DESERET NEWS:
WEEKLY.

TRUTH AND LIBERTY.

PRINTED AND PUBLISHED BY
THE DESERET NEWS COMPANY.

CHARLES W. PENROSE, EDITOR.

WEDNESDAY, - DEC. 28, 1881.

SENATOR EDMUNDS ON THE "MORMON" QUESTION.

SENATOR Edmunds' article in *Harper's Monthly* for January, 1882, entitled "Political Aspects of Mormonism," is far different in tone and spirit to the vindictive and thoroughly untruthful attack made in the same magazine for October, by one C. C. Goodwin. The Senator handles his subject like a gentleman, not in the style of a hired libeler and sensational scribe. The article is temperate, pithy, readable and brief. It commences with a short history of the settlement by the "Mormons" of "that basin or trough which lies between the Sierras and the great chain of the Rocky Mountains," and their ineffectual endeavors at different times to gain admission into the Union as a State.

The problem for the consideration of the country is stated as, "the eradication of polygamous institutions consolidated into one community, consistently with republican theories of government and with Anglo-Saxon notions concerning the trial of persons accused of crime." The religious aspect of the case is discarded by the writer as "in the category of things finally decided." He considers that public opinion, the law, and the ruling of the Supreme Court on that question settles it. This is a very easy way of disposing of a part of the subject which he would find very difficult to handle. The religious aspect of our marriage system may be settled in his mind by the agencies to which he refers, but it appears to us that history has proven that a religious faith and practices growing out of it, are not generally put down by public opinion, by repressive laws or by decisions of courts. While that faith remains alive and active in the breasts of its adherents, it is likely to bring forth appropriate fruits in practical life, and so remain unsettled and undestroyed, no matter who may relegate it to "the category of things finally decided."

The object the "Mormons" have in view is thus defined by the Senator:

"To set up for themselves and maintain an exclusive political dominion in the Territory of Utah, and to so frame and administer laws as to encourage rather than repress polygamy."

It is also shown that "once established as a State in the Union, their domestic concerns, including polygamy," "would be absolutely beyond the legal reach of the people of the other States." In thus stating the case the writer has gone a little beyond the exact facts. The exclusiveness exhibited by the "Mormons" in their political affairs, has been forced upon them by the acts of those not of their faith who have resided among them. It is a part of our creed that all classes of the community should be represented in politics. In some instances "Gentiles" have been elected to offices in the gift of the people the large majority of whom were "Mormons." In the Constitution framed at our latest attempt to gain admission into the Union, minority representation was provided for with other liberal measures. But the bitter animosities exhibitied against our religion have kept us all the time on the defensive, and the deprival of Federal office by the Government of every "Mormon," in favor of Gentiles—the small minority—has promoted the exclusiveness which is often complained of. Why should we, who are in the great majority, and on the defensive, give local offices to those of the little minority, who are our vindictive opponents, when that class holds all the offices in the gift of the General Government?

It is a mistake to suppose that in a "Mormon" State religious differences would exclude persons from a part in the local government. It is also an error to imagine that it is the policy of the "Mormons" as a Territory or that it would be as a State, "to frame and administer laws for the encouragement of polygamy." The practice of plural marriage is regarded by us purely as a religious matter, one over which the State has no jurisdiction. As proof of this we cite the laws passed when the "Mormons" had entire control of the political affairs of this Territory. Senator Edmonds admits that "The Organic Act itself was all that the Mormons could have wished. It left everything to their own management and in effect allowed them to authorize or even require polygamy if they chose." Yet during the time that Brigham Young was Governor and when other United States officials here were "Mormons," our Legislature passed no laws for the encouragement of polygamy, neither has that body ever attempted to do anything of the kind. And it is on this point that we consider great errors are made. It should be understood that if Utah were made a State, polygamy, as it is popularly called, or plural marriage as believed and practised by the "Mormons," would in no sense become a part of its political system. It is on the hypothesis that the State would be polygamous, that so much opposition is raised against Utah's admission. But it would form no more a part of the political framework of the State than baptism by immersion, the administration of the Lord's Supper, or any other sacrament of our religion. There would be no "recognition of polygamy by Congress," no incorporation of it into the body of the nation, because it would be as much outside of politics as the celibacy of Catholic priests or the consecration of nuns in a convent.

Another mistake made by Senator Edmunds is in relation to the jury question. Regarding the difficulty attending prosecutions for polygamous marriages, he says:

"On the theory prevalent in the United States, a jury must be unanimous in order to convict. If, therefore, a single Mormon be a member of a jury in a given case, it is impossible to obtain a verdict, for he believes, or professes to believe, that polygamy is a divine institution, and that they who practice it are rendering obedience to God, and so he thinks, or professes to think, that prosecutions for that offense are the most wicked tyranny, and he will not find a verdict of guilty under any circumstances."

Now, what are the facts? Why, that there have been but two trials for polygamy, and that in the only case in which a "Mormon" has been sent to prison for polygamy,—the Reynolds case—several "Mormons" were on the jury. The attitude of "Mormon" jurors on this point is grossly misrepresented. In the celebrated Miles case, a number of them were challenged for bias, and when examined on their oath, they affirmed emphatically that while they believed the revelation on celestial marriage to be from God, yet that if proof were adduced that defendant had violated the law of 1862, they would convict. When pressed for explanation, they said that their religious belief would have no effect upon their oath to decide according to evidence. They were not responsible for either the divine or the human law. The conflict was not theirs. It was between the two powers that framed the diverse enactments. They believed God gave the revelation, but they would act according to their oaths as jurors, and convict on evidence that the law had been broken.

The secresy attending the celebration of plural marriages is treated of in the article and an attempt is made to form an estimate of the number of polygamous marriages that have been entered into, but this is a failure. The writer has to say, "there is strong reason to believe;" "unofficial information furnishes good reason;" "the proposition of polygamous marriages is *probably* now considerably greater than it was fifteen years since," etc. So astute a reasoner and able a statesman as Senator Edmunds, ought to perceive the weakness of such a foundation on which to build an argument, and also that if these marriages are performed in such secresy, it is unjust to make insinuations, as he does, about "the falsehood of witnesses," who are not called upon to testify to their belief about the marriage of a defendant, but to "what they know of their own knowledge."

The writer considers that the extirpation of polygamy may be accomplished "by lawful and by just means," showing that he does not endorse the murderous sentiment of the disciples of force. These he suggests as follows:

"The encouragement of non-Mormon immigration, and the discouragement of the appropriation—which has been extensively practiced—of large tracts of the most valuable lands to or for the benefit of the Mormon Church, would have a valuable effect in the right direction. Another effectual disposition of the subject might be made in the annexation of different parts of the Territory to the contiguous States and Territories, by which the concentrated strength of the voting power of the hierarchy would be broken, and political Mormonism would find itself in a minority in the making and administration of local laws. If no measures of legislation are to be resorted to, and if the administration of existing laws continues to be feeble, lax, and intermittent, Mormonism in Utah, with its cardinal doctrine polygamy, may no doubt count on a pretty long career."

Here again the Senator falls into error as to the facts. Tracts of land, either valuable or otherwise, are not and have not been appropriated to the "Mormon" Church, therefore legislation on that matter would be fighting against a shadow and that but imaginary. We have nothing to say about the other suggestions of the Senator, except that they would have no more to do with the breaking up of "Mormonism" than the scattering of wheat seed in different fields would have to prevent the growth of that prolific and necessary grain. With the final conclusion of the gentleman we do not disagree. And we are strongly of the opinion that, legislation or no legislation, "Mormonism" is likely to have as well as "count on a pretty long career," so long, indeed, that the earth itself shall pass away before it perishes.

THE DRIFT OF THE CASE.

THE Philadelphia *Times*, a paper with strong anti-"Mormon" proclivities, has the following outspoken article on the Cannon-Campbell case. It is one more among the many evidences that the true nature of the fraud by which the certificate was granted to the man whom the people did not want, is understood by the press and will come to the full comprehension of Congress:

"If the Republicans of the House don't pause in their present drift in the Cannon-Campbell election case from Utah, they will make the disreputable record of the Democrats in the Patterson-Belford Colorado case comparatively respectable.

The action of the Democratic House admitting Patterson from Colorado when the People had voted for Belford by a large majority, and without the imputation of fraud either on the vote or the returns, was justly denounced by the republicans as a monument of Democratic infamy. It was admitted that Patterson wasn't elected, but the Democrats seized on a flimsy technicality to give the seat to the Democratic claimant.

"In the Cannon-Campbell case it is undisputed that Cannon received quadruple the legal votes cast for Campbell, but a legal technicality was seized upon by the Utah Governor to return the defeated candidate. It is possible that Mr. Cannon is not eligible, but that is a question to be tried by competent authority, and not to be assumed by a ministerial officer.

"But whether Cannon is or is not eligible, there can be no doubt of the fact that Campbell was not elected, and that he has no legal or equitable claim whatever to the place. Anywhere outside of Congress the issue would be considered with some degree of fairness, especially as a Delegate has no vote, and little to do with legislation; but in Congress, the petty party leaders of to-day bristle up for partisan battle over every question that arises, and when one side starts out right, the other side must start out wrong.

The one safe rule to follow in election cases, is to resolve all doubts in favor of the man elected by the people. That would seat Mr. Cannon, and then any inquiry into his eligibility could be made decently and in order; but under no circumstances should a man be admitted who was rejected at home by three-fourths of the legal voters."

THE QUESTION TO BE DECIDED.

THE Washington correspondent of the New York *Herald* has the following to say on the main issue in the Utah Delegate case:

"The weak point in Mr. Campbell's case is that, though he holds the Governor's certificate, that certificate does not certify that he was 'duly elected.' It cannot do so, because, in fact, Cannon received a very great majority of the votes. Governor Murray, by his certificate, assumes to decide that Cannon is incapable of being elected, on the ground that he is not a citizen; but that is a question on which the House must decide, it being under the constitution the judge of the qualifications of its members. The Governor's certificate is therefore of no value, going outside of his powers, and Cannon, if any one, has the prima facie title to the seat. This is the opinion of some of the ablest lawyers in the House."

The conclusion here reached is inevitable. Governor Murray, in his anxiety to give the seat in Congress to his friend Campbell, thereby attempting to cheat nearly 19,000 of the people of Utah out of their votes, had to evade the law. The statute requires that the Governor shall declare the persen having the greatest number of votes "*duly elected.*" He would not comply with the law, and in trying to evade it he was under the necessity of using such language in the bogus certificate as would not answer the purpose of the law. Thus the Campbell document lacks the essential features of a valid certificate. In the first place it does not certify that Campbell was "duly elected." In the second place, it certifies that he is a "citizen of the United States," which is not required by law. In the third place, it certifies that he is "twenty-one years of age," another superfluous assertion. In the fourth place, these two informal and unnecessary statements are evidence, taken with the facts set forth in the Governor's "Decision," that some other person who was "duly elected" had been set aside, by an exercise of unwarrantable authority and the assumption of powers not vested in any Governor of a Territory or a State, or in any other executive officer in the Union.

The question will naturally arise in the minds of those who have to decide upon the contest, why did not the Governor comply with the law, give the certificate to "the person having the greatest number of votes," and leave the House of Representatives to reject Mr. Cannon if, as is claimed, it can be shown that he is an alien and cannot be naturalized? The answer is, the conspirators who laid and joined in this plot knew very well that they had no case in equity. They knew that their whole scheme was a fraud. They did not want fair investigation. They expected to win by lies and strained technicalities. Their plans were in the dark and of the elements of darkness. By the connivance of a weak and partizan official, they hoped to foist their tool into the seat, and trusted to the clamor on the "Mormon" question to postpone inquiry into the merits of the case. Meanwhile they would draw the salary in payment for their damnable iniquity. Hence all these irregular proceedings.

The Butte *Miner* of a recent date has an article on the "Inviolability of Elections," from which we make a few extracts, as they relate directly to the present dispute:

"There is perhaps no question, upon which there have been fuller adjudications, or a better established line of precedents to give efficacy to the expression of the popular will through the ballot, than the one relating to elections. The underlying principle governing all these decisions is that the regularly ascertained and expressed popular will must stand, without any peradventure of its being thwarted by fraud or the manipulations or designing men; otherwise elections would be farces, and a few knaves would be able to determine official succession in a manner to render popular government a misnomer. The courts have been so sensitive on these points as to hold that no irregularities vitiate an election except such as show collusion between the voters and election and canvassing boards. The voter that presents his ballot does it under the legal presumption that the board is duly qualified, and that the polls have been regularly opened, and he is not to be disfranchised through negligence or criminality. There are but few election boards so well informed as to comply strictly with the full requirements of an election statute. The whole question, then, in election matters relates to whether the voters cast their ballots in good faith, what was their intention, and whether the election returns correctly represent the expression of the popular will."

Bringing the subject to bear on the case now pending, the *Miner* says:

"There is probably no better settled principle of law than that the ineligibility of a prevailing candidate does not operate to the advantage of the minority candidate. A recent decision on this point was in the case of Cronin, who claimed election in Oregon on account of the ineligibility of a prevailing candidate, who was also a federal officer. The people of Oregon had expressed a preference for Hayes electors, and their evident intention was to have elected them. The intentions of the people of Utah was to elect Cannon. The allegations that he is an unnaturalized Englishman will not operate to give the seat to Campbell. The death of a prevailing candidate prior to the time for qualifying does not cause the office to revert to the minority opponent. As long as we retain our form of popular government, and until there is a change in the population of Utah, it will be impossible to shut out a Mormon Delegate from that Territory."

The *Miner* says:

"As the matter now stands, Cannon is the unquestioned choice of the Utah people for Delegate. As the law stands, the people of that Territory have an undoubted right to express that choice through the forms of an election. If Cannon is an unnaturalized Englishman he should not be allowed to take his seat. And however much the general public may wish to see the seat given to his opponent, it cannot be without violence to established precedents and principles made sacred by long periods of usage for the safety and welfare of the people."

The *Miner* indulges in some strong allusions to the marriage institutions of the "Mormons," but rightly argues that while all Congressmen are opposed to these, "they are bound to have regard for the establishment of precedents that will affect the whole American people for all time."

The national question involved in this controversy, as we have argued from the beginning, is, whether one official shall be permitted to elect whom he will to office, by refusing the certificate to a regularly elected candidate and giving it to his own, thus "strangling the popular voice" and assuming power greater than that of any European monarch. We do not think that any Congressman, Republican or Democrat, would dare to answer in the affirmative.

[From Saturday's Daily Dec. 24.]

"THE COMPLIMENTS OF THE SEASON."

THE great holiday of Christendom, the day on which is celebrated the advent into this world of the grandest being who ever trod the earth in the garb of humanity, will have come and gone before another issue of this paper. We therefore take the present opportunity of wishing our readers and friends "the compliments of the season."

Christmas in Utah is observed as a time of rejoicing and merry-making, of re-unions and gifts, of thanksgiving and praise, of forgiveness and benevolence, as much as in any part of the civilized world. The "Mormons" are pre-eminently a social people, a community of families. The home influence is more extensive among them in proportion to ther numbers than anywhere else. They are more closely connected by family ties than any other people, relationship by marriage linking them together almost completely into one great and ever growing family. Thus everybody among them has relatives, and none need lack a place in some home circle when the Christmas feast is smoking on the board, and innocent pleasure makes the house reverberate with gladness.

This has been a prosperous year,