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TRUTH AND LIBERTY.

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NOTICE.

Territory of Utah, County of Salt Lake, in the Probate Court of Said County.

In the matter of the Estate of FERAMORZ LITTLE YOUNG, Deceased.

PURSUANT TO AN ORDER OF SAID Court in said matter, notice is hereby given that Monday, the 8th day of May, 1882, at the hour of 10 o'clock a.m., at the County Court House of Salt Lake County, Utah Territory, is the time and place set for the hearing of the petition of Lucy D. Young, for the distribution of the estate and property of the late Feramorz Little Young.

All persons having any interest in said property, or who are heirs or claim to be heirs of said deceased, are hereby notified to be and appear at said Court House at the time above mentioned, to hear said petition and to present the same if so disposed.

D. BUCKHOLTZ,
Clerk Probate Court, Salt Lake Co., Utah

NOTICE.

In the Probate Court of Cache County, Territory of Utah.

IN THE MATTER OF THE ESTATE OF JOHN CONRAD, DECEASED.

Order to show cause why Order of Sale of real estate should not be made.

MARGARET A. CONRAD, THE ADMINISTRATRIX of the estate of John Conrad, deceased, having filed her petition herein praying for an order of sale of all of the real estate of said deceased, for the purposes therein set forth.

It is therefore ordered by the said Court that all persons interested in the estate of said deceased, appear before the said Court on Friday, the 5th day of May, 1882, at 11 o'clock in the forenoon of said day, at the Court Room of said Court at the Court House, in the County of Cache, to show cause why the said petition should not be granted, and the said administratrix authorized to sell the real estate of the said deceased as shall be necessary.

And that a copy of this order be published at least ten successive days in the Deseret News, a newspaper printed and published in Salt Lake County.

BY THE COURT.
ELIJAH M. HAMMOND,
Probate Judge.

Dated April 22d, 1882.

TERRITORY OF UTAH, County of Cache. } ss.

I certify the foregoing to be a true, full and correct copy of the original order, on file in my office.

Witness my hand and the seal of the Probate Court the said County, this 22d day of April, A. D. 1882.

JAS. T. HAMMOND,
Clerk of said Court.

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UTAH CONTESTED ELECTION CASE.

(*Continued.*)

The position assumed in the majority report, so far as I am able to gather it, is, to state it briefly, that Congress has the right under the Constitution to pass a law—both Houses and the Executive, of course, participating—providing that a Territory shall have a right to elect a Delegate; that when elected he shall be entitled to a seat in the House of Representatives, but that it is incompetent for them to so provide by law as to inform the people of the Territory what qualifications their Delegate must possess. Their right to elect is fixed by law by which the seat of their Delegate when elected is assured to him, yet after the people exercising this lawful right and in strict compliance with the statute have gone to the trouble and expense of electing a man possessing all the qualifications which the Constitution prescribes for a member of the House of Representatives, yet, when he arrives in Washington, presents his credentials, and asks to be allowed to take his seat, he is told, "We know the law gives your Territory the right to be represented by a Delegate; we know you were duly and legally elected to that position; we admit that you possess all the qualifications that the Constitution requires a member of the lower House of Congress to possess, yet you do not suit our taste, or caprice, on the standard which we have erected outside the law, and therefore we have concluded not to admit you. We claim the right to arbitrarily exclude you. We have, therefore, Mr. Delegate, proposed for the adoption of this House the following resolutions:

"Resolved, that George Q. Cannon is not entitled to a seat in this Congress as a Delegate from the Territory of Utah.

"Resolved, that the seat of Delegate from the Territory of Utah be, and the same hereby is, declared to be vacant.

"Go tell your people that the Forty-seventh Congress is capable of taking that position, and

> "If any fool should ask thee,
> Why we wear the crown;
> Tell him we wear the crown
> Because—it fits our head."

The people of the Territory thus denied the right of representation by an open and arbitrary disregard of the law, may at the next election select a man that comes up to the moral standard fixed by this Congress, but the Congressional liver of the next House of Representatives may be in a torpid condition, and the new Delegate may be told that he takes his whisky straight, whereas he ought to have sugar in it; that he dosn't wear his hair or his coat cut in the proper fashion; and that taken altogether a majority of the members of the House don't like his looks at all, and don't fancy the people that elected him, anyway, and therefore they have concluded to close the doors of the House to him and declare his seat vacant. A right to representation, however loudly it may be claimed by law, is not worth much to a Delegate or his people when it can be denied by the body to which he is sent at the mere whim or caprice of its members.

Mr. Speaker, why this effort to disregard all precedent and to violate all law to keep out of his seat this Delegate from Utah who has no right to vote? It seems that members wish to emphasize their abhorrence of polygamy by denying Cannon his seat. It strikes me that it would be much more creditable for members of Congress to emphasize their devotion to justice and their respect for law by refusing to trample either under foot, even though it might be done in obedience to a popular outcry, however well founded, against an odious practice. The right never demands of its votaries to call to their aid injustice and wrong to suppress an evil practice or an obnoxious doctrine. It may be a matter of small concern whether Mr. Cannon is allowed to take his seat in the Forty seventh Congress; but it is not a matter of small concern for this Congress to repudiate all its precedents, violate its own laws, and perpetrate an act of injustice even against a Mormon. Polygamy cannot be crushed out in this way. Men can never be convinced of error by making them feel that they are the victims of injustice. A respect for the law of the land can never be promoted among any portion of our population by a disregard of the law on the part of law-makers themselves. This proposition to deny Cannon his seat had its beginning in the arbitrary act of the governor of Utah, who, in plain violation of the law, denied him his certificate of election. It is now proposed to crown that illegal act by a vote of this House declaring that he is not entitled to his seat, when every well informed member of this House knows he is so entitled, unless the last four Congresses stultified themselves in admitting him.

Mr. Speaker, I cannot vote for the resolution proposed by a majority of the committee on elections. I cannot assent to their reasoning, accept their legal conclusions, or, surrendering my judgment to popular clamor, consent to establish a precedent so utterly untenable in itself and so dangerous in its tendencies. I cannot agree by my vote to clothe this house with arbitrary power to set the law at defiance or to trample on even the rights of a Mormon, however distasteful his doctrine on the subject of the domestic relations may be to me. I cannot avoid feeling that by such an act I had struck a much severer blow to the interests of my manhood than I had to the pernicious doctrines of the Mormons. Several members of the committee on elections, of the majority side have favored the House with written reports, undertaking to set forth their reasons for denying Cannon his seat. These reports seem to be characterized more by a feeling of passion and indignation than by that calm judicial tone which should pervade such opinions given to this House for their guidance. My colleague, [Mr. Pendleton] in the conclusion of the report which he submits, uses this extraordinary language:

> My vote and voice, then, is for a resolution denying to George Q. Cannon a seat as Delegate from Utah, because it is in gross violation of the dignity of the House, and would be an insult to the sovereignty of the nation to admit a self-admitted criminal violator of the laws of Congress to a seat in the body whereof we are members.

His reasons seem to be that his wishes to preserve "the dignity of the House" and the sovereignty of the nation. It is sad to reflect upon how the dignity of the House of the Forty-third, Forty-fourth, Forty-fifth, and Forty-sixth Congresses was suffered to be impaired by the presence of this very man when that dignity was in the keeping of majorities of both Democratic and Republican members. What particular injury was inflicted on "the sovereignty of the nation" by Cannon during the time he held his seat in those bodies I have never seen any account of; but Cannon is stigmatized as a "self-admitted criminal violator of the laws of Congress," I fail to find in the record anything to justify this charge. I find a statement from Cannon to the effect that he belongs to the Mormon Church; that in accordance with the tenets of that church he had taken plural wives, who live with him, and have done so for many years, and have borne him children. Now, polygamy was not made a crime, nor was there any law in Utah prohibiting it until the act of 1862 was passed, and there is no evidence whatever that Cannon has married since the passage of that act. So far, then, as this record discloses, and I know nothing of Cannon's marital relations outside of the record, he is not a self-admitted violator of any law of Congress.

Mr. Speaker, I once heard of an old judge who made it a rule never to give a reason for any judgment he rendered. His theory was that if he should happen to decide a case correctly, he might give a wrong reason for it and thus impair the force of his opinion. I commend the example of the prudent old judge to the author of this report.

Another gentleman of the majority (Mr. Miller) also indulges in a separate report. The utter contempt of precedents, opinions, and decisions displayed by him compels admiration of his courage, whatever impression may be left on the mind as to his judgment. He seems to move under an intensity of excitement and a fixedness of purpose that bears down all opposition and defies all legal restraints. He evidently started on the war-path to take the scalp of polygamy and to return to an admiring constituency with this trophy dangling from his wampum belt. I quote a few lines from his report as illustrative of his animated animus:

> * * * Whenever this hydra-headed monster of injustice, iniquity, and anti-republicanism shall threaten the peace of this nation it is quite time that Congress should assert its prerogatives; should trample down ancient precedents, if they stand in the way; should disregard the opinions of any man, however reputable, if they are quoted over so persuasively, and call a halt on the enemy of free government. The exercise of such power is not the exercise of "brute force," as some have denominated the majority action of this committee; it is the exercise of that right which is as inherent in governments as in citizens, the right of self-defense, of self-preservation, the right and authority and duty of government to protect their existence from all enemies, domestic as well as foreign. In doing this you may run counter of a precedent or decision or opinion that once was highly esteemed; so much the worse for the precedent.

This red-hot sample of judicial logic ought certainly to commend this report to every member of the House who seeks by its perusal to reach the merits of this case. I quote these extracts from these reports as illustrative of the temper and spirit which seem to have inspired the investigation that conducted the majority to the remarkable conclusion at which they arrived.

The very ground on which the majority claim the right to exclude Cannon, to wit, that it is a matter resting solely in the discretion of the House, and that the Senate and the Executive have no right to assist in passing any law touching the qualifications of a Delegate, was abandoned by them at the present session when they voted for a Senate bill which provided that no polygamist should have a seat in this body as a Delegate from a Territory. Of course, according to the doctrine laid down in the majority report, that section of the anti-polygamy bill passed at the present session, so far as it seeks to deal with the qualifications of a delegate, is null and void, and not binding on the House at all. The authors of the majority report thus repudiate by their votes on that bill the very ground assumed in the report before it comes up for action in the House. They ought not to expect others to accept their position when they themselves thus repudiate at the first opportunity.

Mr. Speaker, anxious as I am to see the cancerous spot of polygamy eradicated from the body politic I felt constrained to vote against the bill passed at the present session. I did not believe that the bill would have the effect to destroy polygamy in Utah, and it contained provisions which I could not endorse. In some of its features it is more worthy of the barbarous and proscriptive spirit which made the legislation of three or four centuries ago than of the enlightened judgment and toleration of the present in the land of written constitutions and human rights. If it is determined, regardless of all considerations arising from obedience to law, respect for constitutions and human rights, to crush out polygamy, let the army be sent to Utah, and the mailed hand of military power exterminate it. But let us not pretend to give the Mormons the right of trial by jury, and then pack the jury on him to insure his conviction.

The Constitution gives to every man, whether he lives in Utah or Massachusetts, whether he is a Mormon or a Methodist, the right to a speedy trial by an impartial jury. Now, when it is provided, as it virtually is in the bill passed at this session, that none but anti-Mormons shall compose the jury for the trial of a Mormon for the crime of polygamy the accused has not the benefit of an impartial jury to try him. But it is said if you allow Mormons to sit on a jury you can never convict one of polygamy. That may be true. But does it follow that it is therefore legitimate to substitute the packed jury of expediency for the impartial jury of the Constitution? The provisions of the law in question strike the deadliest blow at the purity and impartiality of jury trial to be found anywhere in the legislative history of this country except in the reconstruction policy adopted toward the South after the late civil war, and that policy was admitted by its ablest advocates to be outside the Constitution.

This law, if sustained by the courts, will establish a precedent which may in the future undermine the whole system of trial by jury. A packed jury is an insult to the Constitution and a travesty upon the administration of the law. If it is true the law is only aimed at the Mormons, a sect living in a remote Territory of the United States with insufficient voting power to make them formidable in elections; but this does not establish either its fairness or constitutionality.

If it was proposed in the trial of a Methodist or a Baptist or a Presbyterian all persons who belonged to the same church with the accused should be excluded from the jury, a cry would be raised from one end of this country to the other that would drive the advocates of such a scheme into everlasting infamy and disgrace. The doctrine that if you cannot convict a man without packing a jury on him, it is therefore right, legal, constitutional to pack the jury may be good logic with some, but I cannot embrace it, though it be intended to apply only to the trial of a Mormon. But this is not the worst feature of this law. Section 8 of the law says that no polygamist, bigamist, or any person cohabiting with more than one woman shall be entitled to vote in any Territory or other place over which the United States have exclusive jurisdiction, or be eligible for election or appointment to, or be entitled to hold any office or place of public trust, honor, or emolument in, under, or for any such Territory or place, or under the United States. Now the inquiry arises, who is a "polygamist?"

Webster defines a polygamist to be: "One who practices polygamy or maintains the lawfulness thereof."

Johnson: "One that holds the lawfulness of more wives than one."

Worcester: "An advocate of polygamy;" and this is the first definition he gives of the word.

Craig: "One who maintains the lawfulness of polygamy."

Kenrick: "One that holds the lawfulness of more wives than one."

Ogilvie: "A person who maintains the lawfulness of polygamy."

Bailey: "One that holds the lawfulness of more wives than one at a time."

It will thus be seen from the definitions given by these eminent lexicographers that a "polygamist" is not only the man who practices polygamy, but any one who believes that polygamy is not wrong. Now, I can very well conceive how a person, from reading the Old Testament Scriptures may honestly believe that polygamy is not morally wrong, although he may never have practiced it and may have no intention of doing so. Yet for this opinion merely he is declared ineligible for election or appointment to any office, even the most insignificant. In the case of Reynolds vs. United states, 98 United States Supreme Court report, Chief Justice Waite, after quoting Mr. Jefferson, says:

> 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.

The idea of excluding a man from holding office on account of his religious belief, whether he believe in polygamy, the transmigration of souls, the resurrection of the dead, or believe in neither, is so palpably antagonistic to the whole spirit of our institutions and violative of the Constitution that it would be an insult to the understanding of any American citizen to attempt to argue the proposition. But the eighth section of this bill does this, and it seems to me was intended to do it. The definition of the word used not only warrants this conclusion, but the proviso to the ninth section greatly strengthens it. It is in these words:

> *Provided.* That said board of five persons shall not exclude any person otherwise eligible to vote from the polls on account of any opinion such persons may entertain on the subject of bigamy or polygamy, nor shall they refuse to count any such vote on account of the opinion of any person casting it on the subject of bigamy or polygamy, but each house of such Assembly, after its organization, shall have power to decide upon the elections and qualifications of its members.

The authors of the law recognizing the fact that the commissioners might deny a man the right to vote on account of his opinions merely, as they would clearly have a right to do under the eighth section, saw fit to expressly provide that they should not do so; but there is no provision of this sort in reference to eligibility to hold office. On the contrary, after saying that the commissioners might allow a man to vote who believed in but did not practice polygamy, lest it might be inferred that they intended to restrict the meaning of the word "polygamist" as to eligibility to hold office, they in the immediate connection proceed to say "but" each house of the Territorial Legislature shall have power to judge of the qualifications of its members, clearly giving to them the power to apply the eighth section in its full meaning to members elected to the Legislature, and to exclude a man therefrom on account of his religious belief or opinions. Not many Mormons, it is safe to assume, will ever take seats in that Legislature. But I insist further in reference to the eighth section, that it is a bill of attainder, which is prohibited by the Constitution, and is therefore beyond the power of Congress to pass even in reference to those who practice polygamy. As has been seen, it prohibits all such persons from voting or holding office.

The Supreme Court of the United States declares a bill of attainder to be "a legislative act which inflicts punishment without a judicial trial." Is it "punishment" to deprive an American citizen of the right to vote and hold office? The same court say:

> All avocations, all business, all positions are alike open to every one, and that in the protection of these rights all are equal before the law. Any deprivation or suspension of any of these rights for past conduct is punishment, and can be in no other wise defined.

Now it seems to me that if the Supreme Court of the United States knows what a bill of attainder is, the eighth and ninth sections of this act are clearly in violation of the Constitution. When I took a seat in this House I took an oath to support the Constitution of the United States. I cannot and will not swear to a lie even to emphasize my abhorrence of polygamy or to punish a Mormon, and with my views of this act I would have had to do so if I had voted for the bill when it passed. It would seem that after organizing a packed jury to convict, the authors of the bill ought then to have been willing to await a conviction before depriving American citizens of the right to vote or hold office. For what is an American citizen deprived of those rights? He may live in a land of boasted freedom, but thus stripped of the rights and privileges that freemen most value, he is no better than a slave.

The ninth and last section of the bill [and I will publish the bill at the end of my remarks and as a part thereof] is a fitting conclusion to what preceded it. By the section all the offices in the Territory are declared vacant, and all duties relating to the registration of votes, the conduct of election, the receiving or rejection of votes and the canvassing or returning of the same, and the issuing of certificates or other evidence of election in said Territory are turned over to a board of five persons to be appointed by the President and confirmed by the Senate, not more than three of whom shall be members of one political party. Not more than three. That is enough. There is a majority of five. These five commissioners are to exercise the functions of their offices until other provisions are made by the Legislative Assembly of the Territory. The canvass and return of all the votes for members of the Legislative Assembly are to be returned to these commissioners, and they are to canvass the returns and issue certificates of election. In a word, the population of that doomed Territory are placed in the hands of a returning board—a tribunal forever as infamous in American history as the star chamber in English history.

Let the carpet-bagger, expelled finally from every State in the American Union with the brand of disgrace stamped upon his brow, lift up his head once more and turn his face toward the setting sun. Utah beckons him to a new field of pillage and fresh pastures of plunder. Let him pack his grip-sack and start. The Mormons have no friends and no one will come forward to defend or protect their rights. A returning board, from whose decision there is no appeal, sent out from the American Congress baptized with the spirit of persecution and intolerance, will enter Utah to trample beneath their feet the rights of the people of that far-off and ill-fated land. Mr. Speaker, I would not place a dog under the dominion of a set of carpet-baggers re-enforced by a returning board, unless I meant to have him robbed of his bone. A more grinding tyranny, a more absolute despotism was never established over any people.

The Mormons have been guilty of believing in, and some of them of practicing, polygamy. But they have been guilty of another sin also. They have committed the offense of belonging to the democratic party. That Territory now has a population about large enough to be admitted into the Union. It would not do to let it enter the Union as a democratic State. There is not now the least danger of it. After it has passed under the manipulations of the returning board, after her people have been driven from their homes under the oppressive laws that will be passed under the powers conferred by this law, after the carpet-bagger has gone in and taken possession, Utah, clothed in the habiliments of the republican party, will be welcomed into the sisterhood of States. I did desire to notice some other features of this law, but time forbids. It was passed under the operation of the previous question, and no one had the opportunity to discuss it or to point out its defects or imperfections. The Delegate sent here by the people of that Territory, by a barefaced usurpation on the part of the governor, was denied a certificate of election, and was not allowed to take the seat to which he had been elected, or to speak in behalf of his people while they were being robbed of their rights.

I have no faith whatever in this effort to deny Cannon his seat or in the law passed at the present session having the effect to diminish polygamy in Utah. In my opinion it would have have succumbed to the logic of events and the force of public opinion. Railroads have brought the Territory in contact and communication with the people of the States. A large anti-Mormon population will at no distant day settle in the Territory, and polygamy must give way before the irresistible force of an adverse public opinion. As long as Utah remained isolated from the rest of the world polygamy was secure, but when brought into communication with the rest of the world its disappearance becomes only a question of time. You cannot legislate men's religion or opinions out of them. Acts of injustice and persecution will cause them to adhere more stubbornly to their faith.

The history of the world and of the religious persecutions that have disgraced churches and governments establish this fact beyond controversy or doubt. "The blood of the martyrs is the seed of the church" has held good in all the past and will prove true to-day. Mr. Madison, in his letter to Edward Everett, of March 19, 1823, says upon this subject:

> The settled opinion here is that religion is essentially distinct from civil government and exempt from its cognizance; that if new sects arise with absurd opinions or overheated imaginations, the proper remedies lie in time, forbearance, and example.

There is more wisdom and true religion in these few words of the father of the Constitution than can be found in all the test acts and test oaths and religious intolerance and persecutions that have ever disgraced the human race or dyed the white robes of Christianity in blood. [Great applause.]

Mr. Beltzhoover was recognized.

Mr. Calkins. If the gentleman from Pennsylvania will yield to me I will make a motion that the House adjourn.

Mr. Beltzhoover. I am quite willing to yield for that motion.

Mr. Calkins. I will submit the motion to adjourn after some gentlemen have been recognized, who desire to ask unanimous consent.

[*To be continued.*]

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SAW MILLS AND STEAM ENGINES, MORRISON PLOWS, Etc.

BOLTS, BELLS, SLEDGES, REAPERS, HAMMERS, THRESHERS, FEED CUTTERS, PORTABLE FORGES, SULKY HAY RAKES, THE SMITH PURIFIER, IMPROVED HOWE SCALES, FULL SUPPLY PLOW POINTS, WESTERN WHEEL SCRAPERS, WOOD BEAM RAILROAD PLOWS

"EUREKA" SMUTTERS AND BRUSH MACHINES.

"ECONOMY" ERTEL'S PORTABLE HAY PRESSES.

COATES' LOCK LEVER SULKY HAY RAKE.

Agricultural Implements of All Kinds.

PLANET JR. SEED DRILLS, WHEEL HOES & CULTIVATORS.

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A number of parties who have used them near Kaysville, pronounce the Ladow Disc Harrow the greatest Labor Saving Implement for putting in Grain they have ever seen.

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