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conception, of the effect of these returns and of the relation sustained to them by the Governor and Secretary as canvassing officers. Mr. Campbell asserts the presumption to be that the votes returned for me were illegal votes, and that they are not to be canvassed for me in the absence of affirmative proof *dehors* the returns showing that they were in fact legal votes. The absurdity of this assertion is not even mitigated by a concession that the same presumption arises as to votes cast for him. The rule does not, in his judgment, "work both ways." The truth, however, on this point is very manifest. The presumption is that all votes shown by returns, legal in form, to have been cast for him or for me were so cast, and were lawfully cast. This presumption is not conclusive on the House in a contest duly prosecuted. It may be overcome by extrinsic proof. But it is conclusive on the canvassing officers, and cannot before them be overcome by proofs outside of the returns if the returns are regular and legal.

12. Mr. Campbell's last point is that the votes of the women have "vitiated the election by rendering it impossible to determine without proof that the pretended majority for Mr. Campbell does not consist of such votes." This is a most remarkable view of the law to be entertained by an aspirant to a seat in Congress. No board of canvassers can ever be absolutely certain that the majority of any candidate does not consist of illegal votes, without extrinsic proof which is not merely presumptive but absolutely conclusive. But the absence of such conclusive proof does not make the election void. It is an impossibility that any county returns should furnish conclusive proof of the legality of any votes. The proof which these returns afford is not conclusive but presumptive. Upon this presumptive proof the canvassers must act. They can resort to no other. It is for them conclusive. They must award the credentials to the candidate shown by the returns to have been elected. In the house the case is different. The House may in a case of contest or of protest inquire into and pass upon the title to the seat; but even in the House the credentials will be presumptive evidence of title, and will be decisive of the case unless overcome by counter proof. The House itself will not in the absence of contest require conclusive proof. And in a contested case a preponderance of proof will be decisive, whether the proof be or be not conclusive.

If the House in a contested case shall find that of my 18,568 votes 17,212 were illegal, whether cast by women or by men, and that of Mr. Campbell's 1,357 none were illegal, the election will not be rendered void, but the seat will be awarded to Mr. Campbell. But if the House shall not find that so many illegal votes were cast for me, it will confirm my title to the seat, whatever assertions Mr. Campbell may see fit to make in impeachment of that title. Of the question presented in this branch of Mr. Campbell's protest, the Governor and Secretary, as canvassers, obviously have no shadow of jurisdiction.

Having answered all the propositions upon which Mr. Campbell bases his protest against an award of the certificate of election to me, and his demand of an award of the certificate of election to himself, I respectfully submit that a returned majority of 17,211 votes, in a total vote of 19,925, gives me a title to the credentials which cannot be overridden by the Governor under any of the pretexts suggested by Mr. Campbell, without the grossest violation of law and of official duty.

GEORGE Q. CANNON.

Washington, D. C., Dec. 30, 1880.

Oral arguments on the points involved were made by Hon. John R. McBride for Mr. Campbell, and by Hon. W. H. Hooper and John T. Caine, Esq., for Mr. Cannon.

The following certificates of the Clerk of the Third Judicial District were filed by Mr. Campbell:

United States of America, } ss.  
Territory of Utah, }  
County of Salt Lake.

I, O. J. Averill, Clerk of the District Court for the Third Judicial District, sitting in and for the county and Territory aforesaid, do hereby certify that I have made a diligent search of all the records of said Third Judicial District Court, as well as of all the records of the First Judicial District Court of said Territory in my office, and in my custody, from the organization of said Court, Oct. 6, 1851, up to the present time, and that I am unable to find any record, in any of said records, of the admission of George Q. Cannon to become a citizen of the United States of America, or

any record or order of said Court authorizing the Clerk of said Third District Court, or of said First District Court, to issue a certificate of citizenship to him, said George Q. Cannon. In witness whereof, I have hereunto set my hand and affixed the seal of said Court, this 6th day of January, A. D. 1881.

O. J. AVERILL, Clerk.  
[SEAL] By H. G. McMILLAN,  
Deputy Clerk.

FOURTH DAY, DECEMBER 7TH.

Court met pursuant to adjournment; officers all present.

Journal read.

R. F. Burton, Deputy Marshal, made return for the summons issued in the case of C. Vrohis & Co. vs. Robert Caldwell and W. P. Reynolds vs. Alfred B. Lambson, and the subpoenas issued in the case of the People vs. Wm. Sullivan, all endorsed duly served.

Clerk issued five subpoenas for witnesses before United States Grand Jury, returnable forthwith.

Dimick B. Huntington was appointed by M. Holman, United States District Attorney, Assistant Interpreter for the Indians to interpret both before the United States Grand Jury and Court, and he appeared before the Clerk and was duly sworn in as such Interpreter.

The United States Grand Jury not being ready to make any presentments, the Court adjourned until the following morning, at 11 o'clock.

LEO SHAVER, Judge.

Territory of Utah, } ss.  
County of Salt Lake.

I, O. J. Averill, Clerk of the District Court for the Third Judicial District, sitting in and for the County and Territory aforesaid, do hereby certify that the above and foregoing is a full, true and perfect copy of the Journal and Minute Book, and all entries therein made and appearing on the seventh (7th) day of December, A. D. 1884, of the First Judicial District Court of the Territory of Utah, as the same appears of record in my office on page No. 216 of the Journal of said First District Court, and further that I am the lawful custodian of said record and authorized by law to certify the same.

In witness whereof I have hereunto set my hand and affixed the seal of said Third Judicial District Court of Utah Territory, this 5th day of January, A. D. 1881.

[SEAL] O. J. AVERILL, Clerk,  
By R. G. McMILLAN, Deputy Clerk.

There was also presented for inspection, the book of Clerk's certificates of declarations of intention to become citizens, and certificates of citizenship, in which appears what purports to be a copy of the certificate and which is claimed to be the naturalization of Mr. Cannon. Also a reply to the answer of Mr. Cannon, signed Allen G. Campbell, by John R. McBride, attorney, which reply is as follows:

To the Governor of Utah Territory:

The law in force in this Territory at the time of George Q. Cannon's alleged naturalization required:

First—That a naturalization only could take place in one of the District Courts. See law Utah Compilation of 1855. Page 22.

Second—A statement of the proof in which the person was admitted "shall be stated and set forth \* \* in the record of the court admitting the applicant; otherwise the same shall not entitle him to be considered and deemed a citizen of the United States." (4th P. Sec. 2. Nat. Laws—It, p. 23.)

Third—The third section of the "Act in relation to the judiciary" (p. 23, Utah Comp. Law of 1855) required the clerk to keep a record of the proceedings of the Court under the direction of the Judge. He shall from time to time read over all the entries therein in open court, which when correct shall be signed by the Judge.

These sections, both of the United States and he Utah Statutes make it the duty of the Court and the clerk to make a record of the proceedings, and that record must, to be authentic, be signed by the Judge of the Court, and if a record is not so made in naturalization cases, the party "shall not be deemed a citizen." In the case of George Q. Cannon there is no such record. On the contrary, it appears from a certified copy of the actual record of the Court at the time when he claims to have been naturalized, that no such proceedings took place, and it further appears that no such naturalization proceedings took place either then or at any time.

The pretended certificate does not purport to be an exemplification of any record, and it appears that it was the common practice of the clerks to issue naturalization papers here without the proceedings being had before the court or judge at all. They were habitually peddled out over the country to anyone who would pay for them. Such a certificate or statement by a clerk as to the person holding it being a citizen is no more proof of the fact than if he had certified to the holder's solvency, his general reputation or as to the place of his birth. The law gives no effect to such a certificate—it is void on its face.

A clerk may make a copy of a record of the court and certify that it is a true copy, but no instance is known of a clerk being permitted to certify that certain things were done in court—the record must speak for itself, and he authenticates the record. Here then is no record, and never has been; and as to this particular part, the record shows that the clerk here stated a fact to exist which did not then nor does it now exist.

A clerk might as well issue an execution without any judgment having been rendered against the party. It affords no presumption even of the existence of the fact. To prove the existence of any judgment, it must be exemplified and then properly authenticated; in other words, where the record is made the evidence, no statement or certificate of it is proof. The authenticated copy of it, with the signature of the judge and the certificate of the clerk is the only proof which the law recognizes and without which, the statute says, the party "shall not be deemed to be a citizen."

Mr. Cannon is disqualified to receive votes by a Territorial law. Section 3, page 57, Compiled Laws of 1876.

Every vote cast for him is, in the language of Mr. Cushing, "thrown away," and cannot be counted. Cash L. and P., page 66, sec. 176, 178.

The result is that Mr. Campbell is entitled to the certificate of election as Delegate to Congress.

ALLEN G. CAMPBELL.

By JNO. R. MCBRIDE, Attorney.

Mr. Caine, for Mr. Cannon, filed a

printed answer, which is made part of this paper. (See above.)

Mr. McBride, for Mr. Campbell, cites the following authorities:

Sec. 3, Chap. 1st, page 29 of Laws of Utah, 1851-1872. Par. 4, Sec. 2, page 23, Laws of Utah, 1851-1872.

Spratt vs. Spratt, 4th Peters, 6th Cranch, page 178, Compiled Laws of Utah, page 87; 7th Mass., pages 523, 527; Cushing's Law and Practice of Legislative Assemblies, page 63 and pages 51 and 52.

Mr. Caine for Mr. Cannon cites the following authorities:

Act of Congress organizing the Territory of Utah, passed Sept. 9, 1850.

McCrary's American Law of Elections, pages 151, 167.

It is not for me to go behind the returns, to defend the statute conferring suffrage upon women in the Territory, or to consider any of the questions growing out of their exercise of suffrage.

Call it ministerial, or judicial, or quasi-judicial, it is left only for me to ascertain the law, and to do that which it directs me to do.

The act of Congress passed September 9th, 1850, establishing the Territory of Utah, in referring to the election of Delegate to Congress, says: "The person having the greatest number of votes shall be declared, by the Governor, duly elected, and a certificate thereof shall be given accordingly."

The act of Congress, approved June 8, 1872, enacts that the qualifications of voters and of holding office shall be such as the Legislatures of Territories hereafter to be organized as well as those already organized, may prescribe, subject, nevertheless, to the following restrictions; namely: 1st. "The right of suffrage and of holding office shall be exercised only by citizens of the United States above the age of twenty-one years, and by those above that age who have declared on oath before a competent court of record their intention to become such, and have taken an oath to support the Constitution of the United States." etc.

Congress therein explicitly determines that "person," as used in the act of 1850, means a "citizen." Under this law the Legislature of Utah has restricted the right of voting and of holding office to citizens of the United States, excluding those who have merely declared their intentions to become such.

The certificate of the Clerk of the Third District Court, he having the custody of the records, and having examined them, explicitly states, under his seal, that from the organization of the court to the present time, he is "unable to find any record, in any of said records, of the admission of George Q. Cannon to become a citizen, or any record or order of said Court authorizing the Clerk of said Third District, or of said First District Court to issue a certificate of admission to citizenship to him, said George Q. Cannon." This must decide my action. The certificate of W. I. Appleby, Clerk of the First District Court, is claimed to be the naturalization of Mr. Cannon.

The following is a copy of this paper:

CERTIFICATE OF CITIZENSHIP OF ONE WHO ARRIVED IN THE UNITED STATES BEFORE HE WAS EIGHTEEN.

United States of America, } ss.  
Territory of Utah, }  
Great Salt Lake County.

United States First District Court for the Territory of Utah.

Be it remembered that on the seventh day of December, A. D. 1854, George Q. Cannon, a subject of Queen Victoria, made application and satisfied the Court that he came to reside in the United States before he was eighteen years of age; and thereupon the said George Q. Cannon appeared in open Court and was sworn in due form of law, and on his oath did say, that for three years last past, it had been his *bona fide* intention to become a citizen of the United States, and to renounce and abjure forever all allegiance and fidelity to every foreign Prince, Potentate, State and Sovereignty whatever; and thereupon, the Court being satisfied by the oaths of Joseph Cain and Elias Smith, two citizens of the United States, that the said George Q. Cannon, for one year last past, has resided in this Territory, and for four years previous thereto he resided in the United States—that during that time he has behaved as a man of good moral character—that he is attached to the principles of the Constitution of the United States, and well disposed to the good order of the inhabitants thereof, admitted him to be a citizen of the same. And thereupon, the said George Q. Cannon was in due form of law sworn to support the Constitution of the United States, and absolutely and entirely abjure forever all allegiance and fidelity to every foreign Prince, Potentate, State and Sovereignty whatever, and particularly to Victoria, Queen of Great Britain and Ireland, whose subject he heretofore has been.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of said Court, this seventh day of December, one thousand eight hundred and fifty-four, and of the Independence of the United States the seventy-ninth.

[L.S.] W. I. APPLEBY, Clerk.

Territory of Utah, } ss.  
Salt Lake County.

I, Ezra T. Sprague, Clerk of the Supreme Court of said Territory of Utah, do hereby

certify that the annexed and foregoing is a full, true and correct copy of an instrument contained in a certain book received by me from my predecessor in said office of Clerk, and which remains deposited in my office.

In testimony whereof, I have hereunto set my hand and the seal of said [L.S.] Court, this 7th day of January, A. D. 1881.

E. T. SPRAGUE, Clerk.

The record of the court is the only means of ascertaining its judgments and orders. The Clerk's certificate of the judgments and orders of a competent court, and not his individual statements without seal, is the only guide in all cases, and therefore must be in this case. The records of the court fail to make Mr. Cannon a citizen, and he, as I, must stand by the record. Mr. Cannon, under any other circumstances, might, perhaps, acquire citizenship by the time his term of office commences, but it is charged in Mr. Campbell's protest and not denied in Mr. Cannon's answer that he is living in polygamy, a violation of the act of Congress of 1862 making it a crime. This being the case, he is not "well disposed towards the Government of the United States." Therefore, he cannot in good faith, take the oath of naturalization, and the courts of this Territory uniformly enforce this rule. The House of Representatives, *Congressional Record* of June 16th, 1874, page 5046, affirms the same principle in House bill 3879, providing that delegates in Congress should be 25 years of age, seven years a citizen, and an inhabitant of such Territory; "and no such person who is guilty of bigamy or polygamy shall be eligible to a seat as such Delegate."

It having been shown that Mr. Cannon is not a citizen, and that he is incapable of becoming a citizen, I cannot, under the law, certify that he is "duly elected," and Mr. Campbell having received the greatest number of votes cast for any citizen, was therefore duly elected and must receive the certificate accordingly.

I am aware that my action on this question is not final. The House is the judge of the qualifications and election of its members, but in the discharge of my sworn duty under the law to give the certificate to the person duly elected, I cannot do otherwise than give it to Allen G. Campbell.

ELI H. MURRAY.

CERTIFICATE.

United States of America, } ss.  
Territory of Utah, }  
Executive Office.

I, Eli H. Murray, Governor of the Territory of Utah, do declare and certify that at a regular election for Delegate to the Forty-seventh Congress, held in said Territory on the first Tuesday after the first Monday in November, A. D. 1880, returns whereof were opened in my presence by the Secretary of the Territory, Allen G. Campbell was the person, being a citizen of the United States, having the greatest number of votes, and was therefore duly elected as Delegate from said Territory to said Congress, and I do give this certificate accordingly.

In testimony whereof, I have hereunto set my hand and caused the Great Seal of the Territory to be affixed. Done at Salt Lake City, this eighth day of January, A. D. 1881.

[SEAL] ELI H. MURRAY,  
Governor.

By the Governor:  
ARTHUR L. THOMAS,  
Secretary of Utah Territory.

LOCAL AND OTHER MATTERS.

FROM FRIDAY'S DAILY, JAN. 7.

**Jury Matters.**—Chief Justice Hunter as called a session of the Third District Court for Monday, the 10th inst., at 9 a. m., at which time 36 names will be drawn from the jury box to serve as petit jurors at the February term.

**Lost in a Slide.**—A special from Sandy states that on Tuesday night, the 4th inst., Frank Darby and his partner miners, started from Alta to go to the Wellington Mine. While on the way a snowslide came down and carried Darby away. The body had not been found at last accounts. A large force of men were out searching for it.

**Painful Accident.**—The Junction of Thursday says:

"Yesterday, a two year old boy of Mr. David Gardner, of North Ogden, met with a bad accident. The little fellow was playing beside a sewing machine, which was being worked by his sister, and by some means or other got his hand into the machinery. The lady, when the

child screamed, stopped the machine, when it was found that the end of the little finger of the right hand was very badly smashed."

**Gradually Improving.**—For the past two weeks Apostle Chas. C. Rich has been steadily improving. He can lift his hand and foot on the side paralyzed, and this morning, with a little assistance walked several steps across the room. He is feeling much encouraged. His many friends will be delighted to hear this good news.

Apostle Orson Pratt is also steadily recovering from his recent severe illness, which we are also pleased to chronicle.

**The Shot Man.**—The condition of Peter Brennan, who was shot at Mt. Pleasant several days ago, is favorable to recovery. It was found necessary to remove his left eye, as the sight of it was destroyed by the bullet, which entered between it and the nose and broke the eye ball and carried away a portion of the lid. The operation was performed this morning by Dr. J. M. Benedict, who states that his patient's condition may be considered as good: The wound is a bad one. The ball, which has not yet been found, entered near the left eye, as stated, and ranging downward penetrated the throat near the palate, and from there it is supposed lodged somewhere in the lower back part of the neck. Again it may be that he swallowed the bullet and subsequently vomited it forth with the blood which he had swallowed. The whereabouts of the ball is at present a question. Brennan is a powerful man with fine physique and plenty of nerve, and this will assist him to pass through the ordeal of suffering which he will have to undergo before he gets well.

**Holiday Amusements.**—Brother William Yates, of Lehi, called in this morning, he gives us a few items in relation to how the holiday season was observed in that place. On Tuesday evening last a dance was given for the young men, about 75 of whom had nobly responded to a call made by Bishop Cutler to haul a number of loads of wood for the poor of the ward, about 28 loads being thus supplied. The dance was well attended and well enjoyed. It was preceded by a supper, arranged by the Bishop and his counselors. On Wednesday at 1 p. m., a party was given for the old folks which was attended by about 120 of the aged, who enjoyed themselves in feasting and dancing. The committee appointed to supply amusements for them were Jas. W. Taylor, Isaac W. Fox and Charles Phillips. It was an excellent party. The Bishop and his counselors and others waited at the table and did all they could to make the old folks comfortable and happy.

In the evening a supper and dance was had for all the members of the acting priesthood and Sunday school teachers, which was also very pleasant and enjoyable.

FROM SATURDAY'S DAILY, JAN. 8.

**Gone East.**—Governor Murray left for Louisville, Kentucky, this morning, his family accompanying him. The party will probably visit New York and Washington before returning, and may be away for two or three months.

**Campbell Gets the Certificate.**—It will amuse and astonish not a few to learn that our handsome-faced, weak-headed Governor has actually issued a certificate of election to Allen G. Campbell. Everybody knew that such was his will, but very few besides himself and his plotting advisers, supposed that he was really foolish enough to do it. If, as Solomon says, "there is nothing new under the sun," this certainly comes as near to it in the annals of tomfoolery, as anything yet heard of in this land of liberty and equal rights. The will of 150,000 people (18,000 polled votes) ignored, and a 1,300 ballot candidate carries off the election certificate! Why, it's perfectly laughable!

**The Liquor Question.**—The following petition is distributed through the city for signatures, and will be presented to the City Council on Tuesday evening next:

Salt Lake City,  
January, 1881.

To the Hon. Mayor and City Council of Salt Lake City:

GENTLEMEN:—The undersigned petitioners, residents of Salt Lake City, would respectfully represent to your honorable body that in the year 1876 a petition signed by more than six thousand residents of this City