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WHAT OFFICES ARE VACATED?

We are in receipt of the following communuication:

SALT LAKE CITY,
March 16th, 1882.

Editor Deseret News:

There seems to be a prevalent misunderstanding in regard to the meaning of the first part of section 9 of the Edmunds Bill. It reads: "That all the registration and election offices of every description in the Territory of Utah are hereby declared vacant," etc. Reading it in connection with the rest of the sentence, I construe it to mean that, immediately after the bill is signed by the President, all persons now authorized to transact any business relating to the registration of voters, or any other election affairs, will be ousted from such offices. This view, however, I find differs materially from the construction placed upon the clause quoted, by some of my acquaintances. They say it means a general official massacre of *all* Territorial officers, "of every description," who have been elected by the people.

Will you have the kindness to explain the "true inwardness" of this matter, and greatly oblige many besides

Yours truly, MAC.

The offices vacated under the section of the Edmunds bill providing commissioners to fill vacancies, are simply those relating to registration and election. No other offices are referred to in that section, and no other offices are declared vacant by any other part of the bill. Polygamists, bigamists and persons cohabiting with more than one woman are declared ineligible to office. But the process by which the status of the incumbents of the various offices can be determined is not defined by the bill. We know of no other than judicial means by which the ineligibility of any officer can be established.

Another point is that officers who have regisiration or elective duties attached to the other and regular duties required of them by law, are not ousted from their offices by the Edmunds bill, and only so far as they are registration or election officers are they released. For instance, a County Clerk remains in his office as such although his position as an elective officer is vacated, and an Assessor retains his office although his position as a registration officer is vacated.

The difficulty in the minds of some of our friends arises from confounding the term "election" with that of "elective." Election offices are vacated, but most of the elective offices—those filled by election—are not affected. We hope this brief explanation will suffice to make the matter clear.

EXPOSING THE HYPOCRITES.

ANENT the pretended spasms of virtue with which some of the most corrupt centres of modern civilization have been shaking during the past few weeks, the Detroit *Free Press* has the following pungent editorial:

"Chicago is nothing if not sensational. Only a few days ago the citizens met in solemn conclave to denounce the immorality and wickedness of the Mormons in Utah. And they did denounce. If Mormonism could be wiped out with oratory or rhetoric it would to-day be a thing of the past. All the resources of the city were drawn upon The pulpit, the bar and the mercantile profession contributed their presence and eloquence, and the speeches and resolves were emphatic and scorching. The morality of Chicago, long since shocked, was thoroughly aroused, and the scandalous, outrageous, law-defying practices of the pestiferous polygamists were portrayed in all their hideous colors, while the law-makers of the land were called upon for fresh devices whereby this great blot upon the national escutcheon may be wiped out.

The nation sympathized. When the electric messenger bore to the four corners of the land a report of the Chicago meeting, the friends of law and decency and good government cried out "Well done!" The outburst of the great city was hailed as an indication that a better day had dawned, and that from thenceforth the government, strengthened by the consciousness of popular sympathy and assured of popular support, would move upon the Mormons as a government meaning business. A few of the more enthusiastic would not have been surprised if an expedition had been organized the very day after the Chicago meeting with orders from Washington to smite the polygamists hip and thigh, and to break the bands of the oppressed in Utah.

But if any of those who have been moved by the Chicago outburst read the papers of that city, their enthusiasm must be sadly chilled by this time. For two successive weeks on Saturday, the Chicago *Inter-Ocean* has devoted itself to an exposure of a few of the worst dens of infamy, shame and crime in that city; and the picture it presents is one which makes the story of polygamy and Mormonism seem in comparison like a tale of pastoral simplicity. In its issue of Saturday last it sketches, in outline, scenes of vice and depravity and crime which cannot be paralleled by anything that has ever been laid to the charge of Mormonism, even when the alleged murders of the "blood-atonement" are included. For the Chicago wickedness not only has to do with the destruction of the body but the destruction of the soul.

This showing which the Chicago press is making ought not to weaken the protest which the citizens of that place have made against polygamy; but it inevitably will if they permit the scandalons doings of their own fellow townsmen and neighbors to pass without an equally vigorous protest. They may be as earnest and honest as they seemed in their abhorrence of the plural wife system; but they will get no credit for either unless they show something of the same earnestness and honesty in exposing and denouncing the sin which flourishes in rank luxuriance beneath their noses. On the contrary they will be denounced all over the land as hypocrites.

RATHER DOUBTFUL.

THE Louisville *Post* has the following to say on the present subject of popular comment:

The measure which has just passed the House only defers the Mormon question for awhile. It is one of these political puzzles which arise once in a while in all countries, and which demand action, but bewilder the judgment of the legislators. We wonder at the excitement caused by the refusal of Bradlaugh to take the oath in Parliament, and the cessation of important business to discuss a point which appears to be trivial. There is a certain resemblance between the embarrassment in handling the Mormon difficulty and the trouble in disposing of the atheist Bradlaugh. The resemblance is one of difference. The Constitution of the United States does not formally recognize God in its text, but there is the broadest possible statement of the principle dedicating America as an asylum for people of all creeds. In Great Britain, on the other hand, the entire social fabric and legislative structure are in great measure founded on an established religion. Bradlaugh's fight is forcing the government step by step to relinquish political inequalities founded on religious faith. The Mormon question involves the same principle as that of Chinese immigration, only it is more difficult. The bill for the indirect suppression of polygamy may affect its purpose, but it is much to be doubted.

THE CASE OF THE DELEGATE FROM UTAH.

WE have received the full report of the Committee on Elections, to whom was referred the contest for the seat in Congress of the Delegate from Utah. With the statements and opinions of dissenting members and the minority report, signed by S. W. Moulton, Gibson Atherton L. H. Davis and G. W. Jones, it makes a pamphlet of sixty-six pages, much of it in small type. Mr. Calkins, the Chairman, gives his views in the majority report, and Messrs. Thompson, Pettibone, Miller, Jacobs, Beltzhoover, Ranney and Atherton, each explain at length their views in relation to the points under discussion, namely:

First. Did Mr. Cannon receive the highest number of legally cast votes for the office of Delegate in Congress.

Second, Was he a citizen of the United States at that time, or has he since become a citizen, and did he possess the other necessary qualifications to become a delegate in Congress.

Third. Was he a polygamist at the time of his election; and if so is that a disqualification.

To the first and second points, an affirmative answer, backed by a strong array of facts and arguments, is given by every member of the committee but one. Wm. G. Thompson stands alone in denying that Mr. Cannon received the greatest number of legal votes, and that he is a duly naturalized citizen of the United States. His arguments are simply the enunciation of strained technicalities, and to those familiar with the contest they bear the unmistakable brand and ear marks of the attorney for Mr. Campbell, being but a repetition of his sophisms in his own style of special pleading.

It is clearly established, then, by the Committee on Elections, that George Q. Cannon received 18,568 votes for Delegate, and Allen G. Campbell only 1,357 votes, and that in any event Campbell was not elected. That matter is settled so far as the committee are concerned, the majority report as well as the minority declaring that "Mr. Campbell, not having received a majority of the votes cast, is not entitled to the seat." This puts the Governor's act in granting to Campbell the certificate, just where this paper has pointed out from the beginning of the contest. The certificate was false and void.

In regard to Mr. Cannon's citizenship, over which nearly all of the controvery has arisen, and indeed on which the whole indefensible transaction which denied him the certificate was based, the decision in the majority report is as follows:

"We therefore hold that Mr. Cannon is a citizen of the United States and that he is not disqualified on the ground of alienage from holding his seat as a Delegate."

The decision in the minority report says:

"The question of naturalization, we think, is settled by the record and proof in the case beyond all doubt. Upon this question we adopt the conclusions of the contestant, Mr. Cannon, as a fair statement of the facts which are fully supported by the record, and are, in fact, a substantial transcript of it."

"We think the judgment of naturalization and the certificate issued thereon is conclusive."

Mr, Pettibone, on this question, sums up:

"Suffice it to say, that going over all the cases cited on either side, and hunting the books which treat of the subject of naturalization, I am constrained to say that Mr. Cannon's claim to have been naturalized seems to be *res adjudicata*."

That is, a thing adjudged, and therefore not open to re-examination; a settled matter that cannot be legally called in question.

Mr. Miller, in his argument on the case says:

"At the outstart I concede that George Q. Cannon was, at the date of the election in November, 1880, a naturalized citizen of the United States. The certificate of naturalization exhibited by him is in due form, purports to be issued by a court of competent jurisdiction, and is signed and sealed by the court issuing it. The adjudication of this question has never been opened or reversed by any judicial tribunal having constitutional and legal authority to open and reverse it."

Mr. Jacobs endorses these views in this way:

"Upon this question I adopt the reasoning of the chairman, and hold that the judgment of the naturalization cannot be attacked collaterally, and in conclusion, constrained as I am by my views of the principles of construction, to hold that George Q. Cannon was, at the time of the election, a citizen of the United States and received the greatest number of votes cast."

Mr. Beltzhoover, in an elaborate opinion of the case declares:

"I have given the subject of Mr. Cannon's citizenship careful examination, and have concluded that under the decision of the Supreme Court of the United States in Campbell vs. Gordon, 6 Cranch 176, the certificate of naturalization held by him is valid."

Mr. Ranney in a speech delivered before the rest of the committee maintained:

"There is no substantial ground on which the claim that Mr. Cannon was an alien and never naturalized according to law can be satisfactorily maintained. That question was heard and settled in the House in another contest long since, and Mr. Cannon has accordingly held a seat in the House, as Delegate from Utah, for four terms of Congress, and it is time for that part of the controversy to be forever put at rest, especially as it is now proved again conclusively by both record and parol evidence. He has been shown to be possessed of all the qualifications prescribed by the Constitution and laws of the United States, as well as those of the Territory."

Mr. Atherton says, on these questions of the *prima facie* right and naturalization:

"They have been fully considered and ably argued and the committee (except a single member) unite in the opinion that Mr. Cannon was legally elected, by a large majority, a Delegate from the Territory of Utah to the Forty-Seventh Congress; that he was and is a naturalized citizen of the United States."

This matter, then, is set at rest. Hon. George Q. Cannon, as we have all along maintained, is beyond question a citizen of the United States and has been since the 7th of December, 1854. All the statements to the contrary are therefore false, and all arguments based upon such statements fallacious, and the statement in the certificate given to Allen G. Campbell, that he was "the person being a citizen of the United States who received the greatest number of votes," was contrary to the facts, the law, common justice and common sense, and a flagrant violation of the sworn duty of the Executive of the Territory.

The only question on which there remained a difference of opinion among the committee was that of polygamy as a disqualification for the office of Delegate. The majority took the position that Mr. Cannon's avowal that he had married plural wives and had "as a teacher of religion defended said tenet as a revelation from God," proved him disqualified for the office of Delegate. The minority took opposite ground. No law however could be cited in support of this disqualification. The members of the Committee who argued for it had to advance new views of the position of Delegates from the Territories and of the powers of the House of Representatives. In all their arguments it is plain to perceive a determination to float with the stream of present public opinion rather than take a stand upon law, precedent or rule. They took the ground that Delegates are in no sense "members" of Congress; that they are not constitutional officers; that they only sit in the House by the grace of Congress; that therefore the House by a majority vote may exclude a Delegate for any reason; that as Mr. Cannon lives in violation of a law of Congress he can and should be declared ineligible to a seat in that body.

The minority show conclusively that these grounds are untenable. They say:

"So far as our research has extended since the formation of the Government, we can find no case reported that makes any distinction between the qualifications of a Member from a State and a Delegate from the Territory."

"If the constitutional standard is not adopted as to qualifications, then there is no rule for the government of the House as to Delegates."

"If a Delegate from a Territory is not a member by virtue of the Constitution and laws, then what rule or law do you apply to him? Is it arbitrary will or caprice of the House at each session?"

They also cite the decision of the Committee of the Forty-third Congress in the contest case of Maxwell vs. Cannon, who decided both in the majority and minority reports, that the only qualifications required for a Delegate were those required for a member of the House, and the rule was established that "Delegates from Territories are entitled to the constitutional limitations as to qualifications, and that polygamy was not a disqualification."

The minority report further says:

Mr. Cannon, the contestant here, claims in good faith that polygamy is a religious conviction and principle with him and his people, and in this he is entitled to protection under the Constitution.

The people he represents have elected him and are satisfied with him, and this House should be content.

The sixth article of the Constitution provides that—

No religious test shall ever be required as a qualification for any office or public trust under the United States.

It seems to us that the contestant is entitled to the above provision of the Constitution as a protection. He has been convicted of no crime and there is no law on the statute book that disqualifies him as a Delegate.

Our conclusions are that Cannon had a clear majority of the legal votes for Delegate.

That he possesses the necessary qualifications under the Constitution and laws.

That he is entitled to the seat, and we recommend the following resolution for the consideration of the House.

Resolved, That George Q. Cannon was duly elected and returned as Delegate from the Territory of Utah, and is entitled to a seat as Delegate in the Forty-seventh Congress.

Other members showed that Mr. Cannon's avowal of the practice of plural marriage did not admit that he had violated the law of 1862, and that it was not in evidence that he had broken any law, "living in polygamy" not being an offence against the statute of 1862. This is the position taken by this paper, and it is legally impregnable. It cannot be proven that Mr. Cannon has committed any crime known to the law, and in order to keep him from his seat, some method must be adopted unknown to any present rule or law. It was with this object, no doubt, that the Edmunds bill was pressed through the House without allowing free discussion or opportunity for amendment. And even now the law must be made retroactive in order to meet the Delegate's case. If he is excluded from his seat, the action will be in violation of every established rule, and of the basic principles of constitutional law. And we Latter-day Saints have this consolation in all that is done against us, that we cannot be reached by valid enactments and the ordinary process of legal procedure, but extraordinary and unprecedented laws and rulings have to be set in motion to bring us within the reach of those who desire to afflict or destroy us and the system which we advocate. In all this we rejoice, and can cheerfully leave the result in the hands of Him who is over and above all men and all nations.

FALSEHOODS FROM THE "CENTURY."

THE Boston *Herald* of a recent date has an editorial on the ever prominent "Mormon" question, in which some very incorrect statements are made on the authority of an article which appeared in the *Century* magazine. The article itself is a fraud, for it appears as the contribution of Allen G. Campbell. Everybody who has any acquaintance with the defeated tool of the conspirators who plotted in vain for the Delegate's seat in Congress, knows that he is utterly incompetent to write anything of the kind. It is without doubt the production of his attorney, who has failed in his raid upon the Delegate's *per diem*, and is as full of bitterness over the defeat as a person of his calibre can possibly be.

There are two or three statements which we will briefly notice, as they are calculated to mislead the public, and there will come a time before long when the truth will emerge from the clouds and smoke which unprincipled defamers have raised around it, and people now too much excited to see it will become more rational.

The *Herald* says:

"Polygamous wives, foreign born, without the pretence of having been