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THE TAX-PAYING QUALIFICATION FOR VOTERS.

THE decision of Judge Twiss in the woman suffrage case is given in our columns to-day. It will be observed that the validity of the Utah Statute conferring upon women citizens the elective franchise is not denied. The only point on which His Honor seems to differ from his associates on the bench is, the tax-paying clause. Judge Twiss holds that this governs the woman suffrage act as well as the act of which it is an essential part. In the decision rendered by the Supreme court of the Territory in the Tooele case, the majority of the Court took an opposite view and that is the one that chiefly obtained in practice; viz., that instead of the tax-paying requirement being extended to women voters, if any change is effected it is rather made invalid as regards male voters.

We fail to see how the clause of the act of 1859 defining the word resident *"within the meaning of this act,"* can be extended over the subsequent act, approved Feb. 12, 1870 which created a new class of voters with in some respects, different qualifications; especially when the latter act repealed everything conflicting therewith.

That the intention of the Legislature was to give women citizens the right to vote without the tax-paying qualification required of male citizens, is evident from the wording of the act of 1870 and the letter of the oath provided for in the registration law of 1878. A male citizen must swear that he is a tax-payer as well as a resident; a female citizen need not do so. This shows that the Legislature intended to exempt the new class of voters, created by the act of 1870, from the tax-paying qualification required of the old class. This being the case. If there is anything in the objection that the qualifications of all voters must be uniform, the exemption of women voters would rather extend to the male voters than the old requirement be extended to the new class.

But is not the notion that the Legislature is bound to require exactly the same qualifications of each class of voters a stretch of the imagination? We do not think the authorities will fully bear out the idea. We claim that the qualifications must be uniform in each class, but need not be so over the whole group of classes. That is bringing the principle down to present application, the qualifications for male voters—there being but one class of them—must be the same for all males; if one male voter is required to be a tax-payer other male voters must also be tax-payers; and if one female voter is exempt from the tax-paying qualifications—there being but one class of female voters—all of them must be equally exempt. The uniformity must be maintained as regards each class, but need not necessarily prevail over other classes.

This is illustrated in the laws of the United States concerning citizenship and naturalization. A male alien cannot become naturalized without five years residence in the United States, going into court and taking a certain oath, and obtaining a certificate of naturalization. A woman alien may become fully naturalized by marriage to a citizen and need not reside in the United States for any specified period, nor go into court, nor take any oath, nor obtain any certificate of naturalization. The minor children of an alien who becomes a citizen, are naturalized withous any ceremony at all. Here are three classes of citizens. The naturalization laws are not uniform over all, but they are and must be as to each class. The provisions for one individual must be the same as for another in his class, but need not apply to other classes.

This principle has been recognized in the laws of various States concerning the qualifications of voters. Naturalized citizens in some States have been required to have qualifications not demanded of native-born citizens, and other such like differences being established in reference to other classes.

We notice that in the latest opinion of Judge Emerson he takes advanced ground on this question. He no longer contends for uniformity over all classes of voters, but admits the right of the Legislature to create new classes with different qualifications. His Honor says, in his decision at Ogden:

"One objection is, that the act of 1870 confers the right to vote upon females, upon different terms than that applied to males, in that the latter are required to be taxpayers while the former are not. Even if this should be found to be the fact I cannot think that this would invalidate the law.

The Legislative Assembly proposed to confer this privilege upon a new class, not heretofore enjoying it, and in the absence of any inhibition to the contrary in the laws of Congress, I think they were at liberty to do it upon such terms and conditions as to them might seem reasonable and just, so far at least as no constitutional or organic rights of the males in the premises are restricted or abridged.

I think it would have been competent for the Territorial Assembly to have enacted that all female citizens of the United States over the age of 21 years, who could read and write in the English language, should vote, although this educational qualification is not required of the males."

This sustains the principle here advocated, and which we advanced at the time of the Tooele contest upon the same question. We do not believe it can be overturned. It is in accordance with national law and States laws and practice. We believe that on a fair test the tax-paying qualification can be required of male voters, while female voters are exempt therefrom. And we notice that the Commissioners, in the oath which they framed—whether with or without legitimate authority — sustained these separate requirements for the separate classes of voters, requiring the male citizen to swear that he is a tax-payer, and not requiring it of the female voter, thus following the Utah statute in these particulars.

The decision of Judge Twiss does not materially affect the main question—the validity of the act conferring upon women the elective franchise; it only shows a conflict of opinion between the Associate Justices on the application of the tax-paying qualification. In this dispute we fully coincide with Judge Emerson, and think that if the matter had been argued before the Second District Court as it was in the other, a different decision might have been reached on this point. The attorneys who conducted the case at Beaver were really all on one side, being interested in the "Liberal" or anti-woman suffrage cause, and no member of the People's Party appeared to have had anything to say on our side of the dispute.

However, the issue is favorable in the main, and we do not think that the right of the women of Utah to the elective franchise is likely again to be disturbed, in the local courts at least for some time to come. Now let the ladies who have the right all vote in November.

WOMAN SUFFRAGE IN WYOMING.

AT the convention of the American Woman's Suffrage Association, in Omaha, Governor Hoyt, of Wyoming, made a speech strongly in favor of the movement. A synopsis of his remarks is thus reported by the Omaha *Herald*, a well known and powerful opponent of woman suffrage:

Gov. Hoyt, of Wyoming, the principal speaker of the evening, delivered the most complete argument in favor of the woman suffrage question ever delivered in Omaha. He alluded to the benefit accruing to the people of Wyoming on account of woman's influence on the ballot, stating that the women of that Territory took an active interest in any new political cause arising and exercised their elective franchise purely with a view to the general welfare of the people. That their right of suffrage did not interfere in the least with their domestic duties and that the cause of equal political rights to all was the one thing needed to make the government of this country an unqualified success.

RULING OF JUDGE TWISS

ON THE VALIDITY OF THE WOMAN'S SUFFRAGE LAW.

In the matter of application of Ann M. Thompson on application for writ of mandamus vs. John B. Gehr, Deputy Registrar of elections.

The applicant, in her application for a writ of mandamus, on oath says, that she was on the 15th day of May, 1872, and ever since has been and is now a married woman, the wife of William Thompson, who was that day in due form of law, admitted as a citizen of the United States: that ever since they both have been such citizens; that she is over 21 years of age; that she has lived in the Precinct and County of Beaver and Territory of Utah, continuously, more than five years last past. She also alleges that on the 14th day of September, 1882, she applied to the Respondent as Deputy Registrar of voters in Beaver Precinct aforesaid, to be registered as one of the voters of the Territory of Utah, upon the registry list of said precinct, and at that time tendered to the respondent as said registrar her affidavit, which is fully set out in the application, containing all the allegations and statement of facts required in the affidavit required by rules of the Territorial Commissioners appointed under and in compliance with the last Act of Congress approved March 22, 1882, commonly known as the Edmunds bill. But neither in her affidavit presented to the Respondent nor in her application to this Court for writ of mandamus, does she say that she in person, or by her husband as her authorized agent, or otherwise, has ever paid any tax, or that she is, or ever was, a tax-payer in this Territory, or make any statement tending to show that she is a tax-payer.

That upon the presentation by her to the respondent, of her affidavit, she requested him to receive and take said affidavit and place her name as a voter upon said registry list, then and there being prepared by him, but that the respondent as said registrar refused to take said affidavit, and refused to so register the applicant.

Wherefore she prays that a writ of mandamus be issued requiring the respondent to take and receive said affidavit and register the said applicant on said registry list.

Upon the filing of the application it was ordered that the respondent show cause on a day named why he should not register the applicant as demanded by her. Upon the appearance of the respondent he admitted the truth of the allegations contained in the application, but contended that upon them she did not show that she was a voter entitled to be registered, or to the writ of mandate prayed for.

The case has been thoroughly presented by counsel on either side.

On the part of the applicant it is claimed that the Territorial act of Feb. 12, 1870, known as the female suffrage act, is valid, in full force and effect according to the terms thereof, and that she is entitled to register and to vote.

The respondent claims that the act conflicts with and is inconsistent with the Act of Congress, and therefore she has no right either to register or to vote. The question submitted to me by counsel is whether the applicant on her statement or application has a right to vote; if she has, she has an undoubted right to be registered; if she has no right to vote it is not claimed that she has a right to be registered as a voter.

In considering this question thus raised, I have not undertaken to determine whether any other married woman is or is not a citizen by virtue of her marriage to a citizen; nor whether any woman except the applicant is entitled to vote, nor to determine the validity of the act of 1870. I assume, for the purpose of this case, (but for no other), that it is consistent with all acts of Congress and therefore valid, and shall decide this case upon what I consider a just construction of the Territorial statutes found in Chapter II, Title III, of the Compiled Laws under titles as follows: "An Act prescribing certain qualifications necessary to enable a person to be eligible to hold office, vote, or serve as a juror," approved January 21, 1859, and "An Act, conferring upon women the elective franchise," approved February 12, 1870. Although there is a difference of eleven years in the dates of these statutes, they are in the Compiled Laws, placed in the same chapter, under the general head or title of "Elections and qualifications of officers." Section 40 of the Compiled Laws (sec. 3 of the act of 1859), provides that "neither shall any person be entitled * * * to vote at any election unless he is a male citizen of the United states, over twenty-one years of age, and has been a constant resident in the Territory during the six months next preceding said election."

This section alone, disconnected with any other provision, confers the franchise upon male citizens of the United States over 21 years old, having been resident in the Territory for six months; but if read and considered in connection with section 42 of the same chapter (section 6 of Act of 1859), must be read with the suffix, "provided he is a taxpayer in this Territory." These two sections taken and construed together, clearly express the intention that although a person may be a male citizen of the United States and a resident of this Territory for six months, yet if he is not "a taxpayer in this Territory," he shall have no voting residence in this Territory. Section 42 is an important qualification of section 40, inasmuch as it determines what male citizens of the United States of six months' residence in the Territory have a voting residence in the Territory. Section 43 (section 1 of the Act of 1870) provides that "every woman of the age of 21 years who has resided in this Territory six months next preceding any general or special election, born or naturalized in the United States, or who is the wife, widow or the daughter of a native-born or naturalized citizen of the United States shall be entitled to vote at any election in this Territory.

Section 2 of the Act of 1870 (not numbered as a section of the Compiled Laws) repeals all laws and parts of laws conflicting with section 43. Section 43 differs from section 40 to the extent of conferring the elective franchise upon the females therein described, who have resided in this Territory six months, but no further. The two sections read together disconnected with section 42, permit the male citizens therein described and the female therein described, who have been residents of the Territory six months, to vote, but when read with reference to and qualified by section 42 none of the persons described in either section can vote unless they are *tax payers*.

The provisions that the person must live in the Territory six months before he or she can vote is very far short from being repugnant or inconsistent with the other provision that such person must be a tax payer before possessing a voting residence.

A provision conferring the elective franchise upon females in the terms of section 43 has nothing in it inconsistent with a provision in the general statutes of the Territory, that no person shall have a voting residence unless he is a tax payer. I find nothing in section 43 that in the least interferes, conflicts or is inconsistent with the full and entire force of section 42, that all voters must be tax payers. As a general rule it may safely be said that a subsequent statute will not repeal a former one, if they can both reasonably stand together, and that a repeal by implication is not favored.

When acts can be harmonized by a fair and liberal construction it must be done, and if possible to reconcile the acts, it will be done. If two statutes on the same subject can stand together without destroying in the evident intent and meaning of the latter one; there will be no repeal. To repeal a statute by implication there must be such a positive repugnance between the provisions of the new and the old that they cannot stand together, or be consistently reconciled. [Potter Dwarris, on statutes, 154; Sedgwick on construction of Statutory and Constitutional Law, 18 and note; McColl vs. Smith, 1 Black 459.]

I am of the opinon that the act of 1870 (if not inconsistent with the acts of Congress) can stand in full force not inconsistent with or repugnant to the tax-paying provision of 1859, and thus females and males have the same and equal rights to the elective franchise under the law. Any other construction of the statutes that would give one class of persons the right of voting upon easier and different terms than those given to another class, would make an inequality in the laws, odious to every sense of justice, and to every principle of republican government. Such statutes would be monstrous and an offense to a government of equal and just laws.

Judge Emerson in Lyman vs. Martin says: "All regulations upon that subject (the elective franchise) must be reasonable, uniform and impartial;" "any provisions which should impose upon a particular class of citizens, conditions and requirements not required of all others is void."

The act of 1870 must have one of these effects: 1st, it must repeal the entire provision requiring taxpaying qualifications, and permit all persons otherwise qualified to vote: or, 2d, it must repeal in part the tax-paying clause, leaving it in force as to males, and not in force as to females, requiring male voters to pay taxes and exempting female voters from the taxpaying burdens; or, 3d, the tax-paying qualifications stands good, in full force, and applies equally to both male and female voters.

I believe the latter is the true and just construction of the law, and as the applicant has not shown herself in any way to be a tax-payer, she is not a voter under the statutes of this Territory, and not being a voter, has no legal right to a writ of mandamus compelling the respondent to register her as a voter. The writ is refused.

STEPHEN P. TWISS, Judge.

GIBSON CLARK,
ZERA SNOW,
Attorneys for Petitioner.
PRESLEY DENNY,
Attorney for Respondent.

BY TELEGRAPH.

PER WESTERN UNION TELEGRAPH LINE.

AMERICAN.

Killed With Poisoned Coffee.

NASHVILLE, 22.—The demented daughter of James Cleveland poisoned a whole family of six by putting strychnine in their coffee. Mr. Cleveland died and one daughter is in a precarious condition. The poisoner has wandered off, and it is supposed, has committed suicide.

Death in a Tunnel.

NEW YORK, 22.—Two trains were telescoped in the tunnel at 86th Street this morning. Five persons are reported killed. Several are reported still under the train. All the police ambulances were ordered to the scene.

Railroad Wreck and Loss of Life.

There was a terrible accident this morning in the Fourth Avenue Tunnel at the Eighty-sixth street station. A New Haven train, standing on the south bound side-track was run into by a Harlem local. The two rear cars are demolished. As near as can be ascertained now, four persons were killed and nineteen badly injured. The names have not yet been ascertained. It is claimed that the accident was the result of gross mismanagement. The locomotive on the main line of the Hudson River road met with an accident at 123d street, blockading the track, in consequence the New Haven train switched on the south bound side. It is reported that several of the injured have since died. Among the killed is Miss Eigeria Aubert, of Mt. Vernon, teacher in the normal school. Among the injured are Engineer Harlem, of the local road, Miss Hitchcock, of Morrisania, and another normal school teacher the two Misses Bennett, slightly, and Geo. Brinckerhoff, severely. The police and firemen went to work and rescued five men and two women, one of the latter soon after expired.

Mme. Eugenie Aubert, the teacher already mentioned, was found in a trench alongside the track, and did not die until after extricated. The list of dead so far is: Sherwin Adamson, of Mount Vernon; Frdk. Stern, of New Rochelle; Miss J. H. Smith, school teacher, New York; an unknown woman, and Eugenie Aubert. The injured are: Harold Meeks, New Jersey; T. Logan, of Mount Vernon; H. C. Houghton, of New York, his son Aaron; Hedden, the engineer. John Sogar, of Mount Vernon; M. Steen, of New Rochelle; G. N. Steinbeiner, of Mount Vernon; Dizzie Cameline, residence unknown (both legs cut off); Wm. How, Jas. Harper, Alonzo Bray, of Mount Vernon; two daughters of J. K. Matthews and Herman Abrams, of New Rochelle.

The Condition of Trade.

The report of the condition of trade for the week ending to-day in general business, shows an improvement in most branches since last week, and there are signs of still greater activity. Some fall trade in the city is very active and in some branches exceptionally large. The steady rush of buyers from the country still continues. The jobbing dry goods trade is very active, and it is many years since so many buyers were here. All branches seem about equally active; prices are firm and there is very little cutting noticed. The demand for seasonable domestic goods is excellent, while foreign dry goods, fancy goods, clothing and notions are all active. In the grain market the prices of wheat are relatively much lower than at the West.

Failures.

The business failures reported this Week are 300, five of them in New work.

The Editor of the "Hornet" Shot and Killed.

LITTLE ROCK, 22.—In the Hot Springs, this morning, Charles Matthews, editor of the *Hornet* was shot four times and killed in an affray with Colonel S. W. Fordyce, Vice President of the St. Louis & Texas narrow gauge railway, and Colonel Rugg, one of the proprietors of the Arlington Hotel. The shooting grew out of a bitter newspaper controversy. It is not known whether Fordyce or Rugg fired the fatal shot.

Democracy of New York.

SYRACUSE, 22.—The New York Central Committee on contested seats, adopted the following:

Resolved, That this committee recognize the county democracy as the regular democratic organization of the City of New York.

Deadly Duodecimo Duel.

DENVER, 22.—The particulars of a twelve sided duel between cowboys has just reached here. Geo. Howard the owner of a heard of 3,000 cattle and John Keeley owner of a herd of 4,000 were driving in company from Arizona eastward. North of Trinidad, on the plains the two herds were sperated, Howard's to follow the Santa Fe trial to Kansas City, and Keeley's to be driven north to Denver. On the route accidental exchanges of cattle had been made and Howard insisted on having his stock out, but was unwilling to deliver Keeley's. After some disputation it was finally agreed to settle the matter by a battle between six picked men of each party. Accordingly twelve men ranged themselves on horseback, six on either side, 50 feet apart, and at a signal from their employess the fight began. At the first fire four men were instantly killed. Geo. Lester, of Keeley's party was shot through the breast, and one of Howard's men fell with a ball through the head and two others of the same party were shot through the heart. Dismayed, Howard's party with the exception of their employer fled to camp. Keeley then rode up to Howard and proposed they fight it out. Howard declined saying he understood the matter was settled according to the terms of the battle made beforehand. This settled the matter. An equitable exchange of the mixed cattle then took place, the dead were buried by the other men of both herds, and the drivers and those in charge separated for the different routes.

The Marquis of Lorne.

SAN FRANCISCO, 22.—The Vice-Regal party visited Esquimalt today, and examined the dry docks and harbor. The Marquis will open the agricultural show on Wednesday next, and on the following day will proceed to the interior, returning he will ivsit the coal field on the east of the island.

Nominations.

CHICAGO, 22.—A Wyandotte special says: The democrats nominated William C. Maybury for Congress.

A Dover N. H. special says the republicans of the first congressional district nominated Col. Martin A. Haynes.

A Dogville, Wis., special says: The prohibitionists of the third congressional district nominated S. D. Hasting.

FOREIGN.

LATEST FROM THE SEAT OF WAR.

A Maltese Renegade Minister.

ALEXANDRIA, 22.—Abderahman Rouch-de-Bey, a Maltese renegade and minister of finance in Arabi's last ministry, has been appointed by the Khedive president of the commission to prosecute the investigation of outrages in June.

Abandoned.

Port Said, 23.—The English have abandoned the earthworks they erected and the marines have re-embarked.

Released.

Alexandria, 22.—All rebel officers below the rank of colonel, confined at Ramleh, have been released. The 50 remaining prisoners were brought here. An expedition has started to occupy Damietta. No resistance is expected.

The Coronation a Canard.

Moscow, 22.—Nothing is known here regarding preparations for a coronation. The Czar expects the customary period to elapse for suitable preparations before the ceremony takes place. It is also expected that the usual invitations will be issued when the date is decided.

The Khedive.

Alexandria, 22.—The Khedive went, at noon, to the Mosque of Aboo Albas. Several native officers of the Bengal Lancers did likewise.

Destructive Conflagration.

Loudon, 22.—The exhibition building at Sidney, New South Wales, was totally destroyed by fire with all its contents.

Hanged.

Galway, 22.—Patrick Walsh was hanged to-day for the murder of Martin Lyden. Walsh protested his innocence and maintained that a witness swore falsely.