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TRUTH AND LIBERTY.

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LEGISLATION AND THE LIQUOR QUESTION.

IN consequence of the conflict between the liquor dealers of this city and the local authorities, the subject of the regulation of the traffic in alcoholic stimulants has received much consideration. We observe in some quarters a disposition to attach blame where it does not belong, for the difficulties which have occurred, and which now are by no means settled notwithstanding the so-called compromise between the County and the saloon keepers who resisted the law. The cause of the conflict does not lie in the Acts of the Legislature. The fault is neither in the territorial statute, the city charter or the municipal ordinances. Each of those enactments is sufficiently plain, specific, simple and definite to express the intentions of the law makers. There would be no trouble in their enforcement, if those Federal officers whose duty it is to adjudicate upon them were not biased in favor of the opposers and violators thereof.

The policy of our legislators has always been to discourage the sale of intoxicants. Prohibition has been made possible by law in most parts of the Territory. But in consideration of the habits of people who consider stimulants a necessity and who have chiefly resided in the larger cities, regulation and restraint have been resorted to in preference to prohibition. The right to license the business has been given by the Legislature by a general law to the County Courts and by special charters to each of the incorporated cities, and provision clearly made in the former to exclude the municipalities from the jurisdiction in this respect of the county authorities. The system worked well for many years. No one ever thought of confounding the powers of the county and city officials until it was suggested by Chief Justice Hunter, who has used the authority vested in him to *muddle* and confuse the law by his absurd rulings and judicial blunders, and has sided with a combination of whisky sellers openly engaged in conspiring against the local laws.

That is the simple truth concerning the matter, and it is unjust and unecessary to try to cast reproach upon the framers of the laws, which worked well enough for many years and until strained interpretations and ridiculous perversions were made by the present Chief Justice.

The policy pursued in this city has been to charge a high license fee for the sale of intoxicants. This has been done with a view to keep down the number of saloons, to render them respectable and to sustain the price of the article vended at a figure which would make it a luxury, and thus prevent common indulgence in it to some extent at least. Judge McKean was the first judicial officer to strike any severe blow at the municipal authority thus directed. He ruled that the high license fee charged by the city was prohibitory in its character. But even he decided that $1,000 per annum was not exorbitant. This was the amount charged from the time of his later ruling until recently.

Judge Hunter first decided that the sum of $1,000 was too great When the City Council reduced it to $800, he ruled that revenue could not be collected at all by license, to use his own remarkable definition, that "*revenue is taxes;*" that in the exercise of the licensing power, only the cost of the issuing of the license could be charged; that the city could not restrain or regulate by license; and further, that the county authorities held the right to license within the city the sale of intoxicants, and it was "*to be presumed*" that the liquor dealer whose case was then under consideration had obtained a license from the County.

It is to this rubbish that the blame is to be attached, not to the laws nor the ordinances. No law could be enacted or ordinance passed of which advantage could not be taken by unscrupulous lawyers, sustained by incompetent, partial or purchased judges. It is well known that the revenues of cities all over the world is derived not only from taxes but from licenses, fines and other sources. The expenses of civic government accruing from the traffic in liquors, are far greater than from any other business which cities have the right to license. More police services is thereby rendered necessary. The breaches of the peace growing out of it are greater than from any other cause. The license fee, therefore should in reason and justice be greater. The authority to determine what the license fee shall be is vested in the City Council by charter. Among other things Salt Lake City is empowered "To grant and issue licenses and direct the manner of issuing and registering thereof, and the fees to be paid thereof." The conclusion reached by the Judge that the amount of the fee must be limited by "the cost of issuing and registering the license," is not warranted by anything in the charter or in the rules prevailing in any part of the civilized world. So with the assumption that the city cannot regulate or restrain by license. It is by the amount of the fee that regulation and restraint is exercised over the liquor traffic everywnere. And as to the jurisdiction of the county and the assumption that liquor devlers in the city had taken out licenses from the County Court, the law plainly exempts the county from interfering with the municipal power in this respect, and the Judge knew as well as any other person that no liquor dealer within the city limits had attempted to take out any such license, for the law in relation to the subject provides, "No provision of this act shall be so construed as to interfere in any way with the rights of the municipal authorities of incorporated towns and cities." With a plain and definite provision like this what can be thought of a Judge who would make and utter an official assumption like Judge Hunter's. Aud in view of this, what law could be enacted, framed by hired attorneys or composed by the most experienced legislators that could be insured against judicial twistings and perversions?

The collection of liquor licenses by the County authorities is in accordance with Judge Hunter's dictum, but not with the statute from which we have quoted. By the same rule every butcher in the city can be compelled to take out a license from the County Court. The law applies to the butchers equally with the liquor dealers, as may be seen from page 174 of the Compiled Laws of Utah.

A new general liquor law for the Territory is desirable. Times and circumstances have greatly changed since the old law and the City Charter were enacted. They were passed January 20, 1860. But it is not the fault of the Legislature that more complete enactments, suited to the changed conditions, have not become a part of our code. A good bill was passed at the last session, one that had been well considered and matured. It was vetoed by the Governor who also butchered other bills presented for his signature and the blame for their imperfections is attached by thoughtless people to the Legislature.

We deny that the present laws in relation to the liquor traffic and the respective rights of cities and counties are ambiguous or so worded "as to make the statutes inoperative and worthless." The language is clear enough for anyone who does not wish to pervert it. And no matter how many laws may be passed nor who has the verbal arranging of them, while Governors can mutilate as they please under threats of suppression, and courts will play into the hands of pettifogging attorneys and those whose pecuniary interest it is to defy the law, such enactments will have no more force or effect than those already on the statute books.

We need, not only good laws plainly worded, for the control of the liquor traffic according to public sentiment, which in Utah is in favor of strong restraint, but honest, capable and just interpreters and administrators of the law, or confusion is bound to prevail and the lawless will override the most wholesome and definite regulations.

THE STATUS OF THE CANNON-CAMPBELL CASE.

THE press dispatches last week contained such a meagre account of the proceedings in the House of Representatives, that no one here could form any definite idea concerning the true status of the dispute over the swearing in of the Utah Delegate. From the New York *Herald* of Wednesday, we clip the full particulars of the debate on the 6th inst.:

"Mr. Randall (dem.), of Pa., raised the point of order against Mr. Haskell's resolution and demanded that the Territorial delegates be sworn in.

The Speaker sustained the point of order and all the delegates except that from Utah qualified.

The Speaker then said: There is a controversy on the matter of the Delegate from Utah. There are several certificates—or, at least, two—held by two different gentlemen, and it is a matter, as the Chair understands it, that cannot be determined in advance, either by the old Clerk or the new Clerk, and to determine which should go on the roll and be called for the purpose of being sworn in.

Mr. Cox (dem.), of N. Y.—I ask whether the name of a delegate from Utah is not on the roll?

The Speaker—The Chair has already stated that as at present advised, he knows no law that authorizes any clerk to put a delegate on any roll.

Mr. Randall, of Pennsylvania—There is a gentleman here claiming to be a delegate and this House must take cognizance of this fact. It is a question of the highest privilege, and must now be determined.

The Speaker—The Chair is of the same opinion.

Mr. Cox—Why did the Chair ask the gentleman to step aside?

The Speaker—His name has never been called. The inquiry is of the House as to whether he shall be sworn in. The Chair recognizes no roll as far as delegates are concerned.

Mr. Randall—Does the Chair decide that it is not the right of a member to ask that the certificates should be read?

The Speaker—Yes; until the question is properly before the House.

The Speaker then recognized Mr. Haskell, of Kansas, to offer a resolution.

Mr. Cox—By what right did the Speaker call the other names?

Mr. Haskell—He has not called any names. I am on the floor by recognition of the Speaker.

The Speaker—The Chair understands the law to be that the old clerk is required to make up a roll of members and not of delegates.

Mr. Randall—Does the Chair decide that I, as a representative, have no right to call for the reading of those certificates; why did you call for the other delegates?

The Speaker—Because the Chair thought he had the right to call the names of those delegates, ascertaining that there was no challenge or controversy on those cases.

Mr. Cox—But the Speaker cannot make the roll; the Clerk does that.

Mr. Haskell, after a good deal of confusion and noise, managed to offer his resolution, as follows:—

Resolved, That Allen G. Campbell, delegate elect from Utah Territory, is entitled to be sworn in as delegate to this House on a prima facie case.

Mr. Cox, of New York, raised a point of order against the resolution that Mr. Cannon's name was on the rolls, and that the Chair was bound to recognize that fact.

Mr. Haskell called for the reading of Mr. Campbell's certificate.

Mr. Randall called for the reading of all the certificates, and the Chair stated that they should be read.

Mr. Campbell's certificate was read. It is signed by the Governor of Utah, and is given to Mr. Campbell because "he was the person, being a citizen of the United States over 21 years, who had the greatest number of votes."

Mr. Haskell claimed that this was the only certificate from Utah, and objected to the reading of any other paper.

Mr. McLane, (dem.) of Md., contended that the Chair having stated that all the certificates were to be read, could not withdraw that ruling.

Mr. Cox argued in support of his point of order, contending that under sections 31 and 38, Revised Statutes, the clerk was required to prepare the list of delegates, and in this opinion he was sustained by Mr. Herbert, of Alabama.

Mr. Robeson, (rep.) of N. J., and Mr. Reed, (rep.) of Me., took the opposite view, the latter quoting a decision by Speaker Colfax that the Clerk could not put on the rolls the names of delegates.

The Speaker overruled the point of order. The whole matter was then postponed until to-morrow morning and the members proceeded to the drawing of seats.

No mention is made of the Utah matter in the report of the proceedings of the House on Wednesday or Friday, so the question was evidently postponed till to-day.

From the above extract it will be seen that the point of order on which the Speaker ruled unfavorably, was that raised by Mr. Cox to the effect that Mr. Cannon's name being on the rolls, he was entitled to be sworn in. The Speaker took the position that the Clerk had the right to enroll *members* but not *delegates*. But this was controverted by Mr. Cox, who cited Sections 31 and 38 of the Revised Statutes. They read as follows:

"Sec. 31. Before the first meeting of each Congress the Clerk of the next preceding House of Representatives shall make a roll of the Representatives-elect and place thereon the names of those *persons* and of such *persons* only, whose credentials show that they were regularly elected in accordance with the laws of the States respectively, or the laws of the United States."

Sec. 38. Representatives and Delegates elect to Congress, whose credentials in due form of law have been duly filed with the Clerk of the House of Representatives, in accordance with section thirty-one, may receive their compensation monthly, from the beginning of their term until the beginning of the first session of each Congress, upon a certificate in the form now in use to be signed by the Clerk of the House, which certificate shall have the like force and effect as is given to the Speaker; but in case the Clerk of the House of Representatives shall be notified that the election of any such holder of a certificate of election will be contested, his name shall not be placed upon the roll of members-elect so as to entitle him to be paid, until he shall have been sworn in as a member, or until such contest shall be determined."

From these sections it is clear that Mr. Cox was right. Not only the names of Members but of Delegates elect are to be placed on the roll by the Clerk. Indeed, all *persons* whose credentials show that they have been duly elected are to be enrolled and draw their pay. Mr. Cannon was so enrolled, and upon the Clerk's certificate of such enrollment has drawn the monthly *per diem*., because no notice of contest was served on the part of Campbell. If Speaker Keifer has not overlooked section 38 in ruling upon this point, it is difficult to perceive how he can defend his position by law or logic. The manner, too, in which he dodged the pertinent queries of Messrs. Cox and Randall was, to say the least, quite disingenuous.

As the matter now stands, under the ruling of the Speaker, the question is upon the Resolution of Mr. Haskell for the swearing in of Mr. Campbell, and in the course of the debate, the certificate presented by Mr. Cannon, on which the Clerk acted, must also be read, from which it will appear that the certificate held by Mr. Campbell is not in due form, and that Mr. Cannon is the person who received the greatest number of votes.

If it were not for the intense prejudice against the "Mormons," which has been worked up to fever heat by malice and ignorance combined, there is no doubt in the minds of those who understand the law and the usages of Congress that Mr. Cannon would take his seat, and that his opponent would have no case before a committee to contest the seat, having failed to file his notice within the time prescribed by law.

But it is observable that amid all the hue and cry raised against Mr. Cannon's admission, by the pulpit and the press, that the merits of the case are carefully avoided and the demand is made for Mr. Cannon's exclusion, not because he was not elected; not because he has no right to the seat; but because he is a "Mormon," and the "Mormons" are detested on account of exaggerated and incorrect ideas concerning their marriage relations.

The prejudices, not the judgment, of Congressmen are invoked in this controversy. They are asked to vote upon a question of republican government, with their eyes closed to the real point at issue. They are urged to decide upon the right of the Delegate to his seat, under the bias of religious and popular animosities, ignoring the merits of the case.

"Mormonism" has nothing to do with the question of the rights of the person having the majority of votes; nothing to do with the palpable violation of law and duty perpetrated by the Governor of Utah; nothing to do with the laws and rules for the government of the House of Representatives. Yet all the outside influence brought to bear upon the members is directed to their passions and animosities, their dislike of "Mormonism," and their aversion to "polygamy," which are as remote from the question of the right to the seat, as the habits or manners of any Congressman or his views upon temperance, the tariff, or any other subject.

To-day the question was to be further discussed, and we must await the dispatches to learn its progress before the House.

MORE ANTI-MORMON BILLS.

SENATOR Edmunds has fired the second gun in this season's campaign against the "Mormons," re-introducing the old Christiancy bill rendering the "Mormons" ineligible as jurors in certain cases on account of their religious belief. Willetts, of Michigan, follows with a fusilade in the same direction. Fire away gentlemen, please your constituents, gratify the bigots and fanatics and get mixed up in clouds of confusion over a subject that one day you will be ashamed to have attacked in any such way. "Behold how great a matter a little fire kindleth!"

GOOD RESULT OF THE DEBATE.

THE *Congressional Record* of Dec 7th, which has just come to hand contains the full report of the debate over the Utah Delegate's seat. It was a lively discussion, in which, quite a number of members took part, and resulted in the publication in the *Record*, by consent of the House, of the "certificate" given by Governor Murray to Allen G. Campbell; the full text of the decision of that functionary, in which it is admitted Geo. Q. Cannon received 18,568 votes and Allen G. Campbell but 1,357; and the certified copy of the returns of election over the signature of the Secretary.

Thus the evidence on which Governor Murray presumed to set aside the votes of nearly all the citizens of Utah who cast their ballots Nov. 2, 1880, is placed before the House, and every member has full opportunity of perceiving the impudent usurpation of the Executive of Utah. Neither republicans nor Democrats, with any regard for law or the principles of American Government, can conscientiously endorse that assumption.

That the Governor of any Territory or State in the Union has not the slightest power to officially decide whether or not any person is a citizen of the United States, is a proposition that cannot be successfully controverted. It only remains to be seen whether the men elected to legislate for the nation will permit strong prejudice against an unpopular system of marriage, to blind their eyes to a simple question of law and justice. Whether the "Mormons" are to be condemned or not, the Governor of Utah's act, as shown in his own statement, was a gross violation of law relating to his official functions, and ought not to be covered over by any sophistry or sheltered from the condemnation of just and liberty-loving people.

THE DELEGATE CASE POSTPONED.

As will be seen from our dispatches, consideration of the case of the Delegate from Utah has been postponed in the House of Representatives until January 10th, 1882. This is a good sign. It gives time for truth to grapple with falsehood, and for the merits of the case to be grasped by the dullest Members. The outlook is bright.