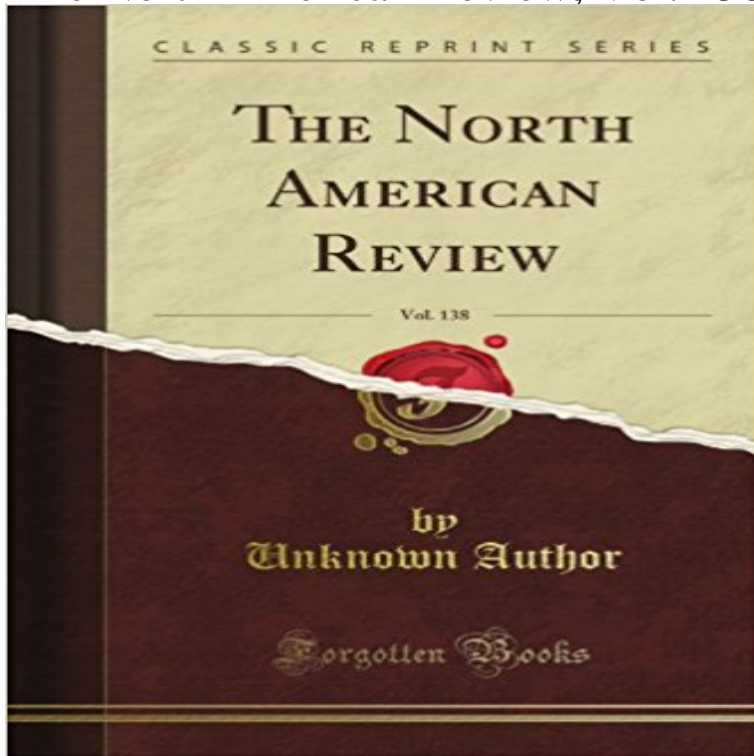


The North American Review, Vol. 138 (Classic Reprint)



United States an instrument for which, be it said, we have the most profound reverence, believing, as we do, that those who framed it were inspired of the Almighty. This unconstitutional exaction, which at one fell swoop for the time being disfranchised a whole Territory, amounted to this, that a man must swear that he had never simultaneously lived with more than one woman in the marriage relation. Those who cohabited with more than one woman in adultery or prostitution were not affected by its provisions. The rascal, the libertine, the strumpet, the brothel-keeper, the adulterer and adulteress could all vote; no matter how licentious a man or woman might be, all were screened and protected by this law. It was not enacted, as has been supposed, to punish licentiousness and debauchery, but was aimed expressly against those who were associated with more than one woman in the marriage relation. All, indeed, had their franchise protected except the man who had now, or ever had had, more than one wife, or the woman who had ever been the wife of a polygamist, be she the first, second, or other wife. For the commissioners were such broad constructionists that they declared that no man or woman who ever had been a member of a family practicing plural marriage should be permitted to vote. This action was ex post facto in the extreme. It punished men and women without trial, by robbing them of the franchise for doing acts which, at the time when they were done, were not unlawful. It was, at the same time, a bill of attainder. The first antipolygamy law of Congress was passed in 1862, and all those who had, previous to that time, from deep religious conviction, received and entered into that order of marriage, but had never broken a law of the United States by so doing, for the simple reason that there was no such law, were, by the commissioners' rulings, equally deb(

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