A Strange Encounter: The English Courts and Mormon Polygamy

Kenneth L. Cannon II

In 1866 English courts for the first time encountered a "Mormon" (i.e., polygamous) marriage. On 22 March of that year *The* [London] *Times* related:

> It is a strange fact that no case should have arisen on the validity of Mormon marriages before that of "Hyde v. Hyde," which came before the Divorce Court in January last. So many young women have been tempted or entrapped into abandoning English homes for the half or third part of a husband at the Salt Lake City, and have since found reason to rue their infatuation that we can only explain the entire absence of precedents on the subject by supposing that few are happy enough to retrace their steps across the wastes that divide the Mormon paradise from Christendom.[1]

Actually, it is not surprising that the courts of Great Britain had not had an opportunity to rule upon the validity of a "Mormon" marriage before 1866 when it is realized that the leading American case of *Reynolds v. United States* was still thirteen years away. What is surprising, however, is the nature of *Hyde v. Hyde and Woodmansee*. It involved a once-married former Mormon, bitterly opposed to the practice of plural marriage, who was attempting to divorce his one wife, still living in Utah.

Hyde v. Hyde (as the case is generally referred to) would have been relegated to obscurity had it not been for the influx of people from polygamous societies to Great Britain in the last hundred years. The *Hyde* case was the first encounter of the English courts with a marriage that was "potentially polygamous" because it had been

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[1]*The Times*, 22 March 1866, p. 9.

performed in a society that countenanced polygamy.[2] The rule that emerged from *Hyde v. Hyde* on marriage in general and polygamous marriage in particular was followed by English courts in determining the validity of polygamous marriages until Parliament changed the rule by statute in 1972.[3] Because thousands of Moslems and Hindus from Asia and Africa migrated to England in the twentieth century, the courts increasingly had to decide whether or not to recognize marriages solemnized in polygamous societies.[4] The precedent set by *Hyde* thus remained important throughout the first six decades of the twentieth century and prompted considerable scholarly inquiry.[5] The story of how the divorce suit of a monogamous Mormon apostate became the precedent-setting case on polygamy in England is a fascinating one.

THE BACKGROUND

John Hyde, Jun., according to his own story, joined the Mormon faith in 1848 at the age of fifteen because he "had an ideal of what religion and the worship of God might be; I imagined that this system [the Mormon Church], as I then heard it expounded, realized the ideal; and, in the love of that ideal, I embraced it and was accordingly baptized." He preached in England and in 1851 was called

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[2]Bigamy was a crime in England (it was made a felony there in 1861) and people had been prosecuted for it, but the English courts had never seen a case in which a potential or actual polygamous marriage had been performed in a society which countenanced such marriages.

[3]The rule from the *Hyde* case is discussed below. The statute which overturned the *Hyde* rule was the "Matrimonial Proceedings (Polygamous Marriages) Act, 1972," c. 38. Although English courts felt constrained to follow the *Hyde* precedent when facts in a case were similar to those in *Hyde*, they developed a number of methods to at least partially circumvent it (see, e.g., Sebastian Poulter, "*Hyde v. Hyde*—A Reappraisal," *International and Comparative Law Quarterly* 25 [July 1976]: 491–92, 494–503; D. Tolstoy, "The Conversion of a Polygamous Marriage into a Monogamous Marriage," *International and Comparative Law Quarterly* 17 [July 1968]: 721–29; and my "Polygamy and the Law in England" [unpublished paper, 1981], pp. 15–25).

[4]It was estimated that in the mid-1960s there were 120,000 Pakistanis and over 300,000 Moslems in England (T. C. Hartley, "Polygamy and Social Policy," *Modern Law Review* 32 [March 1969]: 155n; Ian Saunders and Jerry Walter, " 'The Matrimonial Proceedings [Polygamous Marriages] Act 1972,' " *International and Comparative Law Quarterly* 21 [October 1972]: 781, 783n).

[5]The case is discussed in all the major British treatises on family, private international, and conflicts law (see S. M. Cretney, *Principles of Family Law*, 3d ed. [London: Sweet & Maxwell, 1979], pp. 48, 72; P. M. Bromley, *Family Law*, 2d ed. [London: Butterworths, 1962], pp. 3–6, 11; G. C. Cheshire, *Private International Law*, 6th ed. [Oxford: Clarendon Press, 1960], pp. 303, 305–06, 308, 312; and J. H. C. Morris, *Cases on Private International Law*, 3d ed. [Oxford: Clarendon Press, 1960], pp. 66, 92–97, 103–04). Some of the more important articles on the case are S. G. Vesey-Fitzgerald, "Nachimson's and Hyde's Cases," *The Law Quarterly Review* 47 (April 1931): 253–70; W. E. Beckett, "The Recognition of Polygamous Marriages under English Law," *The Law Quarterly Review* 48 (July 1932): 341–68; J. H. C. Morris, "The Recognition of Polygamous Marriages in English Law," *Harvard Law Review* 66 (April 1953): 961–1012; and Poulter, "*Hyde v. Hyde*—A Reappraisal," pp. 475–508. The *Hyde* rule was also applied in British colonies and has a long and illustrious history in these areas. For Australia, Canada, Scotland, and South Africa, see Lennart Palsson, "Marriage and Divorce," in Kurt Lipstein, ed., *Private International Law*, vol. 3, in *International Encyclopedia of Comparative Law*, 17 vols. (Tübingen, West Germany: J. C. B. Mahr, n.d.), pp. 12–21. For the Sudan and Nigeria, see Shirley Crabb Zabel, "*Hyde v. Hyde* in Africa: A Comparative Study of the Law of Marriage in the Sudan and Nigeria—Part I," *Utah Law Review* 1969 (January 1969): 22–53.

to the recently created French mission. He spent much of the next two years as a missionary in the Channel Islands and, according to James H. Hart, a contemporary missionary, was not entirely successful in that capacity.[6] He was less than honorably released from his mission in 1853 and traveled to Utah the same year.[7] In November 1853, with Brigham Young performing the ceremony, he married Lavinia Hawkins, to whom he had been betrothed while they both lived in England.[8]

Three months later, Hyde "was initiated into the mysteries of the 'Mormon endowment.' " Shortly thereafter, by his own narrative, he decided he wanted to leave Utah—apparently because of his disillusionment with the Church—and travel to California. He informed Elder Orson Pratt of his loss of faith, and, perhaps in an attempt to rekindle his faith, Church leaders responded by "publicly appointing" him to go on a mission to the Sandwich Islands. He accepted the call because he believed that his "waning faith was the result of inaction; that to be actively employed in the ministry might waken up my old confidence; that in the effort to convince others, I might succeed in reconvincing myself."[9] This belief proved short-lived, however. On the ship taking him to the Sandwich Islands his mind was filled with "darkness and indecision." Finally, while at sea, "in communion with God and my own soul, the darkness of doubt that had blinded my eyes, and the mists of indecision that had paralyzed my energies, left me, and I resolved not only to renounce Mormonism, but also to tell the world freely, fully, and fearlessly, as well my reasons, as my experience."[10]

Rather than engaging in missionary work for the Church when he reached Hawaii, John Hyde immediately began preaching against Mormonism. He remained in Honolulu for some time and then went to California where he continued his crusade against the Church.[11] In

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[6]John Hyde, Jun., *Mormonism: Its Leaders and Designs* (New York: W. P. Fetridge, 1857), pp. 17–18; Edward Hart, "John Hyde, Junior—An Earlier View," *Brigham Young University Studies* 16 (Winter 1976): 306–12.

[7]Curtis E. Bolton to John Hyde, 2 January 1853, as quoted in Hart, "John Hyde, Junior," pp. 311–12.

[8]Computer File Index, Genealogical Society of The Church of Jesus Christ of Latter-day Saints, Salt Lake City; *Hyde v. Hyde and Woodmansee*, [1866] L.R. 1 P.&D. 131. There are several case reporting services in England and at least three reports of the case were made by different services. All references to the case will be to this semi-official 1866 *Law Reports, Probate and Divorce Division* version of the case unless otherwise specified. The judge in the case made much of the fact that Brigham Young had performed the marriage ceremony.

[9]Hyde, *Mormonism: Its Leaders and Designs*, pp. 21–22.

[10]Ibid., pp. 22–23.

[11]"A Renegade Mormon," *Harper's Weekly*, 10 January 1857, p. 22; Hyde, *Mormonism: Its Leaders and Designs*, p. 23.

1857 he published *Mormonism: Its Leaders and Designs*, a vitriolic attack on the Church, which contains an early exposé of the "mysteries" of the endowment and a bitter denunciation of the practice of plural marriage.[12]

Hyde's activities did not go unnoticed in Salt Lake City. In a sermon delivered on 11 January 1857, Heber C. Kimball publicly moved that the errant elder be "cut off root and branch" from the Church and "delivered over to Satan to be buffeted in the flesh" because "there is no sympathy to be shown unto such a man." The motion carried unanimously. Elder Kimball went on to state that Hyde's wife was "not cut off from this Church, but she is free from him; she is just as free from him as though she never had belonged to him.—The limb she was connected to is cut off, and she must again be grafted into the tree, if she wishes to be saved."[13] (Forty-two years later the Utah Supreme Court would decide that such extrajudicial divorces were not valid and thus did not legally dissolve marriages.[14])

Apparently Hyde wrote his wife asking her to join him that together they might renounce the evils of Mormonism. She replied that she still loved him but that her faith in the Church was "greater than it had ever been," and she refused to join him.[15] Taking Heber C. Kimball's "divorce decree" at face value, she was married in 1859 to Joseph Woodmansee, thus "grafting" herself back into the Mormon tree.[16]

John Hyde returned to his native England after failing to persuade his wife to join him and after publication of his book. There he became a Swedenborgian minister and country newspaper editor in Derby. He utilized his literary talents to write a number of books on

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[12]His exposé of the Mormon temple ceremony is one of the earliest dating from the Utah period of the Church.

[13]*Deseret News*, 21 January 1857, p. 364. A more readily available copy of the sermon is in *Journal of Discourses*, 26 vols. (London: Latter-day Saints' Book Depot, 1854–1886), 4:165. It should be pointed out that the sermon was given during the "Reformation" period of Mormon history, when emotions were high. John Hyde later described Heber C. Kimball in very derogatory terms although the sketch he drew of Brigham Young was quite positive ("Salt Lake and Its Rulers," *Harper's Weekly*, 11 July 1857, pp. 441–42). J. H. C. Morris had Spencer L. Kimball, then dean of the University of Utah School of Law, conduct a search of the Utah divorce records to determine whether or not Mrs. Hyde ever secured a legal divorce. No record of any legal divorce proceedings was found (Morris, "The Recognition of Polygamous Marriages in English Law," p. 1007n).

[14]*Norton v. Tufts*, 19 Utah 470, 57 Pac. 409 (1899). The question of extrajudicial divorces in the case of polygamous marriages was moot because the marriages were not legally recognized and thus did not have to be legally dissolved. The marriage of John Hyde and Lavinia Hawkins was not polygamous and was thus legal under American law.

[15]*The Times*, 22 January 1866, p. 11.

[16]Family Group Records, Computer File Index, Genealogical Society of the Church; *Hyde v. Hyde*, p. 131.

the Swedenborgian movement and gained some recognition for his writings.[17] In 1866 his former adherence to Mormonism rose as a specter to haunt him when he decided to sue Lavinia Hawkins Hyde Woodmansee for divorce.

THE CASE

In January 1866 John Hyde brought suit for divorce against his wife on the grounds of adultery. The former Mrs. Hyde's present husband, Joseph Woodmansee, was joined as a co-respondent to the suit because of his complicity in her "adultery" (hence the full title of the case—*Hyde v. Hyde and Woodmansee*).[18] It is not entirely clear, however, why John Hyde brought the suit. He obviously did not believe that the divorce decreed from the pulpit by Heber C. Kimball was binding (a belief that is difficult to dispute from a legal point of view). Instead, he evidently hoped that a divorce in England would remove any question about the dissolution of the marriage. Hyde probably could have relied on the "divorce" decreed by Elder Kimball without going to the English courts, but he chose not to do so.

In testimony before the court, Hyde reviewed his life story, relating his conversion to Mormonism and his subsequent disillusionment with it. He discussed his marriage and his attempts to get his wife to join him after he had renounced the Mormon church. He related that he had not returned to Salt Lake City to try to persuade his wife to leave with him "as his life would have been in danger."[19]

Hyde had married only this once, which witnesses substantiated. One witness, Frederick Piercy, an artist, who had married Lavinia Hawkins's sister and had spent time in Utah before abandoning Mormonism, told the court that he was sure that John Hyde was a

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[17]Leonard J. Arrington, "Centrifugal Tendencies in Mormon History," in Truman G. Madsen and Charles D. Tate, Jr., eds., *To the Glory of God: Mormon Essays on Great Issues* (Salt Lake City: Deseret Book Co., 1972), pp. 171–72. Hyde began publishing books in England shortly after his return there. Some of his works are *Emanuel Swedenborg: A Lecture* (Philadelphia: New Church Tract and Publication Society, n.d.); *Will the Natural Body Rise from the Grave?* 3d ed. rev. (London: F. Pitman, n.d.); *Bible Photographs, a Contrast between the Righteous and the Wicked as Described in the Word of God* (London: F. Pitman, 1865); *The Glory and Divinity of the Holy Bible and Its Spiritual Sense* (London: F. Pitman, n.d.); *Doctrine of Redemption; Deliverance Not from the Wrath or Justice of God, but from the Powers of Hell* (Manchester: New Church Printing and Tract Society, 1876); *Our Eternal Homes*, 4th ed. (London: F. Pitman, 1865); *The Doctrine of Substitution Impartially Examined* (London: James Spiers, 1875); and *International Arbitration: Its Difficulties and Advantages* (Manchester: The Lancashire and Cheshire International Arbitration Association, 1873).

[18]*Hyde v. Hyde*, p. 131.

[19]*Hyde v. Hyde*, [1861–1873] All E.R. Rep. 176. The quoted words were reported in the *Law Reports* version as "he could not have done so [returned] after he had left the Mormon church without danger to his life" (p. 131).

monogamist.[20] Silas M. Fisher, who had been a "counselor" of the United States Supreme Court, told the judge that Hyde's marriage would have been recognized by America's highest court because it was Hyde's first marriage and thus was legal under American law.[21]

Dr. Spinks, Hyde's barrister, argued that because the marriage was legal in the place where it had been performed, not only under Mormon authority but also under the laws of Utah and the United States, the English court should recognize the marriage and also dissolve it formally by granting a divorce decree. Spinks attested that if the court determined that the marriage was invalid it would in effect be saying that there was no marriage in Utah and thus no legal right of succession there.[22]

THE DECISION

The judge in the case, Sir James O. Wilde (a prominent English jurist and soon to become Lord Penzance)[23] accepted wholesale the testimony of Hyde and Piercy but found the arguments of Hyde's advocate unconvincing. He understood that Hyde was a monogamist, but this fact made little difference in the judge's view. Wilde ruled that it made no difference that the Supreme Court of the United States would uphold the marriage as legal, because marriage in America was ruled by local law. The marriage might have been legal where it was celebrated, but it would not be upheld as valid in England, at least as far as the divorce laws of that country were concerned.[24] Wilde decided that the central question of the case was not whether Hyde was in fact a polygamist; rather, it was whether

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[20]*Hyde v. Hyde*, 14 L.T.R. (n.s.) 189 (D. 1866). Frederick Piercy was an early friend of Hyde who had much in common with him. A talented artist, Piercy illustrated and provided the text for *Route from Liverpool to Great Salt Lake Valley* (London: Latter-day Saints' Book Depot, 1855), a classic work on the route British Mormons took in moving to Utah. (A more accessible edition is one edited by Fawn M. Brodie and published by Harvard University Press in 1962.) Frederick Piercy was excommunicated from the Mormon church in the same year that Hyde was, 1857. Thus, Hyde and Piercy both joined the LDS church in their teens, produced books on the Mormons that have become classics, married sisters, and left the Mormon church. Unlike her sister, Piercy's wife, Angelina Hawkins, remained with her husband and was excommunicated with him in 1857. (See Wilford Hill LeCheminant, " 'Entitled to Be Called an Artist': Landscape and Portrait Painter Frederick Piercy," *Utah Historical Quarterly* 48 [Winter 1980]: 49–65.)

[21]*Hyde v. Hyde*, p. 176 (*All England Reports Reprint* version). The Mormon experience with American courts was such that the first wife of a polygamist was considered a legal wife and thus was entitled to all the rights of a legal wife.

[22]*Hyde v. Hyde*, p. 189 (*Law Times Reports* version).

[23]On the contributions of Lord Penzance to English jurisprudence, see Sir William Holdsworth, *A History of English Law*, 17 vols. (London: Methuen & Co., 1966), 16:155–56.

[24]Wilde assumed in the case that polygamy was legal in Utah. This is disputed by G. W. Bartholomew, who argues persuasively that the common law was adopted in Utah in 1850 with the Territorial Organic Act. The common law clearly did not countenance polygamous marriages, and thus polygamy would have been unlawful in Utah when Hyde married in 1853. His marriage would therefore have been no more legally potentially polygamous in Utah than in England at the time. (G. W. Bartholomew, "Recognition of Polygamous Marriages in America," *International and Comparative Law Quarterly* 13 [July 1964]: 1024–33.)

polygamy was recognized in Utah where the marriage had taken place. He laid down the rule that marriage in England was the "voluntary union for life of one man and one woman, to the exclusion of all others."[25] Because polygamous marriages were allowed in Utah, a marriage there was not necessarily "to the exclusion of all others," and Hyde's marriage was thus "potentially polygamous." The judge discoursed at length on the differences between what he called Christian marriage, which he believed was the only type of marriage which would be recognized in England under the Divorce Act, and polygamous marriage as practiced by the Mormons.[26]

Wilde described situations in polygamous societies in which

> men take to themselves several women, whom they jealously guard from the rest of the world, and whose number is limited only by considerations of material means. But the status of these women in no way resembles that of the Christian "wife." In some parts they are slaves, in others perhaps not; in none do they stand, as in Christendom, upon the same level with the man under whose protection they live.[27]

Although polygamous unions were called "marriages" in those societies and the participants in the unions were referred to as "husbands" and "wives," Wilde found

> there is no magic in a name; and, if the relation there existing between men and women is not the same relation which in Christendom we recognize and intend . . . , but another and altogether different relation, the use of a common term to express these two separate relations will not make them one and the same, though it may tend to confuse them to a superficial observer.[28]

Important rights attended Christian marriages which were apparently not a part of polygamous marriages in the judge's view:

> Thus conjugal treatment may be enforced by a decree for restitution of conjugal rights. Adultery by either party gives a right to the other of judicial separation; that of the wife gives a right of divorce; and that of the husband, if coupled with bigamy, is followed by the same penalty. Personal violence, open concubinage, or debauchery in face of the wife, her degradation in her home from social equality with the husband, and her displacement as the head of the household, are with us matrimonial

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[25]*Hyde v. Hyde*, p. 133. This is the rule that played havoc with the treatment of marriages performed in polygamous societies for over a hundred years. Under the rule, anyone marrying in a country allowing polygamy entered into a "potentially polygamous" marriage. If the couple then moved to England, their marriage was not recognized, at least for purposes of the divorce court, regardless of whether or not the husband had actually taken subsequent wives. It is ironic that a divorce court would define marriage in such a way.

[26]Ibid., pp. 133–35.

[27]Ibid., pp. 133–34.

[28]Ibid., p. 134.

> offences, for they violate the vows of wedlock. A wife thus injured may claim a judicial separation from the husband, under the name of alimony, at the rate of about one-third of his income.[29]

If the court were to apply these rights to polygamous marriages, it would in effect "be creating conjugal duties, not enforcing them," because polygamy was not recognized under English law.[30]

Sir James Wilde gave little space in the decision to the difference between potentially polygamous marriages and actually polygamous marriages. To him they amounted to the same thing and neither could be countenanced. Because Hyde's marriage was potentially polygamous, his petition for divorce was dismissed. Despite his strong language, however, Wilde equivocated on the question of the validity of polygamous marriages (whether potential or actual) in contexts other than divorce, such as succession and legitimacy.[31]

The Times reported that the court had ruled that Hyde "was still a bachelor in the eye of the law."[32] A closer reading of Wilde's opinion casts doubt on this, however. Wilde at the outset had limited the issue of the case to "whether persons so united [in potentially polygamous marriages] could be considered 'husband' and 'wife' in the sense in which these words must be interpreted in the Divorce Act."[33] He stated in his closing paragraph that the decision was confined solely to the petition for divorce and he expressly refused to "decide upon the rights of succession or legitimacy which it might be proper to accord to the issue of polygamous unions, nor upon the rights or obligations in relation to third persons which people living under the sanction of such unions may have created for themselves."[34] Hyde thus remained potentially married in the eyes of the English courts in some respects, as in relation to the issue of his marriage (it was reported in the case that he and his wife had had children). The divorce in Utah was extrajudicial and thus probably ineffective. Also, Hyde was not in Utah at the time of the "divorce" and, because of a technicality in English law, would probably not

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[29]Ibid., p. 135. Wilde glosses over the differences between the grounds for divorce available to men and women. A man could divorce his wife for adultery *simpliciter*; a woman could not divorce her husband for adultery unless it was accompanied by bigamy, extreme cruelty, or unexcused desertion for two years. As Wilde states, personal violence, concubinage, or debauchery did not give a woman a right to divorce her husband; these offenses only gave rise to a suit for judicial separation. Wives were also discriminated against in that after marriage virtually all of the woman's possessions became her husband's (Poulter, "*Hyde v. Hyde*—A Reappraisal," pp. 483–84, and "Divorce and Matrimonial Causes Act, 1857," 20 & 21 Victoria, c. 85, p. 642).

[30]*Hyde v. Hyde*, p. 135.

[31]Ibid., p. 138.

[32]*The Times*, 22 March 1866, p. 11.

[33]*Hyde v. Hyde*, p. 133.

[34]Ibid., p. 138.

have been subject to the divorce if it had been valid.[35] One observer, Sebastian Poulter, has described the situation in the following manner: "It seems probable, therefore, that the result of the Court's rejection of Hyde's divorce petition was that he remained married to his wife in the eyes of the English law. . . . Hence the final outcome was that he [Hyde] found himself a party to a limping marriage, hardly a satisfactory state of affairs." Poulter further states that Hyde's lawyers "no doubt advised him to wait patiently for his wife to die," before feeling certain that the marriage was entirely dissolved.[36]

THE IRONY OF IT ALL

It is difficult to imagine a more ironic situation than the one in which John Hyde found himself in 1866. He had once been a believing, practicing Mormon. He had emigrated to Utah and there had married his sweetheart. He then became disenchanted with Mormonism, largely because of his dislike of the practice of polygamy. John Hyde had been both publicly excommunicated from the Mormon church and "divorced" from his wife in the same sermon by Heber C. Kimball. The efficaciousness of such a divorce was dubious, and Hyde no doubt simply hoped to make sure that he was legally divorced from his wife, perhaps in order to marry someone else in England. Despite his opposition to polygamy, his renunciation of Mormonism, his wife's second marriage, and the fact that he had been married only once, Hyde was denied matrimonial relief by the English court.

This irony is heightened by the apparent result of the case. Because the marriage was possibly still valid except for purposes of the divorce laws, Hyde was left in a kind of marital limbo. The marriage could not be dissolved in England and had probably not been legally dissolved in Utah, nor had Hyde been subject to a Utah divorce when he was no longer domiciled there. He was married technically yet could not get a divorce in England despite his wife's second marriage.

British legal scholars have, in the years since 1866, sensed the irony in *Hyde v. Hyde*, but the contemporary press did not. The decision in the case met with unqualified approval from *The Times*.

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[35]By a decision of the House of Lords, if an English citizen abandoned a domicile outside of England, his English domicile of origin revived by operation of law. Thus, when Hyde left Utah without intention of returning, his domicile once again became England, placing him beyond the jurisdiction of the Utah courts and certainly beyond the legal jurisdiction of Heber C. Kimball (Poulter, "*Hyde v. Hyde*—A Reappraisal," p. 490n).

[36]Ibid., pp. 489–90. Morris expresses the same idea in "The Recognition of Polygamous Marriages in English Law," pp. 1007–08.

Not only did *The Times* not see the irony in the situation, it editorialized that any other result in the case would have caused "absurd consequences" as "the whole principle and practice of our marriage law would have been turned upside down."[37]

SOME PASSING OBSERVATIONS

John Hyde's experience with divorce in both Mormon Utah and in England provides some insights into Mormon society and into perceptions of that society. The fact that Heber C. Kimball felt free to decree divorce from the pulpit reinforces the view of some historians that formal adherence to established rules and procedures governing nineteenth-century Mormon marriages was not always essential.[38] Elder Kimball and other Church leaders during this period evidently believed they held power to dissolve marriages just as they had authority to bind couples together. It is doubtful that any court in the United States (other than perhaps a Church-dominated local probate court in Utah) would have upheld Heber C. Kimball's declaration of divorce, but Lavinia Hawkins relied on Elder Kimball's pronouncement and remarried in 1859. Mrs. Hyde's action was not unique: formal divorces from gentile or apostate spouses were, at times, not required in mid-nineteenth-century Mormondom. For example, Eleanor McLean was sealed to Parley P. Pratt without going through the formality of a divorce from her gentile husband, Hector McLean.[39] There is apparently no indication that the Mormon public disapproved of Mrs. Hyde's or Mrs. McLean's second marriages, despite the absence of a formal intervening divorce in either case.

Hyde's allegation that "he was unable to return to Salt Lake City, as his life would have been in danger," was not questioned by the English court in 1866, nor, for that matter, by Sebastian Poulter writing in 1976.[40] This indicates that many among the educated classes in England believed the stories circulated of violent retribution by the Mormons against those who crossed them, especially apostates from among their own numbers.[41]

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[37]*The Times*, 22 March 1866, p. 11.

[38]A good example of this is Eugene and Bruce Campbell's idea that Mormon polygamy was subject to "anomie"—a state of normlessness (Eugene E. Campbell and Bruce L. Campbell, "Divorce among Mormon Polygamists: Extent and Explanations," *Utah Historical Quarterly* 46 [Winter 1978]: 15–23).

[39]Steven Pratt, "Eleanor McLean and the Murder of Parley P. Pratt," *BYU Studies* 15 (Winter 1975): 233–34.

[40]Poulter, "*Hyde v. Hyde*—A Reappraisal," pp. 489–90.

[41]An excellent example in the popular English press of Mormons depicted as vengeful is Arthur Conan Doyle's first Sherlock Holmes story, "Study in Scarlet" (*The Complete Sherlock Holmes* [Garden City, N.Y.: Doubleday and Co., n.d.], pp. 15–86).

The finding of the court that Hyde's marriage was potentially polygamous indicates another questionable perception of the Mormons—that all Mormon men were either polygamists or simply waiting for the opportunity to become polygamists. The judge's discourse distinguishing between Christian marriage and polygamous Mormon marriage reveals his belief that there were fundamental differences between the places of men and women in monogamous and polygamous societies. Sir James Wilde and many of his countrymen may have experienced even more distaste for the polygamy of the Mormons than they would have felt for the polygamy of Moslems or others. Mormons shared common cultural and religious backgrounds with Englishmen, and their unusual marriage practice might thus have been even more shocking to the English mentality than Eastern polygamy would have been.

Hyde v. Hyde and Woodmansee was apparently the only "potentially polygamous" Mormon marriage that the English courts ever encountered. The questionable result in the case established a precedent that English courts reluctantly invoked for over a hundred years, left John Hyde without marital remedy, and provided insights into nineteenth-century Mormon marriage practices and English perceptions of the Mormons.