. Chief Justice John Marshall coined the truism: “The power to tax involves the power to destroy.”<sup>115</sup>

Faced with the obvious national trend against institutional racism, and with the memory of its past conflict with the US, the LDS Church changed its teaching June 8, 1978. Prior to this, efforts to make the change were unsuccessful because church leaders were unable to get approval from God. President Spencer W. Kimball turned the problem around. He wanted to make the change, pondered for months, had a growing conviction it would be a good thing to accomplish. He consulted carefully with the Twelve, taking their comments and seeking their advice. When the day came to decide the matter, he did not pray to have Divine approval, instead he presumed it to be time for the change and asked to be clearly told not to proceed if the Lord objected.<sup>116</sup> Hearing no objection from the Twelve, his counselors or heaven, the change was adopted. It was implemented in 1978 and announced in Official Declaration 2, now part of the Doctrine & Covenants.<sup>117</sup>

It is obvious the LDS Church could not admit forfeiting priesthood because African Americans are now ordained. It is equally obvious this change is incompatible with prior teaching. To bridge this gulf, the church issued a press release titled *Race and the Church: All Are Alike Unto God*. The contradiction is accounted for by “the absence of direct revelation” to

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<sup>115</sup> *McCulloch v. Maryland*, 17 U.S. 327 (1819).

<sup>116</sup> See *Spencer W. Kimball and the Revelation on Priesthood*, *BYU Studies* 47, n0.2 (2008), pp. 54-56; in relevant part: “He had reached a decision after great struggle, and he wanted the Lord’s confirmation, if it would come. They surrounded the altar in a prayer circle. President Kimball told the Lord at length that if extending the priesthood was not right, if the Lord did not want this change to come in the Church, he would fight the world’s opposition.”

<sup>117</sup> Interestingly the language of OD2 reflects the Civil Rights vocabulary, rather than scriptural terminology. The Declaration refers to lifting the ban “without regard to race or color.” The scriptures refer to either “lineage” (Abr. 1: 27) or “seed” (Moses 7: 22) when the subjects of disqualification for priesthood, or inclusion with believers are mentioned. The choice of language suggests the Civil Rights Movement was on the minds of the committee who drafted the declaration.

guide previous leaders. The return of scarcity is blamed: “The origins of priesthood availability are not entirely clear. Some explanations with respect to this matter were made in the absence of direct revelation and references to these explanations are sometimes cited in publications. These previous personal statements do not represent Church doctrine.”<sup>118</sup> This describes the process. Scarcity forces the institution to substitute man’s doctrinal innovations for God’s voice. Restoration ends and apostasy begins.

In addition to now denigrating earlier prophets, seers and revelators for not having revelation to guide them, the LDS Church also unequivocally condemned them in an editorial on their lds.org website:

Over time, Church leaders and members advanced many theories to explain the priesthood and temple restrictions. None of these explanations is accepted today as the official doctrine of the Church. ...Today, the Church disavows the theories advanced in the past that black skin is a sign of divine disfavor or curse, or that it reflects actions in a premortal life; that mixed-race marriages are a sin; or that blacks or people of any other race or ethnicity are inferior in any way to anyone else. Church leaders today unequivocally condemn all racism, past and present, in any form.<sup>119</sup>

They attribute their earlier missteps to US history, including legal slavery when the LDS Church began. The conversion of Africans in Brazil had an effect on the timing. These black members donated to build a temple in Sao Paulo but would be barred from entry without a policy change.

Latter-day Saint history has surprisingly few teachings addressing homosexuality. It is a topic of recent importance. There is a timeline published on the website “No More Strangers:

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<sup>118</sup> [Mormonnewsroom.org/article/race-church](http://Mormonnewsroom.org/article/race-church)

<sup>119</sup> [lds.org/topics/race-and-the-priesthood?lang=eng](http://lds.org/topics/race-and-the-priesthood?lang=eng)

LGBT Mormon Forum,”<sup>120</sup> which retells many of the events. The issue did not emerge into direct and regular discussion until the 1950’s.

Under traditional LDS doctrine recently articulated, homosexuality is sinful, requiring repentance. In Spencer W. Kimball’s book *The Miracle of Forgiveness*, he wrote, “the seriousness of the sin of homosexuality is equal to or greater than that of fornication or adultery; and that *the Lord’s Church will as readily take action to disfellowship or excommunicate the unrepentant practicing homosexual as it will the unrepentant fornicator or adulterer.*”<sup>121</sup>

In a chapter titled *Crime Against Nature*, Spencer Kimball called it “unnatural and wrong.” He elaborated “All such deviations from normal, proper heterosexual relationships are not merely unnatural but wrong in the sight of God. Like adultery, incest and bestiality they carried the death penalty under the Mosaic law.”<sup>122</sup>

A grim milestone occurred in 1965 when five young Mormons, all homosexual and all counseled by Apostle Spencer W. Kimball for homosexual sin, committed suicide. All were in their early 20’s. Three had recently returned from missionary service. All had been BYU students.<sup>123</sup> “Their continued education at BYU and their precious membership in the Mormon church were made contingent upon their complete repentance and their willingness to provide names of other gay people.”<sup>124</sup>

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<sup>120</sup> Seth Anderson, *Timeline of Mormon Thinking About Homosexuality*, Nomorestrangers.org, posted December 9, 2013, also posted at RationalFaiths.com. The article does not attempt to be exhaustive, but appears to be representative.

<sup>121</sup> *The Miracle of Forgiveness*, p. 81-82, Deseret Book, (Salt Lake City, 1969), italics in original.

<sup>122</sup> *Id.* at p. 79.

<sup>123</sup> In 1965 (the year of these suicides), BYU President Ernest Wilkinson gave a devotional talk in which he declared: “Nor do we intend to admit to our campus any homosexuals. If any of you has this tendency and have not completely abandoned it, may I suggest that you leave the University immediately after this assembly ...we do not want others on this campus to be contaminated by your presence.” See Allie Rae Treharne, *History of BYU & Homosexuality*, thestudentreview.org/history-of-byu-homosexuality.

<sup>124</sup> Robert I. McQueen, *Outside the Temple Gates—The Gay Mormon*, The Advocate, August 13, 1975. See also *History of BYU & Homosexuality*, supra, which confirmed: “some students who were caught faced the ultimatum of providing names of other gay students or expulsion from school.” (Citing Connell

In the *Guide to the Scriptures* published by the LDS Church, there is a section titled “Sexual Immorality.” This section includes a list of scriptures under the general description: “Willful participation in adultery, fornication, homosexuality, lesbianism, incest, or other unholy, unnatural, or impure sexual activity.” What follows includes this statement and citation: “Homosexuality and other sex perversions are an abomination: Lev. 18: 22-23.” Also, “In the last days men shall be without natural affection: 2 Tim. 3: 1-3.”

In the United States there is a tidal wave of legal activity regarding homosexual rights underway. Since 2003 every state has either legalized same-sex marriage or adopted laws prohibiting it.

The Utah legislature is overwhelmingly LDS. In 1977, the Utah legislature amended Utah Code §30-1-2 to state marriages “between persons of the same sex” were “prohibited and declared void.” In 2004, the Utah legislature passed Utah Code §30-1-4.1 which stated: “it is the policy of this state to recognize as marriage only the legal union of a man and a woman as provided in this chapter.” In anticipation of same-sex marriages in other states, it nullified them in Utah.<sup>125</sup> Then, as a precaution against the rising tide of changing attitudes regarding same-sex marriage,<sup>126</sup> the legislature also adopted a proposed amendment to the Utah State Constitution. The amendment was put on the November 2, 2004 ballot and passed with approximately 66% of

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O’Donovan, *The Abominable and Detestable Crime Against Nature: A Revised History of Homosexuality and Mormonism, 1840-1980*, Signature Books, (Salt Lake, 1994); now revised as of 2004 and available online at [connellodonovan.com/abom.html](http://connellodonovan.com/abom.html).)

<sup>125</sup> “Except for the relationship of marriage between a man and a woman recognized pursuant to this chapter, this state will not recognize, enforce, or give legal effect to any law creating any legal status, rights, benefits, or duties that are substantially equivalent to those provided under Utah law to a man and woman because they are married.”

<sup>126</sup> In 1998 36% of the US population believed sexual orientation could not be changed. By 2012 58% believed sexual orientation was unchangeable. In 2001 40% of the US believed homosexuality was acceptable. In 2013 59% believe it acceptable. (See, *Public Opinion Polls on Two Key LDB Questions*, [religioustolerance.org/hom\\_poll2htm](http://religioustolerance.org/hom_poll2htm).) In 1993 the Hawaii Supreme Court struck down the Hawaiian statute prohibiting same-sex marriage. In 1999 the Vermont Supreme Court held same-sex marriage was likewise constitutionally protected.

the vote favoring the amendment to Article I, §29, adding the following language: “Marriage consists only of the legal union between a man and a woman. No other domestic union, however denominated, may be recognized as a marriage or given the same or substantially equivalent effect.”<sup>127</sup> This provision took effect January 1, 2005. It was declared unconstitutional in December 2013 by the US District Court,<sup>128</sup> and again in June 2014 by the 10<sup>th</sup> Circuit Court of Appeals.<sup>129</sup>

The year before this amendment to the Utah Constitution, the US Supreme Court invalidated Texas’ criminalization of homosexual acts.<sup>130</sup> In Massachusetts the State Supreme Court ruled the state’s constitution protected the right of same-sex couples to marry.<sup>131</sup> Utah’s statutes and amendment to the state constitution was struck down in December of last year.<sup>132</sup>

In California the issue of same-sex marriage was voted on in November 2008. The ballot fight was aided by the LDS Church providing both vocal support, and assisting with facilitating door-to-door campaign efforts. Before the vote was taken, church leaders David A. Bednar, Russell M. Ballard and Quentin L. Cook (of the Twelve Apostles) and Whitney Clayton (of the Seventy) broadcast video into California urging church members to be involved in supporting Proposition 8. When the vote was counted, the LDS effort had proven decisive and Proposition 8 passed. In a post-election statement the LDS Church said this: “The Church expresses deep

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<sup>127</sup> Depending on how the Utah Supreme Court interpreted this language, it appears on the face of the bill to outlaw civil unions in Utah as well as marriage.

<sup>128</sup> *Kitchen, et. al. v Herbert, et. al.*, Case No. 2:13-cv-217, US District Court for the District of Utah, Memorandum Decision and Order filed December 20, 2013.

<sup>129</sup> *Kitchen, et. al. v. Herbert, et. al.*, Case No. 13-4178, Decision filed June 25, 2014.

<sup>130</sup> *Lawrence v. Texas*, 539 U.S. 558 (2003).

<sup>131</sup> *Goodridge v. Dep’t of Pub. Health*, 798 N.E.2d 941 (2003).

<sup>132</sup> *Derek Kitchen, et. al., v. Gary R. Herbert, et. al.*, supra.

appreciation for the hard work and dedication of the many Latter-day Saints and others who supported the coalitions in efforts regarding these amendments.”<sup>133</sup>

Opposition to Proposition 8 in California resulted in an organized effort seeking to revoke the LDS Church’s tax exempt status. A website was established to instruct those willing to protest on how to approach removing the 501c3 status of the church.<sup>134</sup> The protest focused on the IRC provision which limited favorable tax treatment to institutions “organized and operated exclusively for religious” purposes and in which “no part of the net earnings” are used nor “no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation.”<sup>135</sup> The IRS has now agreed to investigate politically active churches.<sup>136</sup>

The LDS Church has been publicly softening its position on homosexuality since winning the Proposition 8 battle. The Boy Scouts change to accept homosexuals was immediately approved by the LDS Church<sup>137</sup> as a visible mea culpa.<sup>138</sup> This is also true of others involved with Proposition 8.<sup>139</sup> One LDS writer has advocated same-sex temple sealing in a popular Mormon journal.<sup>140</sup>

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<sup>133</sup> See [mormonnewsroom.org/article/church-responds-to-same-sex-marriage-votes](http://mormonnewsroom.org/article/church-responds-to-same-sex-marriage-votes), November 5, 2008.

<sup>134</sup> See <http://lds501c3.wordpress.com/>

<sup>135</sup> The website quotes IRC §501c3.

<sup>136</sup> See Deseret News article, *The IRS agrees to investigate churches that preach politics after settling with atheist lobbying group*, July 31, 2014 at [national.desnews.com/article/2016/The-IRS-agrees-to-investigate-churches-that-preach-politics-after-settling-with-athies-lobbying.html](http://national.desnews.com/article/2016/The-IRS-agrees-to-investigate-churches-that-preach-politics-after-settling-with-athies-lobbying.html)

<sup>137</sup> *The Christian Post* reported the news with alarm (*LDS Church Accepts New Boy Scout Policy on Gay Members*, May 24, 2013).

<sup>138</sup> LDS Church owned Deseret News quoted church spokesman Michael R. Otterson in an article titled *LDS Church Public Relations Official Writes About Scouting Decision for Washington Post*, May 31, 2013, as saying: “For the Church of Jesus Christ of Latter-day Saints, this was never about whether the BSA or local scout leaders should try to discern or categorize ill-defined and emerging sexual awareness of pre-pubescent boys and early pubescent young men who make up 90 percent of scouting. Sexual orientation has not previously—and is not now—a disqualifying factor for boys who want to join Latter-day Saint scout troops. Rather, it has always been about teaching moral behavior to *all* boys, and instilling the core values that are part of responsible adulthood,” according to Otterson.”

<sup>139</sup> Expert witness David Blankenhorn recanted his view in a New York Times editorial on June 22, 2012 titled *How My View on Gay Marriage Changed*. He announced in the editorial: “I took a stand against gay marriage. But as a marriage advocate, the time has come for me to accept gay marriage and



The LDS Church is necessarily attentive to legal trends. Its existence was once hanging by the thinnest of threads because of laws targeting it. Lawyers are consistently among the highest leadership of the LDS Church.<sup>141</sup> At the time of writing this paper, the Quorum of Twelve includes lawyers Dallin H. Oaks, Quentin L. Cook, D. Todd Christofferson and Neil L. Anderson. The legal and social environment in which LDS Mormonism has evolved cannot be divorced from its evolving doctrine, because many changes were adaptations to this environment.

When Joseph Smith was alive, women had limited property rights. When married their property became their husband's under the common law doctrine of coverture. It was not until the 1840's that state legislatures in the United States first began to modify the common law by adopting statutes to protect women's property from their husbands and their husbands' creditors.

Women's right to vote in the US began in 1869 when Wyoming passing the first suffrage law. The following year women began to serve on Wyoming juries. In 1893 Colorado granted women the right to vote. In 1896 Idaho and Utah did likewise. Remember this as you consider how different a world you live in when it comes to women's place in society.

The National Organization for Women (NOW) was created in 1966 to pursue equal rights. They fought for the Equal Rights Amendment (ERA) to amend the constitution to add: "equality of rights under the law shall not be denied or abridged by the United States or any state on account of sex." The amendment died in 1982 because enough states failed to adopt it.

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emphasize the good that it can do."

<sup>140</sup> See Taylor Petrey, *Toward a Post-Heterosexual Mormon Theology*, Dialogue: A Journal of Mormon Thought, Vol. 44, No. 4, December 8, 2011. In the 2011 Sunstone Symposium Brad Carmak presented a paper, *Why Mormonism can Abide Gay Marriage*, which is viewable on YouTube at: [youtube.com/watch?v=E1jDUcBKml0](https://www.youtube.com/watch?v=E1jDUcBKml0)

<sup>141</sup> At the time of changing the policy in 1978, the First Presidency and Quorum of the Twelve included lawyers Marion G. Romney, Howard W. Hunter and Bruce R. McConkie, as well as N. Eldon Tanner who, although not a lawyer, was a former legislator in Canada.

The ACLU announces on its website “Forty years ago, the American Civil Liberties Union (ACLU) board of directors determined that women's rights should be the organization's highest priority. Then-executive director Aryeh Neier, created the ACLU Women’s Rights Project and named Ruth Bader Ginsburg as the first director. Since then, Ginsburg has become a justice on the United States Supreme Court, and the Women's Rights Project (WRP) has won many landmark court decisions, achieved significant legislative successes, and shifted public awareness and understanding of women's equality.”<sup>142</sup>

Reproductive rights and the ability of women to access birth control was decided in 1965. Connecticut had a statute which prohibited any person from using “any drug, medicinal article or instrument for the purpose of preventing conception.” The Supreme Court decided this kind of law violated the “right to marital privacy” and was therefore unconstitutional.<sup>143</sup> The effect was to change the nation’s outlook on sexuality so radically that by 1967 the “Summer of Love” was underway in the San Francisco Haight-Ashbury district. Hunter S. Thompson wrote about it in *The New York Times Magazine* which helped attract widespread attention. Soon the national media was fascinated and began to report daily of events there. In June, 1967 the Monterey Pop Festival happened, with 60,000 people attending by the last day. If you were going to San Francisco at the time you needed to wear some flowers in your hair.<sup>144</sup> Sexual promiscuity seemed the perfect antidote for the relentless tension of the compulsory draft and service in the Vietnam War. Timothy Leary admonished us to “turn on, tune in, drop out” and become one with the movement. Sexual liberation proved alluring indeed.<sup>145</sup>

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<sup>142</sup> See, [aclu.org/womens-rights](http://aclu.org/womens-rights).

<sup>143</sup> *Griswold v. Connecticut*, 381 U.S. 479 (1965).

<sup>144</sup> John Phillips penned the song *San Francisco (Be Sure to Wear Flowers in Your Hair)* that promoted both the Monterey Pop Festival and the movement in San Francisco generally.

<sup>145</sup> During the Summer of Love, LDS General Conference included a sermon stating: “In this day when modesty is thrust into the background, and chastity is considered an outmoded virtue, I appeal to parents

In the *Griswold* case, although the Bill of Rights does not mention privacy, Justice William O. Douglas wrote the right was found in the “penumbras” and “emanations” of the other rights enumerated. That innovation would produce another dramatic emanation in Justice Blackmun’s landmark abortion ruling eight years later.

In the newly found constitutional “penumbra” Justice Harry Blackmun found the right to privacy also gave women the right to an abortion. Writing for a 7-2 majority in *Roe V. Wade*,<sup>146</sup> he stated: “the right to privacy, whether it be founded in the Fourteenth Amendment’s concept of personal liberty and restrictions upon state action, as we feel it is, or, as the district court determined, in the Ninth Amendment’s reservation of rights to the people, is broad enough to encompass a woman’s decision whether or not to terminate her pregnancy.” At the time of the decision all states limited abortion, and the majority of the states prohibited abortion altogether. The dissenting opinion of Justices Byron White and William Rehnquist declared the majority exercised improvident and extravagant power to fashion a new constitutional right.<sup>147</sup>

Whether it was improvident or not, the culture of the United States has been shaped by *Roe v. Wade* from 1973 to the present. At present it is estimated over 56 million Americans do

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especially, and to my fellow teachers, both in and out of the Church, to teach youth to keep their souls unmarred and unsullied from this and other debasing sins, the consequences of which will smite and haunt them intimately until their conscience is seared and their character becomes sordid.” Gordon B. Hinckley, *Conference Report*, April 1967, p. 54.

<sup>146</sup> 410 U.S. 113 (1973).

<sup>147</sup> “I find nothing in the language or history of the Constitution to support the Court’s judgment. The Court simply fashions and announces a new constitutional right for pregnant women and, with scarcely any reason or authority for its action, invests that right with sufficient substance to override most existing state abortion statutes. The upshot is that the people and the legislatures of the 50 States are constitutionally disentitled to weigh the relative importance of the continued existence and development of the fetus, on the one hand, against a spectrum of possible impacts on the woman, on the other hand. As an exercise of raw judicial power, the Court perhaps has authority to do what it does today; but, in my view, its judgment is an improvident and extravagant exercise of the power of judicial review that the Constitution extends to this Court.” *Roe v. Wade*, dissent by Rhenquist, White.

not live today, having been aborted. That holocaust was designed to target an unwanted population, and has worked as intended.<sup>148</sup>

In 1986 the US Supreme Court found that sexual harassment is a form of illegal job discrimination.<sup>149</sup> In 1999 the Supreme Court ruled punitive damages for sex discrimination was permitted if the anti-discrimination law was violated with malice or indifference to the law, even if the conduct was not especially severe.<sup>150</sup> In 2009 President Obama signed the Lily Ledbetter Fair Pay Restoration Act allowing victims of pay discrimination to file a complaint against employers within 180 days of their last paycheck, instead of within 180 days from the date of the first unfair paycheck.

In 2013 Defense Secretary Leon Panetta lifted the ban on women serving in combat roles, reversing a 1994 rule.

All these larger national events affected views of Latter-day Saints. From imposing short haircuts on missionaries<sup>151</sup> and BYU students,<sup>152</sup> warning about “hippies” and drug use,<sup>153</sup>

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<sup>148</sup> As Justice Ruth Bader Ginsburg explained in an interview with the *New York Times*: “Frankly I had thought that at the time *Roe* was decided there was concern about population growth and particularly growth in populations that we don’t want to have too many of.” (Emily Blazelon, *The Place of Women on the Court*, an interview published in the *New York Times* on July 7, 2009.) The results included effects which only recently have been noted by two economists: “Perhaps the most dramatic effect of legalized abortion, however, and one that would take years to reveal itself, was its impact on crime. In the early 1990’s, just as the first cohort of children born after *Roe v. Wade* was hitting its late teens—the years during which young men enter their criminal prime—the rate of crime began to fall. What this cohort was missing, of course, were the children who stood the greatest chance of becoming criminals. And the crime rate continued to fall as an entire generation came of age minus the children whose mothers had not wanted to bring a child into the world. Legalized abortions led to less unwantedness; unwantedness leads to high crime, legalized abortion, therefore, led to less crime.” Steven D. Levitt & Stephen J. Dubner, *Freakonomics*, William Morrow, (New York, 2009), pp. 139-140. See generally Chapter 4, *Where Have All the Criminals Gone*, pp. 115-145 for their statistical analysis supporting this conclusion.

<sup>149</sup> *Meritor Savings Bank v. Vinson*, 477 U.S. 57.

<sup>150</sup> *Kolstad v. American Dental Association*, 527 U.S. 526

<sup>151</sup> LDS standards are at “[missionary.lds.org/dress-grooming/elder/grooming/hair/?lang=eng](http://missionary.lds.org/dress-grooming/elder/grooming/hair/?lang=eng)” and states: “Always maintain a conservative hairstyle. Keep your hair short and evenly tapered on the top, back, and sides. Sideburns should reach no lower than the middle of the ear.”

<sup>152</sup> *BYU Honor Code*, “Dress and Grooming Standards,” reads: “A clean and well-cared-for appearance should be maintained. Clothing is inappropriate when it is sleeveless, revealing, or form fitting. Shorts

advocating large families and not artificially limiting births,<sup>154</sup> to denouncing rock and roll music,<sup>155</sup> the LDS Church has been reactionary, trying to slow cultural changes.<sup>156</sup> Whether viewed as progress or decay, LDS leaders have fought it.

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must be knee-length or longer. Hairstyles should be clean and neat, avoiding extreme styles or colors, and trimmed above the collar, leaving the ear uncovered. Sideburns should not extend below the earlobe or onto the cheek. If worn, moustaches should be neatly trimmed and may not extend beyond or below the corners of the mouth. Men are expected to be clean-shaven; beards are not acceptable. Earrings and other body piercing are not acceptable. Shoes should be worn in all public campus areas.”

<sup>153</sup> Here is an example from the Second Counselor in the First Presidency given in General Conference: “Just before conference a bishop called me from California to make an appointment to bring in a young man from his ward who was involved with hippies. He felt I might be able to help him. They came in just after conference. His long hair, dress and general appearance left no doubt that he was a hippie. I asked him to tell me his story. Briefly, this is what he said: ‘I am a returned missionary, a married man, and I have a child; and here I am, a hippie, a drug addict, and I am guilty of many misdemeanors and even felonies. I am most unhappy. This is not what I want.’ I asked him how it was that a man with his background ever got mixed up with these people. He said that one day when he was feeling despondent and discouraged, he decided that he wanted to be free, that he did not want to be bound by any traditions or Church restrictions in any way. He went out with some of these fellows in a spirit of rebellion, and then he said, ‘Here I am. Instead of being free, I’m a slave.’” N. Eldon Tanner, *Conference Report*, April 1968, p. 109.

<sup>154</sup> See, e.g., Joseph F. Smith, *Gospel Doctrine*, Deseret Book (Salt Lake City) pp. 278-79: “I regret, I think it is a crying evil that there should exist a sentiment or a feeling among any members of the Church to curtail the birth of their children. I think that is a crime wherever it occurs, where husband and wife are in possession of health and vigor and are free from impurities that would be entailed upon their posterity. I believe that where people undertake to curtail or prevent the birth of their children that they are going to reap disappointment by and by. I have no hesitancy in saying that I believe that this is one of the greatest crimes of the world today, this evil practice.”

<sup>155</sup> Boyd K. Packer, October 1973 General Conference talk, *Inspiring Music—Worthy Thoughts*, included this warning: “In our day music itself has been corrupted. Music can, by its tempo, by its beat, by its intensity, dull the spiritual sensitivity of men. Studies citing physiological effects from some of the extreme music of today neglect the most serious thing concerning it. Our youth have been brought up on a diet of music that is loud and fast, more intended to agitate than to pacify, more intended to excite than to calm. Even so, there is a breadth of it, some soft enough to be innocent and appealing to our youth, and that which is hard, and that is where the problem is. One of the signs of apostasy in the Christian churches today is the willingness of their ministers to compromise and introduce into what had been, theretofore, the most sacred religious meetings the music of the drug and the hard rock culture. Such music has little virtue and it is repellent to the Spirit of God.” Thomas S. Monson’s October 1990 General Conference talk, *That We May Touch Heaven*, stated: “[M]usic can, by its tempo, beat, intensity, and lyrics, dully your spiritual sensitivity. You cannot afford to fill your minds with unworthy music.”

<sup>156</sup> See, e.g., Richard G. Scott’s April 2004 General Conference talk, *How to Live Well Amid Increasing Evil*, which said, in part, “You have a choice. You can wring your hands and be consumed with concern for the future or choose to use the counsel the Lord has given to live with peace and happiness in a world awash with evil. If you choose to concentrate on the dark side, this is what you will see. Much of the world is being engulfed in a rising river of degenerate filth, with the abandonment of virtue, righteousness, personal integrity, traditional marriage, and family life. Sodom and Gomorrah was the epitome of unholy life in the Old Testament. It was isolated then; now that condition is spread over the

The Ordain Women organization maintains a website (ordainwomen.org) in which Mormons are given a place to advocate change in LDS Church policy. They hope to end “gender inequality” by “calling attention to the need for the ordination of Mormon women to the priesthood.” The public has responded with numerous profiles pleading for change by the LDS Church. The church responded through the *Deseret News* in an article March 17, 2014 titled *LDS Church: Aims of ‘Ordain Women’ Detract from Dialogue*. The article begins with this sentence: “A small activist women's organization is detracting from thoughtful discussions about women in The Church of Jesus Christ of Latter-day Saints, a church spokeswoman said Monday in a letter to the group.” The article goes on to assert “LDS leaders are listening to women and responding. The recent changes you have seen, most notably the lowering of missionary age for sisters, serve as examples and were facilitated by the input of many extraordinary LDS women around the world.” It declares: “Ordaining women to the priesthood, as the letter says, is contrary both to church doctrine and the view of the vast majority of Latter-day Saints, especially women.”<sup>157</sup>

The following month in General Conference, Apostle Dallin H. Oaks gave a talk titled: *The Keys and Authority of the Priesthood* in which he stated: “The Lord has directed that only men will be ordained to offices in the priesthood.” He continued to add, however:

We are not accustomed to speaking of women having the authority of the

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world. Satan skillfully manipulates the power of all types of media and communication. His success has greatly increased the extent and availability of such degrading and destructive influences worldwide. In the past some effort was required to seek out such evil. Now it saturates significant portions of virtually every corner of the world. We cannot dry up the mounting river of evil influences, for they result from the exercise of moral agency divinely granted by our Father. But we can and must, with clarity, warn of the consequences of getting close to its enticing, destructive current.”

<sup>157</sup> Leaders in the Ordain Women movement have been threatened with excommunication. See Peggy Fletcher Stack, *Founder of Mormon Women’s Group Threatened with Excommunication*, Salt Lake Tribune, June 11, 2014. History informs us the LDS Church will only move to accommodate social change when sufficient legal and economic pressure has been applied. Beforehand, posturing by the church’s leadership to seem unmovable is to be expected.

priesthood in their Church callings, but what other authority can it be? When a woman—young or old—is set apart to preach the gospel as a full-time missionary, she is given priesthood authority to perform a priesthood function. The same is true when a woman is set apart to function as an officer or teacher in a Church organization under the direction of one who holds the keys of the priesthood. Whoever functions in an office or calling received from one who holds priesthood keys exercises priesthood authority in performing her or his assigned duties.<sup>158</sup>

And so according to Oaks, women can use the authority of the priesthood, although not necessarily ordained. Extending this reasoning to its logical conclusion, women will one day be able to baptize with “authority” borrowed from a male key-holder. If institutional discrimination on the basis of sex ever threatens the LDS Church tax-exempt status, this seminal General Conference talk by a former Justice on the Utah Supreme Court can be the basis to permit the first female Bishop to serve, using authority borrowed from a male key-holder.

LDS Mormonism claims Joseph Smith as its founder. Joseph thought his restoration would one day revolutionize the world. It was a “stone cut out of the mountain without hands” that would roll forth and grind to dust all other institutions.<sup>159</sup> Brigham Young thought one of the necessary obstacles needing grinding was the US Government.<sup>160</sup> However, LDS Church history is filled with the contrary process: The US culture has been grinding away at LDS Mormonism’s peculiar doctrines, and pushing it to conform with national cultural changes. It is not difficult to foresee how the present legal and social environment will influence future position changes on

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<sup>158</sup> Dallin H. Oaks is a former editor for *Dialogue: A Journal of Mormon Thought*, which would later publish the doctrinal explanation for sealing same-sex marriages.

<sup>159</sup> See, Daniel 2: 31-45; D&C 65: 2.

<sup>160</sup> As the US Army approached Utah territory to remove Brigham Young as Governor, he defiantly proclaimed: “You need have no fear but the fear to offend God. If you have any trembling in your hearts, or timid feelings with regard to our present situation, let me tell you one thing, which is as true as that the sun now shines, that whatever transpires with us, with our enemies, with the world here or there, will still more promote the kingdom of God on earth, and bring to a final end the kingdoms of this world. ... The world are determined to destroy the kingdom of God upon the earth; they wish to obliterate it. The kingdoms of darkness are determined to destroy this kingdom. In their feelings they are fighting against you and me, and do not know that they are contending against Jehovah. They have not the least idea of that, but think they are contending against the ‘Mormons.’ They are not contending against you and me—they are contending against the God of heaven.” *CDBY* 3:1289-90.

women's rights and more open acceptance of homosexuality.

There are two possibilities to account for the LDS Church's history of compromise on their doctrine. The first possibility is these teachings, although once proclaimed to be fundamental, even necessary to obtain exaltation in the afterlife, were falsely portrayed in the first place. The Book of Mormon seems to support this view.<sup>161</sup> If this is so, then contrary to LDS past claims, no soul was ever damned by refusing to accept the doctrine of plural wives. Nor was God going to take away all priesthood from the church as soon as the church attempted to ordain black African descendants. Nor has Almighty God banned women from the priesthood. Nor is homosexuality a serious moral offense before God. God's silence led the LDS Church to oversell these teachings and therefore they were, and are, free to "correct" them.

The other possibility is they got the doctrine right before, and by accommodating American legal and cultural demands LDS Mormonism has been cutting down the Tree of Life to build a wooden bridge. If this is the case, then popular will, federal legislation and the US Supreme Court will have more to say in the future about LDS Mormon doctrine than the church's "prophets, seers and revelators," just as they have exerted the primary influence after Joseph Smith and Brigham Young.

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<sup>161</sup> See 3 Ne. 11: 31-40 where Christ declares His "doctrine." The explanation has no mention of plural wives, priesthood or priesthood bans, or homosexuality. It concluded with the warning, "whoso shall declare more or less than this, and establish it for my doctrine, the same cometh of evil." (*Id.* v. 40.) The LDS Church appears now to back away from earlier teachings. Through abandoning earlier doctrinal positions and condemning those leaders who advanced them, current LDS Church leaders appear convinced it is appropriate to fix "errors," and therefore none of these discarded teachings were ever true or important.