

Affidavit No. 1 of Dr. William John Walsh
Sworn June 07th, 2010

No. S-097767
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF:

THE CONSTITUTIONAL QUESTION ACT, R.S.B.C. 1986, C. 68

AND IN THE MATTER OF

THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS

AND IN THE MATTER OF:

A REFERENCE BY THE LIEUTENANT GOVERNOR IN COUNCIL SET
OUT IN ORDER IN COUNCIL NO. 533 DATED OCTOBER 22, 2009
CONCERNING THE CONSTITUTIONALITY OF S. 293 OF THE *CRIMINAL
CODE OF CANADA*, R.S.C. 1985, C. C-46

A F F I D A V I T

I, William John Walsh, of 2519 Branch View Lane, Missouri City, in the County of Fort Bend, State of Texas, one of the United States of America, MAKE OATH AND SAY AS FOLLOWS:

1. I am a specialist and scholar in the academic field of Mormon Studies and as such have personal knowledge of the facts and matters hereinafter deposed to save and except where the same are stated to be made upon information and belief and where so stated, I verily believe them to be true.
2. A description of my relevant education, training and professional experience is set forth in my CV attached as Exhibit "A" to this my Affidavit.
3. I have been asked by counsel for the Fundamentalist Church of Jesus Christ of Latter Day Saints (the "FLDS") to provide the Court with background information concerning the

FLDS Church generally, and specifically the normative religious and cultural beliefs and practices of faithful FLDS practitioners.

4. I am wholly responsible for the opinions hereinafter set out in this affidavit. I acknowledge that, as an expert witness, it is my duty to assist the court and not be an advocate for any party. I have prepared my opinion in conformity with that duty.

5. In the ordinary course of my education, training and professional experience, I have become familiar with numerous authoritative works on religious history, doctrine and practice, with a specific focus on the history, doctrine and practice of The Church of Jesus Christ of Latter-day Saints (the "LDS Church" or "Mormon Church") and the FLDS.

6. I have been previously qualified to testify and have testified as an expert in the Courts of Texas with regard to the above subject matters.

An Introduction to the FLDS

7. The FLDS Church is an institution that falls within the umbrella of Mormonism, a term which describes the Christian religious, cultural, and institutional tradition associated with the LDS Church, which was established by the Prophet Joseph Smith on April 6, 1830, at Fayette, New York.¹

8. A Mormon is someone who believes that Joseph Smith was a Prophet and Seer of the Lord, and who also believes that the Book of Mormon is the word of God. The FLDS Church meet these criteria, and are therefore Mormons.

9. Almost all FLDS members are multi-generational Mormons descended from ancestors who have been continuously practicing their version of Mormonism since the 1830's. Thus, the traditions that underlie the various criminal prosecutions brought in the United States and

¹ "The Church of Jesus Christ of Latter-day Saints," Bruce Douglas Porter, *Encyclopedia of Mormonism*, New York: Macmillan Publishing Company, 1992.

Canada are not innovative practices set up by a brand new religious group. Instead, these traditions have been continuously practiced by each generation of FLDS ancestors since they were first revealed by divine revelation to Joseph Smith and Brigham Young almost 180 years ago.

The FLDS/ LDS Common Heritage

10. The ancestors of the FLDS were members of the LDS Church in good standing from the 1830's to the early twentieth century (the schism is described below). Because of their common heritage, today the FLDS and LDS share about 95% common theology and 75% common practice. FLDS and LDS worship services and rituals are very similar in format. Indeed, they are closer to each other in almost all respects than either of them is to the practices of any other non-Mormon religion, denomination, or sect. Members of both churches accept the Bible, the Book of Mormon, the Doctrine and Covenants ("D. & C."), and the Pearl of Great Price as Holy Scripture.

11. As strong religious fundamentalists,² the FLDS are very hesitant to alter founding Mormon beliefs and practices. In contrast, because of their acceptance of religious liberalism, the LDS have adopted modernity and evolved considerably over the last eighty years. The FLDS reluctance to change and the LDS embrace of mainstream American society is a principal

² 'Fundamentalist' in this sense is a technical term within the academic field of Religious Studies that denotes a person or institution prone to espouse the inerrant, unalterable, and absolute truth of their religious worldview. It is most frequently contrasted on a spectrum with Liberalism (see Ch. 14 in Moojan Momen, *The Phenomenon of Religion* [Boston, Massachusetts: Oneworld Publications, 1999]).

explanation of the differences that do exist between the FLDS and LDS.

Revelation and Subsequent Abandonment of Plural Marriage by the LDS Church

12. The principle of plural marriage was publicly revealed through Joseph Smith in 1843. It is published in D. & C. Section 132.

13. In technical theological language, the Mormon practice of plural marriage is called “The New and Everlasting Covenant of Marriage.”³ Since at least the 1840’s, it has often been called “celestial marriage” in Mormon colloquial language.⁴

14. Celestial marriage is an essential FLDS religious principle and not simply a domestic concern. It is viewed as God’s commandment. Unless the faithful participate in it, they cannot enter into the fullness of glory in the kingdom of heaven in the afterlife.⁵ Thus, for believers in the principle, plural marriage is essential to personal and family salvation.⁶

15. The principle has been described as follows:

“The revelation proclaimed that the marriage of one man to more than one woman was “justified” by the example of Abraham. In these latter days, the heirs of Abraham were once again commanded to work “for their exaltation in the eternal worlds” (that is, the states of heaven) by siring “the souls of men.” Men called upon to enter the celestial principle were thus sanctified in their union with additional “virgins,” in the interest of procreation by righteous patriarchs as of old. . . . The new covenant of celestial marriage celebrated on earth would endure for eternity, governing relations in heaven as in life, and dictating the degree of exaltation achieved in the afterlife. Only marriage celebrated in accord with the revelation would endure after death, and “whatsoever things” that did not conform to God’s Words “shall be shaken and destroyed.”⁷

³ See D. & C. 132.

⁴ E.g., Ehat & Cook, *Words*, 2 April 1843 (2) Note, p. 269.

⁵ *Journal of Discourses*, Vol. 13, p. 42, George Albert Smith, October 8, 1869.

⁶ *Journal of Discourses*, Vol. 1, p. 65, Orson Pratt, August 29, 1852.

⁷ S.B. Gordon, *The Mormon Question* 22 (2002).

16. It should be noted that the 'new' in 'New and Everlasting Covenant of Marriage' reflects the fact that Joseph Smith taught that it was a new form of spiritual and divine relationship that was distinct from the civil marriage patterns of American society. Further, 'celestial marriage' is found as a distinct term in many dictionaries as a relationship found only in Mormonism.⁸ Some dictionaries recognize that celestial marriage is not fully equivalent to civil marriage. John Taylor, a late 19th century Mormon Church President considered authoritative by both the FLDS and LDS, specifically distinguished celestial marriage from civil marriage with the former the concern of ecclesiastical leaders and the latter falling within the province of "civil polity."⁹

17. The revelation of plural marriage remained secret for nearly ten years, and the practice was carried out discreetly for a number of years thereafter, but in 1852, the LDS Church publicly announced and advocated the practice of polygamy as a religious ordinance, prompting intense legal and political opposition outside the territory of Utah.¹⁰ The Mormons had begun immigrating to Utah in 1847 under Brigham Young's leadership, following the assassination of Joseph Smith in 1844. They had essentially been expelled from the United States due to their conflict with traditional Christianity.

18. In response to resultant pressure on the Mormon Church, Mormons decided to construct a case to test the constitutionality of legal efforts to stymie the practice. In the spring of 1875, George Reynolds was convicted of bigamy and sentenced to imprisonment for a term of two years at hard labour. Mr. Reynolds and the Mormon Church turned to the United States Supreme Court to find support for the free exercise of their faith, including the right to practice polygamy.

⁸ "celestial marriage." *Dictionary.com Unabridged (v 1.1)*. Random House, Inc. 23 Jul. 2009. <Dictionary.com [http://dictionary.reference.com/browse/celestial marriage](http://dictionary.reference.com/browse/celestial+marriage)>; "celestial marriage." Merriam-Webster Online, March 3, 2010. <<http://www.merriam-webster.com/netdict/celestialmarriage>>.

⁹ John Taylor, *The Gospel Kingdom*, pp. 280-81.

¹⁰ *Society of Separationists, Inc. v. Whitehead*, 870 P.2d 916, 923 (Utah 1993).

19. In *Reynolds v. United States*, 98 U.S. 145 (1878), the Court upheld the constitutionality of the Morrill Act against a free exercise challenge, rejecting Mr. Reynolds' claim that Congress' prohibition of polygamy in the territories ran afoul of his constitutional rights to the free exercise of his religion. In an opinion that foreshadowed the Court's later explicit reliance on principles of traditional Christianity in upholding laws targeting Mormons, the Court reasoned:

“Polygamy has always been odious among the northern and western nations of Europe, and, until the establishment of the Mormon Church, was almost exclusively a feature of the life of Asiatic and of African people.”¹¹

20. In 1887 Congress dealt a “final, devastating blow to the Mormon Church” when it passed the *Edmunds-Tucker Act*, designed to eradicate polygamy by compromising the viability of the Mormon Church.¹² The *Edmunds-Tucker Act*, ch. 397, 24 Stat. 635 (1887), created the crimes of fornication and adultery, opening the door to prosecution of women participating in plural marriages. The Act annulled the church's charter, escheated the church's property, and turned control of the territory over to the non-Mormon minority by requiring an oath of obedience to the *Edmunds Act* as a prerequisite to voting. The Act further directed that all Church property not exclusively devoted to the worship of God was to be sold, with the proceeds used to support public schools in the territory. Openly acknowledging the act's purpose to destroy the Mormon church, Rep. Tucker averred, “We dissolve tribal relations of the Indians in order to make the Indian a good citizen; so we shatter the fabric of this church organization in order to make each member a free citizen of the Territory of Utah.” 49 Cong., 2d sess. 694.

¹¹ *Reynolds*, 98 U.S. at 164.

¹² *Society of Separationists*, 870 P.2d at 926-27 (Utah 1993).

21. Legal challenges to the *Edmunds-Tucker Act* made their way through the courts. In *Davis v. Beason*, 133 U.S. 333, 348 (1890), the United States Supreme Court upheld disenfranchisement of those in the Idaho territory who taught or advocated polygamy. Then, in *Late Corporation of the Church of Jesus Christ of Latter-day Saints v. United States*, 136 U.S. 1 (1890), the United States Supreme Court upheld confiscation of LDS Church property under the *Edmunds-Tucker Act*. The Court characterized religiously based polygamy as “a nefarious system . . . repugnant to our laws and to the principles of our civilization”¹³ Referring to the church’s missionary work, the Court said, “[t]he existence of such a system of propaganda is a blot on our civilization. The organization of a community for the spread and practice of polygamy is, in a measure, a return to barbarism. It is contrary to the spirit of Christianity and of the civilization which Christianity had produced in the Western world.”¹⁴ The Court concluded that the church was dedicated to the overthrow of civilization through the corruption of marriage, and this conduct justified its destruction.¹⁵

22. In light of these cases, it appeared that the Mormon Church’s very existence could be saved only by renouncing the practice of polygamy.¹⁶ Four months after the United States Supreme Court decision in *Late Corporation of the Church*, LDS Church President Wilford Woodruff officially announced the end of polygamy as a Mormon practice in a document popularly known as the “Manifesto.” President Woodruff acknowledged that the Manifesto was a direct response to these pressures:

“The question is this: Which is the wisest course for the Latter-day Saints to pursue—to continue to attempt to practice plural

¹³ *Late Corporation of the Church*, 136 U.S. at 49.

¹⁴ *Id.*

¹⁵ *Id.* at 63-64.

¹⁶ J. Flynn, *Federalism and Viable State Government—The History of Utah’s Constitution*, 1966 Utah L. Rev. 311, 321.

marriage, with the laws of the nation against it and the opposition of sixty millions of people, and at the cost of the confiscation and loss of all the Temples, and the stopping of all the ordinances therein, both for the living and the dead, and the imprisonment of the First Presidency and Twelve and the heads of families in the Church, and the confiscation of personal property of the people; . . . or, after doing and suffering what we have through our adherence to this principle to cease the practice and submit to the law . . . “¹⁷

23. The Mormon-dominated Utah territorial legislature thereafter further strengthened church claims that polygamy was no longer accepted in the territory when it criminalized the practice and related conduct in 1892.¹⁸

24. These actions had their intended result, as both houses of Congress passed a bill the following year providing for Utah’s admission to the Union and Legislation was simultaneously introduced to restore church property seized under the *Edmunds-Tucker Act*.¹⁹ Passage of the bill allowing statehood finally signalled that “the renunciation of polygamy by the Mormon Church had been accepted by Congress.”²⁰

25. While the LDS Church officially abandoned the practice of polygamy in 1890, it remains a crucial part of the LDS theological worldview even today. Some LDS apostles have publicly stated that they expect the LDS Church will restore the practice of polygamy in its traditional form at a future date.²¹

¹⁷ *Deseret Weekly*, Nov. 14, 1891 (statement at Cache Stake Conference, Logan, Utah, Sunday, November 1, 1891).

¹⁸ *Society of Separationists*, 870 P.2d at 927-28.

¹⁹ *Id.* at 928 n.25.

²⁰ *Id.* at 928.

²¹ *E.g.*, Bruce R. McConkie, *The Millennial Messiah*, p. 655.

The FLDS/LDS Schism

26. Despite Woodruff's manifesto, a number of Mormons still secretly practiced polygamy for several decades after the 1890 proclamation. Some of these post-manifesto polygamists were leading members of the LDS Church, including apostles. In the early part of the 20th century, there was continual disagreement among LDS Church leaders as to how they should handle the polygamy issue. It was not until 1911, with the excommunication of Apostle John W. Taylor,²² an advocate for polygamy, that LDS Church authorities had a consensus amongst themselves to truly discontinue the practice. Even then, the LDS Church did not aggressively excommunicate polygamists until the 1920's and 30's, when it began to forcefully pursue a mainstream, all-American image in the national consciousness.

27. As the excommunications began, a schism occurred within Mormonism that led to the creation of a movement usually referred to in academic circles as "Mormon fundamentalism."²³ Believing that they would lose salvation if they abandoned polygamy, these fundamentalists formed their own Mormon religious communities. Today, some scholars estimate there may be as many as fifty thousand Mormon fundamentalists living in the United States and Canada. Of these, approximately ten thousand are identified as FLDS members, while the remaining forty thousand are either members of other Mormon fundamentalist churches or independents who practice Mormonism without formal Church membership.

28. The FLDS Church is one of the largest groups of Mormon fundamentalists. Initially known as "The Priesthood Work" or "The Work," this movement eventually organized itself as

²² To be distinguished from his father, Mormon Church President John Taylor.

²³ "Fundamentalists," J. Max Anderson, *Encyclopedia of Mormonism*, New York: Macmillan Publishing Company, 1992.

the FLDS Church.²⁴ Believing that Joseph Smith's teachings on polygamy are inerrant and unalterable, FLDS members believe that it is their solemn responsibility before God to continue the practice so that they too may qualify for the highest degree of glory in heaven. By faithfully fulfilling the commandments from the Lord to Joseph Smith, the FLDS believe that their Church is the true continuation of Joseph Smith's prophetic authority and divine mandate. It is worth noting that while some Mormon churches, especially the LDS Church, perform significant proselytizing activity; the FLDS do not seek new members from outside their own religious community. Like many Orthodox Jews, the FLDS seek only to live and practice their ancestral faith without interference from those outside of their community.

29. The FLDS are not newcomers to Canadian society. The FLDS in Bountiful, British Columbia are primarily descended from Canadian Mormons who migrated from near Cardston, Alberta shortly after World War 2. These ancestors were themselves primarily descended from polygamist Mormons who immigrated to Canada from territories of the United States in the late 1800's. The FLDS in Bountiful sought a place to live their religion and culture unmolested by the forces of traditional Christianity.

A Description of FLDS Polygamy

30. To understand the religious nature of celestial marriage, it is important to understand that the FLDS believe that God the Father is a male being. They also believe that God is celestially married to a plurality of heavenly mothers. In other words, God himself is a polygamist. The FLDS further believe that the God the Father and one of the Heavenly Mothers are the literal spiritual parents of their souls. They believe that the fullness of salvation is to be found only by

²⁴ *Jeffs v. Stubbs*, 970 P.2d 1234, 1239 (Utah 1998).

patterning their spiritual selves to the divine eternal paradigm established by their spiritual parents. If the FLDS do not engage in celestial marriage, they believe that they will have failed to follow the divine paradigm and will therefore not enjoy the fullness of heavenly blessings in the afterlife. These religious beliefs are not new innovations but were espoused by Joseph Smith in the 1830's-40's.

31. Despite their colloquial use of the word "marriage" to describe this commandment and the resulting relationships, the FLDS clearly distinguish between civil marriage and celestial marriage. They do not believe that they are the same thing. When the FLDS use the term "celestial marriage," they no more mean to imply a lawful and legal civil marriage under civil law than Roman Catholics mean to imply that the Catholic Church is the legal and lawful Bride of Christ under civil law when they publicly use that expression.²⁵ It is not required, and it is nowhere contemplated, that the participants in a "celestial marriage" will tell others that their union is or should be recognized as a matter of civil law, or hold themselves out or otherwise pretend to have entered into a marriage that is recognized as a matter of civil law.

32. The FLDS use of the word "marriage" in regards to a man and woman joined together under priesthood authority is a theological construct. The FLDS do not use the term "marriage" in a legal sense as defined by civil law. Further, the FLDS do not view any marriage sanctioned by civil law as equivalent to celestial marriages. For the FLDS, celestial marriages are not legal marriages under civil law; and legal marriages under civil law are not celestial marriages either. The FLDS believe they are separate and distinct relationships that have no correlation with one another.

²⁵ "The Unity of the Catholic Church," Saint Cyprian of Carthage, *On the Church: Select Treatises*, Crestwood, New York: Saint Vladimir's Seminary Press, 2006.

33. The FLDS believe that civil marriage is a contractual relationship formalized by governments to define legal earthly interests. On the other hand, they believe that celestial marriage is a covenantal relationship that expresses how the heavenly family is organized by God for participation in the afterlife. The FLDS view mortal life as a time to prepare individually and communally to meet God and enjoy eternal divine existence in the afterlife.²⁶ An essential part of this preparation for the afterlife is engaging in celestial marriage. By doing so, the FLDS believe that both men and women perfect their natures which is a prerequisite for enjoying the highest degree of glory in the afterlife. By purging their characters of selfishness through the successful raising of a large and extended family, men and women are better prepared for their roles in the afterlife.

34. A celestial marriage occurs when a woman is “sealed” to a man. The FLDS believe that the sealing power that binds women to men in celestial marriage is the same force that binds children to parents in the heavenly family. When sanctioned by the Holy Spirit of Promise, a member of the FLDS priesthood may seal a woman to a man, and children to parents, so that they may live together in an eternal divine family in heaven. Without being sealed into God’s eternal family in this manner, the FLDS believe that their progression is limited to lower “kingdoms” or “degrees of glory” in the afterlife.

35. Because they separate the purpose and authorization of these different forms of relationships, the FLDS do not believe they become legally and civilly married by engaging in celestial marriage. If the FLDS desire to have a legal marriage, they seek a separate ceremony that is consistent with government guidelines for that type of contractual relationship.

²⁶ *E.g.*, Book of Mormon, *Alma* 5:28; 12:24; 34:32.

36. It is true that the FLDS perform a purely religious ceremony called a “sealing” to create a celestial marriage. While the details of the sealing ceremony are considered sacred and generally not discussed outside the context of the religious ordinances themselves and the locations they are performed, its basic nature is generally known. In this religious ritual, a man and woman generally appear at an altar simulating the worship place that the archetypal Adam and Eve used to offer sacrifice to God. By entering into a life of celestial marriage, the participants are simulating the sacrifices that the united Adam and Eve made after the Fall when they were reunited to God. The level of religious vocation represented by people entering celestial marriage is similar to that undertaken by those entering cloistered communities (e.g., monasteries and abbeys) in traditional Christianity and Judaism.

37. The participants must swear oaths before God to the priesthood officiator that they are individually and jointly committed to serving Jesus Christ and obeying every commandment of God. They must further swear that they are entering into a life of consecration and celestial marriage of their own free will and choice. If the officiator believes such declarations are made in good faith and without duress, the woman is sealed to the husband so that they might dwell together in everlasting glory in heaven as divine beings. The officiator then calls upon the Holy Spirit for inspiration for an impromptu blessing as the Holy Spirit so directs. While each blessing is different, many of them take the form of the blessings found in various scriptural sources. The sealing is only considered valid if sealed by the Holy Spirit of Promise.²⁷

38. However, this FLDS religious ceremony is no more intended to create a lawful and legal marriage under civil law than the Roman Catholic Church intends to create such a legally defined union when a woman undergoes a wedding ceremony to Christ when she enters

²⁷ D. & C. Section 132. *Cf.* Ephesians 1:13; D. & C. 76:53; 88:3.

consecrated life to become a nun.²⁸ In such a ceremony, a woman often appears before witnesses dressed in a white dress, undertakes a committed joining, and afterwards wears a wedding ring to physically represent her vows. While the religious ceremony intends to convey the idea that the woman has been wedded to Christ as a bride, it does not intend to convey that she has engaged in legal and lawful civil marriage. Likewise, the FLDS sealing ceremony is a religious-only ceremony that does not purport to create a lawful and legal civil marriage.

39. The FLDS do not desire or seek any government recognition or sanction for celestial marriage. It is not required, and it is nowhere contemplated, that the participants in a celestial marriage will attempt to meet or purport to meet any of the requirements of civil law, such as applying for or obtaining a marriage license. Instead, they deal only with their ecclesiastical leaders, and the process is conducted exclusively within the ecclesiastical context, through what the participants believe to be divine inspiration.

40. Furthermore, it is not required, and it is nowhere contemplated, that the participants in a celestial marriage believe or intend that their sealing is or should be recognized as a marriage for purposes of any secular law; it is purely a religious ordinance. For the FLDS, celestial marriage is a form of religious cohabitation. Following Jesus' teachings in the New Testament, the FLDS believe that people should "Render to Caesar the things that are Caesar's, and to God the things that are God's." In this case, the FLDS believe the government should control civil marriage and God and his FLDS priesthood should control how their families are organized in heaven.

41. The nature and extent of FLDS Church members' participation in polygamy are not determined solely by the members themselves, but also through ecclesiastical leaders acting

²⁸ See *Catechism Of The Catholic Church*.

within their own solemn and sacred priesthood authority. Taylor explained these principles as follows:

“The Lord has revealed unto us the ancient law, which was revealed to Adam through the gospel, and which is called the law of celestial marriage, This, as before stated, applies only to certain conditions of men, and can only be enjoyed by parties who have obeyed the everlasting gospel . It is one of the eternal principles associated therewith, uniting mortal and immortal beings by eternal covenants that will live and endure forever.... But with regard to the law of celestial marriage, there are certain safeguards thrown around it, as there always were, and those safeguards are, and always were, in the hands of the proper authorities and priesthood, delegated by God to man for the protection and preservation and right use of this most important, sacred, exalting, and eternal ceremony or covenant. These things are clearly defined in the revelation on celestial marriage, and can rightly only be enjoyed and participated in by such as are considered worthy, according to the laws, rites, privileges, and immunities connected therewith.... Are the barriers placed around this sacred institution to be broken down and trampled underfoot? And are unworthy characters who do not fulfil the requirements of the gospel to have conferred upon them the blessings of eternal lives, of thrones, and powers, and principalities in the celestial kingdom of God? We emphatically answer, No!”²⁹

42. It is important to note that Taylor places celestial marriage strongly within the context of uniting mortal and immortal beings through eternal sacred covenants.

43. In the FLDS worldview, all human beings must be sealed into God’s eternal family in order to enter the highest degree of celestial living in the afterlife. Men are sealed son to father to grandfather (and so on) all the way back to Adam who himself is sealed to his father, God.³⁰ Because of the way celestial marriage unites sons and fathers back into God’s divine family, it has sometimes been called Patriarchal marriage as well.³¹ Women join into this divine family chain by being sealed to their husbands. Thus, sealings are used to ensure that every person in the community has a place prepared for them in the afterlife. Furthermore, only those who have

²⁹ John Taylor, *The Gospel Kingdom*, pp. 279-80.

³⁰ Luke 3:38.

³¹ *Journal of Discourses*, Vol. 13, pp. 197-98, George Q. Cannon, October 9, 1869.

kept the covenants of celestial marriage will be eligible to continue to create and raise children in the afterlife.³²

44. As far as temporal management, sealings also give the FLDS community the opportunity to see that individual needs can be met. For example, an older woman who has been widowed or abandoned may be “sealed,” after consultation with her ecclesiastical leaders, so that she has the support of an extended family and is not alone or destitute. Similarly, a younger woman who lacks structure or discretion may be “sealed,” again based on an ecclesiastical determination and always with the involvement and consent of both herself and her parents, to join a strong family in accordance with Biblical injunction God gave to Adam and Eve.³³ The way that polygamy allows a community to deal with internal social ills has long been recognized by Mormons as a way of using a heavenly practice, like celestial marriage, to create temporal blessings.³⁴

The Doctrine of Agency

45. It is important to note that this institution is entered into voluntarily by the FLDS. No one is forced into polygamy. Mormonism espouses a concept of human agency far stronger than any concept of free will found in either philosophical Judaism or traditional Christianity. The philosophical Jewish and traditional Christian God is an omnipotent, transcendent other being who has arbitrarily limited humanity’s free will by limiting the measure of humanity’s creation. The Mormon God is a finite being who lacks the capability to compromise humanity’s agency. Agency is an inherent part of every human soul that cannot be taken away either by God or his priesthood representatives. It can be said that agency is Mormonism’s most important doctrine

³² *Journal of Discourses*, Vol. 1, p. 65, Orson Pratt, August 29, 1852.

³³ Genesis 2:20-24.

³⁴ *Journal of Discourses*, Vol. 13, pp. 197-98, George Q. Cannon, October 9, 1869.

because it is only through choosing between good and evil for oneself that a human soul has the ability to grow into deification.

46. The doctrine of agency means people are not forced into polygamy. Over the last 170 years, many people have left Mormonism over this principle because it simply did not work for those individuals.³⁵ But for many others, the principle has given them happiness in this life and the hope for happiness in the life to come.

SWORN BEFORE ME at the County of Fort Bend, in the State of Texas, one of the United States of America, this 07th day of June, 2010.

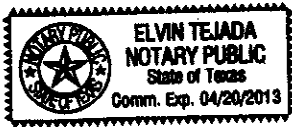
Elvin Tejada
A Commissioner for Taking Affidavits in the State of Texas

William John Walsh
WILLIAM JOHN WALSH

OR

A Notary Public

(Print name or insert seal)



³⁵ *Journal of Discourses*, Vol. 1, pp. 109-10, Brigham Young, May 8, 1853; *id.*, Vol. 10, pp. 166-67, Heber C. Kimball, April 6, 1863.

This is Exhibit "A" referred to in the affidavit of WILLIAM SONN WALSH sworn before me at FOOTBRIDGE STATION OPTIMA this 07th day of JUNE 2010.
Elin Tejada
A Commissioner for taking Affidavits for the Province of British Columbia
Notary Public

EXHIBIT A

EDUCATION & POSTDOCTORAL TRAINING

- Ph.D., The University of Wales (Lampeter, United Kingdom), 2005.
Department of Theology, Religious Studies, and Islamic Studies
Dissertation: "The Ascension Theology of the Prophet Joseph Smith"
Advisor: Dan Cohn-Sherbok
- M.S., Spertus Institute of Jewish Studies (Chicago, Illinois), 2003.
Major: Jewish Religion
Advisor: Byron L. Sherwin
- Post-doctoral Study, The University of Saint Thomas Graduate School of Theology at Saint Mary's Seminary (Houston, Texas), 2007-2009
Subjects Studied: Christology, Church History, Doctrine of God, and Patristics (Patrology)
- LDS Institute of Religion, Arizona State University (Tempe, Arizona), 1993.
90 Semester Hours of Mormon Religion Completed at ASU and BYU.
- Graduate, LDS Church Education System, Seminary Training Program (Tempe, Arizona), 1993.
- MBA, Brigham Young University (Provo, Utah), 1995.
- BS, The University of the State of New York (Albany, New York), 1989.

TEACHING, EXPERT WITNESS, AND MEDIA HISTORY

- Testified as an Expert Witness in the Texas-FLDS Child Custody Case (April 2008) and Allan Keate Criminal Case (December 2009).
- Provided background information on Mormonism to a number of news organizations including CNN, NBC News, the Associated Press, Reuters News Service, The Deseret News, The Salt Lake Tribune, The Austin American-Statesman, The Houston Chronicle, the Today Show, and The Dr. Phil Show.
- LDS Gospel Doctrine Instructor (1993-94, 1997-98, 2005-06).
- LDS Seminary Instructor (1993).

SYMPOSIUMS / LECTURES

- Presenter, "Mormon Mysticism, Mythology, and Magic," Lecture given to the Department of Religious Studies at Rice University (April 1, 2009).
- Presenter, "In the News, The Texas/FLDS Raids," 2008 Sunstone Symposium (August 7th, 2008)
- Respondent to James L. Wakefield, "Narrative Approaches To Understanding the Trinity/Godhead," 2008 Sunstone Symposium (August 7th, 2008)

PUBLICATIONS / BOOKS

- *Mormon Mysticism, Mythology, and Magic: Joseph Smith versus the Metaphysics of Nicene Christianity*, forthcoming in 2011.
- "Are Jesus and Satan Brothers?: A Short Exploration in Mormon Christology," *International Journal of Mormon Studies*, forthcoming in 2011.
- Editor and Author, "All About Mormons" web site (<http://www.mormons.org>), 1996-2002 (Rated #1 best overall site devoted to Mormonism by LauraMaery Gold in "Mormons on the Internet" [Rocklin, California: 1997]).
- Book review of Nicholas Reeves, "Akhenaten: Egypt's False Prophet" (New York: Thames and Hudson, 2001) for the Review of Biblical Literature (<http://www.bookreviews.org>), 2005.
- Book Review of Gregory J. Riley, "The River of God: A New History of Christian Origins" (New York: HarperCollins, 2001) for the Review of Biblical Literature (<http://www.bookreviews.org>), 2005.

PAST AND/OR PRESENT MEMBERSHIPS

American Academy of Religion (AAR)
Association for Jewish Studies (AJS)
Mormon History Association (MHA)
Society of Biblical Literature (SBL)
Sunstone Education Foundation