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A SHAMEFUL AND INVALID LAW.

THE rule or ruin clique in Idaho are in the memorial business as well as their fellow conspirators in Utah. They are moving upon Congress to pass the Woodburn bill, which embodies the same false principles as are contained in the Idaho test oath Act. This argues their lack of confidence in their own enactment. It is so glaringly unjust, unconstitutional and undemocratic that they are afraid it will not stand the test of judicial inquiry, and therefore imagine that if Congress can be persuaded to pass the Woodburn bill they will obtain a new lease of political life, which may last at least for a season, or until the validity of the congressional law can be determined before a competent court. This would give them at least the advantage of a little time.

It may be argued that the Idaho enactment has been already determined to be valid. But that is a mistake. It has only been tested on a side issue, and that before a District Court. It has yet to be passed upon by a higher tribunal. And, in fact, the whole question has not yet been squarely put before a competent court. The ruling of Judge Hays, delivered when he first came to the Territory, and involving something incidental to the statute, did not comprehend the whole question, which may yet be presented in a more comprehensive manner that shall take in all sides and go down to the foundation of the shaky concern. When the instability of the measure, and the infamous purpose for which it was constructed are made plain, we do not believe it will stand in any court for a day.

The object of the law is evident upon its face. It is to disfranchise a large body of citizens in order to deprive a certain political party of their votes. The intent itself was criminal. It was to abridge, and in fact destroy "the privileges and immunities of citizens." It was to effect a party purpose. It was to take away property—for the elective franchise is property when acquired—without due process of law. It was revolutionary in purpose and effect. Not only were the act and intent nefarious, but the manner of its execution was unlawful. Attempted in the form of law, it was a violation of the supreme law—the Constitution of the United States—for it was legislation against an establishment of religion, it was making faith criminal and prescribing a religious test as a qualification for office. There is no need to quote the Constitution on all these points. The provisions therein that relate to them are well known.

The Idaho act goes beyond the law of Congress which disfranchises practical bigamists and polygamists. The latter relates only to acts. The former goes into the domain of belief. The Edmunds Act says in effect that those who violate its provisions shall not vote or hold office. But the Idaho statute says that they who belong to the same Church as the polygamists and bigamists, but who do not violate the law themselves, shall be also deprived of the ballot and of the right to hold office. And it enforces this by a test oath in hostility to Article VI of the Constitution, which provides that "no religious test shall ever be required as a qualification to any office or public trust."

The Idaho act disfranchises any person "who is a member of any order, organization or association which teaches, advises, counsels or encourages members or devotees or any other persons to commit the crime of bigamy, polygamy or any other crime defined by law, either as a rite or ceremony of such order, organization or association or otherwise." Thus a citizen who commits no crime himself is to be treated as a criminal, because he belongs to a Church which allows other persons to enter into a rite or ceremony that may be construed as in violation of law. Suppose celibacy was made a crime, as polygamy is now. Then every member of the Catholic Church would be adjudged a criminal who belonged to the Church which enjoined celibacy on its priests. Crime consists of some overt act. The law can not touch beliefs. Neither can it punish membership in any society or association of any kind whatever, no matter what tenets are taught, so long as the individual does not break the law.

This is clearly set forth in the Opinion of the Supreme Court of the United States in the bigamy case of George Reynolds. It is well known that the court ruled adversely in his case, and decided that the anti-bigamy act of 1862 was constitutional. But touching on the question now in consideration, the Court referred to the history of the adoption of the amendment to the Constitution protecting religious liberty. And showing that Jefferson and Madison had contended for this in Virginia, the Court quoted the sayings of those illustrous men, and from the preamble to the bill introduced by Mr. Jefferson, which passed the Virginia Legislature, in which religious freedom is defined, and after a recital "that to suffer the civil magistrate to intrude his powers into the field of opinion, and to restrain the profession or propagation of principles on supposition of their ill tendency is a dangerous fallacy which at once destroys all religious liberty," it is declared "that it is time enough for the rightful purposes of civil government for its officers to interfere when principles break out into overt acts against peace and good order." The Court added: "In these two sentences is found the true distinction between what properly belongs to the Church and what to the State."

Here is a plain enunciation of constitutional law. The Church may teach what it pleases. No matter what ill tendencies its teachings may be supposed to have, they cannot be interfered with by the civil power. Thus the "Mormon" Church, so-called, may teach that its members may practice plural marriage. The members may believe in those teachings. Some of them may carry their belief into action. But the Church cannot be debarred from teaching its creed, neither can the law touch those of its members who do not practice it. It can only reach out and handle the individuals who commit "overt acts against peace and good order."

We will not stop here to dispute as to whether men who marry more wives than one do anything against the peace and good order of society, though that is open to extended argument. But if it is admitted that practical bigamists and polygamists, even if they believe in the religious rightfulness of that marriage system are amenable to the law, it must also be admitted that those who do no practice but only believe the principle cannot be lawfully brought within the claims of the law. The Idaho Act is most emphatically in opposition to the ruling of the United States Supreme Court upon this very question.

Still further quoting from Mr. Jefferson these words: "Believing with you that religion is a matter which lies solely between a man and his God, that he owes account to none other for his faith or his worship, that the legislative powers of the Government reach actions only and not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should 'make no law respecting an establishment of religion or prohibiting the free exercise thereof,'" the Supreme Court adds: "Coming as this does from an acknowledged leader of the advocates of the measure, it may be accepted almost as an authoritative declaration of the scope and effect of the amendment thus secured. Congress was deprived of all legislative power over mere opinion, but was left free to reach actions which were in violation of social duties or subversive of good order."

The Constitution of the State of New York provides that: "The free exercise and enjoyment of religious profession and worship without discrimination or preference, shall forever hereafter be allowed within this State to all mankind."

The New Hampshire Bill of Rights says: "No subject shall be hurt, molested or restrained in his person, liberty or estate for worshipping God, in the manner and season most agreeable to the dictates of his own conscience or for his religious profession, sentiments or persuasion, provided he doth not disturb the public peace, or disturb others in their religious worship."

The Pennsylvania Declaration of Rights declares: "Nor can any man who acknowledges the being of a God, be justly deprived of any civil right as a citizen on account of his religious sentiments or peculiar mode of religious worship."

All this is in accord with the Supreme law of the land and with the rulings of the Court of last resort. Anything contrary to it is an encroachment of the State upon the Church. It is an attempt to destroy religious freedom. The Idaho test oath law is, beyond question, destructive of religious liberty, and would not be tolerated for a moment against any other people than the "Mormons." The question to be decided when the test shall come is this: Can courts in this free republic afford to rule, in face of a plain Constitutional provision and the decision of the highest tribunal in the land, against the members of a religious body on account of their opinions or membership in an unpopular Church, simply to gratify bigotry, aid in the bolstering up of a party, and help to prevent from voting, as good a body of citizens as can be found in the land, because they will not vote to suit their would-be oppressors?

We do not believe that such an infamous and anti-American measure as the Idaho test-oath law will stand the test of a full judicial investigation nor that Congress will enact anything conceived in the same sin, born in the same iniquity, and bearing the same likeness of anti-republicanism, and the brand of ineffable shame upon its hideous face.

A PRECIOUS MEMORIAL.

THE conspirators for the political and financial robbery of Utah have circulated the following memorial for signatures:

To the Senate and House of Representatives of the United States:

Your petitioners humbly represent:

1st—We are "Gentile" citizens of Utah, both Democrats and Republicans.

2d—We practice the professions; we work the mines: we carry on mercantile and commercial business; we represent large capital and every kind of industry.

3d—We are slaves (politically) to Mormon rule, which is theocratic despotism.

4th—The "Mormon" Church, *as such*, controls all political affairs, teaches its communicants to violate the laws, and shields them in criminal practices.

5th—Our Territory is rich in material resources and a most promising one for a flourishing State.

6th—Now, law is disregarded; civilization is turned back, and republican institutions are ignored.

With due submission we say:

Give us a hearing and we will prove these things.

We demand consideration of our wrongs and redress of our grievances.

For full statement of our wrongs and suggestion of remedies, we refer to Hon. R. N. Baskin, our trusted representative.

NAMES. OCCUPATIONS.

A great many miners who only know one side of the question, and the barroom bummers, street loafers, gamblers, blacklegs and roughs will sign the document, and some of the merchants, lawyers and professional men who are so linked up with the projectors of the movement, that they dare not withold their names for fear of the blackguarding and abuse to which they would be subjected by the ring and its organ. Added to these will be the signatures of those who expect to profit by the disfranchisement of the majority of the citizens, in the shape of local offices and their emoluments.

What is the purport of the petition? Why, that the signers are without influence in local politics and want to be supreme. If they are "slaves politically," what is the reason? Are they deprived of the ballot? No, they have votes, if they are citizens, just as much as any others. Is there a single political right or privilege that, as "Gentile citizens of Utah," they do not hold equally with "Mormon" citizens? Not one. then Why are they slaves? As a matter of fact they are slaves only to the ring, which, by its organ, lashes them into line and makes them vote as dictated, or berates them as traitors and "Jack-Mormons" if they do not vote to order, for if they dare to express a sentiment in opposition to their political masters—the conspirators who have drawn up the memorial for their signature. If they are without influence in local politics, what is the reason? There is none except their numerical impotence. They have not votes enough, that is all.

Now, just look at the impudence of their request! It is this and this alone: "We are a small minority, and therefore our votes are lost. Pray, Congress, take away the voting power from the large majority, that we may have our way in the control of local affairs. We are "Gentiles" and only a few. The "Mormons will not vote for any of us and they are many. As the majority will not vote as the minority wish, we want the majority disfranchised that the minority may rule." Is not that a pretty proposition to make to the law-makers of a republic?

R. N. Baskin, who never was an "Hon.," though he once tried to acquire the title by falsehood and fraud and was ignominously defeated, is the trusted representative of this little thimbleful of slavish elements, and the foregoing is the gist of his appeal to the House Committee on the Judiciary. The wrongs for which he is deputed to demand redress are summed up in the inability of the memorialists, because of their paucity of numbers, to overcome their opponents at the polls. They have no other

They are not abridged in the freedom of speech or of the press. They lie about the majority to their hearts content. They hold their little caucuses and flat conventions, in which no one figures actively but the ring that runs the movement, they fuse all their naturally discordant elements together to present as strong a force as possible at elections, and they amount to a handful of straws against an avalanche. It is quite provoking no doubt. But whoever heard, in the history of politics, of an exasperated minority claiming that the majority ought to be disfranchised for not knuckling down to the schemes of the defeated few? It is sublimely preposterous, and such shameless effrontery as the world has never seen before.

The names of the signers will be a matter of curiosity, and such as live and fatten on the business support of the people whom they seek to deprive of every political right, ought to be known to their intended victims. The representatives of the people at the seat of government should make a note of this for future reference. The list ought to be preserved as a precious memorial.

SCARCELY COMPETENT.

THAT ancient but lively female who is known as Kate Field, has been figuring lately around the national capital. She is so furious over the downfall of Eli the gallant, who was just to her style, that she has blood in her eye and goes for everything "Mormon" with all her characteristic vehemence and indifference to veracity. Her anti-"Mormon" lecture—or rather dish of scandal, made up of scraps of gossip and rag-ends of worn out fabrications, seasoned with a dash or two of semi-pungent salacity, is played out in Washington. So she is button-holing members of Congress and interviewing press reporters, that she may get in a lick at the "Mormons" where she can. But she is pretty well known in those regions, and so her talk is received with several degrees of allowance. The following, which appears in the Washington *Critic*, shows in what light her efforts are viewed:

"Editor *Critic*: I am not a Mormon nor a believer in polygamy, but I have a strong leaning towards the eternal fitness of things, in public agitations as well as in clothes. I was one of the most earnest sympathizers in the recent movement which you so ably advocated. I refer to the effort to have Colonel Kate Field appointed Governor of Utah. But I have, in view of that eternal fitness of which I am an admirer, changed my mind, and Colonel Kate Field has, out of her own mouth, convinced me that she would not be a good Governor of Utah. There are several ladies from Salt Lake City now in Washington who are attempting to prevent a great injustice to the women who have taken joint stock in a single man as a husband, and from their memorial which has been presented to the Senate, I can see how they and their offspring may be greatly wronged. But that is not my point. Miss Kate Field says of these ladies that they are bright, good mothers, of lively disposition, and in every way estimable. They preside over their homes with womanly grace and tact, she says, but they belong to the Mormon Church, and there she must draw the line. Now, I submit that Colonel Field would not make a good governor for them, and also that she has taken upon herself a mission without the fundamental experience that all missionaries to be practical should have. No, Colonel Field does not fit the situation.

What does she know about babies and paregoric? Does she know when teething time is liable to set in and what must be done when it does arrive? Is she *au fait* in feeding bottles and flannels and things? Does she know what is best to be done when the young one bawls aloud in the still watches of the night and refuses to be comforted? I wot not. And does Colonel Field know how to make the seductive flapjack or how to do corn beef and cabbage to that turn where they will do the most good? Would she think of having the old man's slippers warmed and his dressing-gown ready when he came home? Would she know exactly how to muss his hair so as to be the most pleasant to him? We wot not again. She has not had the experience. What does she know about that increasing and multiplying which is a divine injunction? She has never done anything for the census. As between the two I think those Mormon ladies know what is better for them than does Colonel Field. They have been there and know their ground. They have certainly increased and multiplied. They are the very best friends that the census has. Miss Field has lived to herself alone as far as man is concerned. When Miss Field tackles the question of matrimony she is getting beyond her depth. Under all the circumstances I submit, is Miss Field more qualified to speak of these Mormon ladies than those ladies themselves? Once more I wot not.

PATERFAMILIAS.

THE CONSPIRACY FOR TWO OFFICES.

IT is not surprising that Judge Zane has decided that the Territorial Auditor and Treasurer are illegally holding the offices in which they have served the public interest so faithfully. When District Attorney Dickson started in to accomplish through the courts what Governor Murray failed to effect by proclamation, it was expected that Judge Zane would once more dance to his music.

The law of 1852 and the law of 1878, so far as they relate to the election of the Auditor and Treasurer, are declared by the Court invalid. The former law created the offices and also provided for the manner of filling them, namely, by election by the joint vote of the two Houses of the Legislative Assembly. The court rules that the portion of the law which created the offices is valid, but that part which provides for the manner of filling them is invalid, being in conflict with section seven of the Organic Act. Also that the law of 1878, which provides that those offices should be filled by election by the people, is invalid for the same reason. This is done with the view of ousting the present incumbents from the offices, to make way for the Governor's bogus appointees.

It remains to be seen whether the scheme which was concocted before the Legislature adjourned, will be carried to its full purpose. It does not follow, even if the present incumbents are not officers *de jure*, that the Governor's appointees are entitled to their places. He tried to force them upon the Territory without authority in law, and the effort cost him his official head. Now the work of thrusting them upon an unwilling people is being undertaken through the courts. We will wait and see the issue.

But whatever decisions may be arrived at, the people will expect those whom they have elected by their votes to the important positions which they occupy, to avail themselves of every legal power within their reach, to contest every ruling which would deprive them of their offices and defeat the will of the people. Let the position be defended and every point be legally fought, to the very last notch and to the last court to which the case can be appealed.

The foregoing was crowded out of Wednesday's EVENING NEWS. It will be seen from the rulings of the Court, to be found in another part of this paper, that the Governor's appointees are recognized by the Court. An appeal will be taken to the Supreme Court of the Territory, but the conclusion is foregone. Judge Zane sits on the appeal from his own decision and only needs the acquiescence of one more Judge to settle the case in the Supreme Court.

It has been stated emphatically that there can be no appeal to the Supreme Court of the United States. But it will not do to be too sure of that. Lawyers and newspapers have been mistaken on similar points before, and they may be again. The question is of sufficient importance to this whole Territory to be fully tested, and a similar decision in reference to the offices of Attorney General and Territorial Marshal from the Utah Courts was reversed in the court of last resort. There are two sides to this question and the side of the election of Auditor and Treasurer by popular vote is the side of justice, right and, that principle of giving to the people every power that is consistent with republican principles without destroying the powers of the General Government, which the Supreme Court of the United States has declared to be the policy of this nation.

There is a point in the controversy that should be duly considered. It is airily set aside by Judge Zane, but it is pertinent to the issue. If the provision which makes the offices of Auditor and Treasurer elective is set aside as invalid, then the offices are nonexistent. There is no separate section or clause in the law of 1852 creating the offices and another providing how they shall be filled. The law thus commences after the enacting clause: "That a Treasurer and Auditor of Public Accounts shall be elected by the joint vote of both Houses of the Legislative Assembly," etc. Strike that out and there is nothing left creative of the offices. They do not exist. They could only come into being in the act of the election of the officers. Under the ruling of Judge Zane, those offices have never been legally filled, there has always been a vacancy, but the wording of the law shows to the contrary.

The closing section of the law too relates to the filling of vacancies occurring in relation to elective offices, and the intent of the Legislature, to which the Judge refers, was clearly to have the offices filled by election as provided, and also to have vacancies occurring in offices thus filled by election supplied by executive appointment. The first section and the last go together and stand or fall together. If the Organic Act is to govern, then the Governor can only make appointments by and with the advice and consent of the Legislative Council, and in case of the death or resignation of officers so appointed. These provisions do not meet the case of the appointments by proclamation, for the Council did not confirm, and the incumbents are not dead, neither have they resigned.

The controversy is not yet ended, and a full and thorough test ought to be had of the question. For the suit prosecuted by the District Attorney in the name of "The People," is not only without the wish and consent of the people, but against their interests and welfare and their votes at the polls; it is opposed to public policy, and is in the interests of a knot of conspirators who are hostile to the citizens and want to grasp the money and control the lives and fortunes of the people of Utah.

A "LIBERAL" IDEA OF LIBERTY.

THE manner in which people are to be whipped into line and compelled to sign the conspirators' memorial to Congress, is indicated in the *Tribune* of this morning. The names of three young men employed at the Postoffice, who declined to sign the petition for the disfranchisement of the majority of the people of Utah, are given to the public with a plain intimation to the Postmaster that he is expected to discharge them for the crime of their objection. We shall see whether that gentleman is an "offensive partizan" and a cringing slave to the lash and commands of the *Tribune* clique.

The trio of independents are each treated to a bucketful of *Tribune* slop, and the idea is advanced that all re-