

rights of a "Mormon" when we prescribe the test that he shall not hold office if he believes in the lawfulness of polygamy. What is a religious test? To ascertain that it is necessary to inquire what is religion? Webster defines it thus:

"1. The recognition of God as an object of worship, love and obedience; right feelings towards God rightly apprehended; piety.

"2. Any system of faith and worship; as the religion of the Turks, Hindus, or Christians; true and false religion."

That is the definition of Webster and I still think he is pretty good authority. I repeat it:

"Any system of faith and worship; as the religion of the Turks, of Hindus, of Christians, true and false religion."

That is Webster's definition of religion. Then, a religious test would be a test pertaining to religion as defined, or a law prescribing that a person should not hold office because he professed or practiced a particular religion, no matter whether we believe it to be a true or false religion. According to Webster, it would be a violation of the Constitution if you say that a man shall not hold office because he believes and practices the Turkish religion, or the Hindu religion, (for he mentions both) or the Christian religion.

Mr. Edmunds.—Would the Senator really object to a law, supposing it were not unconstitutional, (which is another question, which said that no man should be entitled to participate in the government of the State of Georgia that was in the practice of having all his father's wives, one or more, burned, Hindu fashion, when his father died? There is some difference between facts and faith in the minds of most people, I submit to my friend, and it comes down (to state the point) to this essential distinction, that all political society has recognized between regulating political rights—and I may say, for that matter, civil rights in a large degree, but I need not go into that now—depending upon certain conditions of fact, as the Supreme Court of the United States decided in the Reynolds case on this pretense of its being a religious faith to have four or five wives, and therefore you could not interfere with it. It comes down to a fact. There are many men in the State of Vermont who believe that they have an inherent right to sell liquor although it is prohibited, that it is a natural right that belongs to every man. The State says: "If you do that thing, you cannot do certain other things." Is it possible that my friend from Georgia really means to maintain the proposition that in a republican country, a government of the people, it does not belong to a majority of the people to say that certain acts, certain conditions of bodily existence, shall not be made the test of participating in the government of that State? That is the point. You may call it religion or what you will.

Mr. Brown. The Senator might have saved himself a discourse of some length, which must be printed in my speech, if he had noticed a little more carefully what I was saying, or if he had waited till I was through on that point. I do not deny the right of a State to punish any sort of immorality.

Mr. Edmunds. I am not speaking of punishment; I am talking about political rights.

Mr. Brown. I will answer the question if you will keep quiet only a short time.

Mr. Edmunds. I will keep quiet entirely.

Mr. Brown. I do not ask that; but when I am replying to the Senator's long questions I prefer to be heard myself. I do not deny the power of the State to inflict punishment for immorality. I am willing to vote for a law to punish persons, not for what they have done in the past, when there was no law prohibiting such acts, but for what they may do in the future that is criminal, in the Territory of Utah or any other Territory. I believe that bigamy, or the double-wife system, if I may so term it, is immoral; and I am therefore willing to inflict penalties, or to vote for a law that does inflict upon them those who are legally convicted of that offense committed after the passage of a law prohibiting it. But I am not willing to put it in the hands of returning boards, to drive from the polls in Utah every man who believes that he or any other man has a right to practice polygamy, if he does not practise it. I would only consent to punish him for his criminal conduct, not for his belief or his faith or his religious opinions.

Again, as to the instance put by the Senator from Vermont in my State, if it were possible for there to be such an instance there; if any man there believed it was right to burn his father's wives—we do not allow them to have but one wife there—upon the funeral pile, I would inflict penalties upon him for practicing it; but if he really believes it is right, I have no right to exclude him from holding office because he says he believes it.

Mr. Edmunds. So I say; so say we all.

Mr. Brown. Then it turns out that there would have been but little reason for the interruption by the Senator had he heard me through.

Mr. Edmunds. I think it turns out that there was.

Mr. Brown. That is a difference of opinion.

Mr. Edmunds. That is liberal.

Mr. Brown. Then I hope you are content. I say you have a right to punish a "Mormon" for adultery or fornication or bigamy. I make no issue with you there. But you have no right to punish him for it till you have legally convicted him of the crime; the Court having a right to inflict the penalty by the proper officers, and I shall always approve it when so done; but I am not ready to place a whole community under the ban because a few persons there practice this immoral habit. And I am informed that there are comparatively very few "Mormons" who have more than one wife, yet almost the entire "Mormon" population believe it is legal for a man to have a plurality of wives.

When we come down to this matter of persecution or prosecution for opinion's sake and go beyond punishment for crime committed, we tread upon very dangerous ground. If we look back over the history of the past we have abundant evidence to justify this assertion. The time was when the Catholic Church tolerated no dissenters and punished in an exemplary manner those who denied the infallibility of the Pope and the authority of the Church. That day has passed, at least it is so in this country, and to their honor be it said, to the Catholics and Baptists of the United States the glory is due of having been the first two denominations—the Baptists a little in the lead—to establish on this continent full, unqualified religious freedom. But even then difference of opinion could not be tolerated by those in power and the early settlers of New England, who held another faith, persecuted both Baptists and Catholics alike for dissenting from their view. Such is the weakness of human nature; such is the danger of persecution for opinion's sake.

Mr. Edmunds. I wish you would leave out the State of Vermont when you speak of New England, because it is not true as to it, but the reverse.

Mr. Brown. I said New England, and I was right; but I am very willing to except the State of Vermont, as requested by the Senator. No instance at this time occurs to me in relation to that State. I believe the Senator is right in asking that she be exempted. I wish I could say as much for all the other States of New England, and for all the States of the world. I am not mentioning this to be offensive to New England, but I mention it to warn Senators of the dangers of a spirit of religious persecution and to ask them also to reflect on the danger of political persecution for opinion's sake. I said that the dominant Church in New England at the early settlement persecuted the Catholics and the Baptists. The historian says they made acquiescence in their own church practices and beliefs a test of citizenship. (2 Elliott's History of New England, page 208.) The Quakers were whipped at the cart tail from town to town, because they practised their own religious opinions. Men and women were hung because they were convicted by New England tribunals of being witches. The Baptists were taxed for a long period to support the clergy of the established denomination there, and Roger Williams, their great leader, was banished from Massachusetts on account of his religious opinions. The Quakers were driven out of New England under a severe penalty if they returned. And one unfortunate man was banished under penalty of death for asserting that he was free from original sin, and had not committed a sin in six months. This was the intolerance in a past century.

I have referred to the Catholics. Coming down still later within the present century, within the present

half century, it has not been fifty years ago that the Catholic Church established at Charlestown, in Massachusetts, an Ursuline convent or college, and it was so offensive to the good people of that State that a mob was raised to burn it, and it was burnt under circumstances of the utmost aggravation. Helpless women were driven out of it. They fled to save their lives, and the death of one or two and the insanity of another resulted. The Attorney-General, in summing up the enormity of the crime to the jury, uses the following language: "A murder thus crowned the perpetration of burglary, incendiarism, sacrilege, and plunder." (For full account of this great outrage see fifth volume of Bishop England's Works.) So strong was religious intolerance then, that that good old State, which usually punishes crime exemplarily, was unable to punish the perpetrators of this offense. A former penitentiary convict was the leader of the mob, and he was put upon trial for it. The jury acquitted him under circumstances the most extraordinary, and the verdict was loudly applauded by the populace. Handbills had been stuck upon the bridge crossing the river, threatening the assassination of any one who gave information in reference to the deed.

That was 48 years ago. If religious intolerance in this most enlightened State was so great 48 years ago as to incite men to burn and desecrate the convents of the Catholic Church, and the riot was permitted with impunity, how can we trust ourselves 48 years later to make indiscriminate warfare upon the people of any Territory of these United States on account of any opinion of theirs, religious or otherwise? It is a dangerous experiment. Enact your laws to punish crime; I will vote with you. Make your penalties as severe as you will; when the culprit has been convicted I will let him suffer; but do not proscribe a whole community because they differ with us in opinion.

Even in the old State of Connecticut, in the year 1834, in Windham County, a Miss Crandall opened a school for young colored girls, and the indignation of the people grew so high that they determined to break it up. They went to the Legislature and got an act passed on the subject; they carried it to the judiciary; they resorted to every means possible to suppress it legally; but failing, they took their iron crowbars, after it had been once set on fire, and went and broke out the windows and drove the teacher away, as they could not bear the outrage of a school there to teach young colored girls. (See Larned's History of Windham County.)

Mr. Hoar. How was it in Georgia?

Mr. Brown. Georgia did wrong in some instances, but I am not defending her wrongs; I am speaking of the danger of yielding to these popular clamors and proscribing or putting down people because we differ from them in any way. Connecticut would not now do this. She now stands by the rights of colored people, and to their honor be it said, I believe both her Senators favor appropriations to educate the colored people everywhere in the United States. I thank them for it; it is right; but I mention the instance not to reflect on the people of Connecticut, but to show the danger of yielding to popular clamor, where any institution does not meet with popular favor.

In 1855 this country was convulsed with one of the bitterest political campaigns we have ever had, the cornerstone of the platform of one of the political parties being that Catholics should not hold office, and proscribing them for opinion's sake. It was said that the Catholic believed in the infallibility of the Pope, and believing this he could not be a true citizen of any civil government; that his primary allegiance was due to the Pope, and therefore he could not be trusted with office. This erroneous opinion found followers by the thousands and hundreds of thousands in the States at that time.

Let me give another illustration. It is only within the last few years, if I am correctly informed, that the constitution of New Hampshire permits a Catholic to be a member of the Legislature of that State.

Mr. Blair. I should like to correct the Senator to a certain extent in regard to a popular impression that Catholics have not been permitted to hold office in the State of New Hampshire until a very recent alteration in the constitution. The matter of the religious test did survive nominally in our constitution

until its last change, some three years since; but as a matter of fact the provision was obsolete. I think it must have been obsolete for the last half century. Nearly twenty years ago I myself sat side by side in the Legislature of New Hampshire with an Irish Catholic who represented the city of Manchester. It was an obsolete provision; and our people, who have been very conservative in regard to holding conventions for the purpose of altering their fundamental law, allowed it to remain, knowing that it was not acted upon, until at last it becoming necessary to modify the constitution in other particulars, this provision was changed with the rest.

Mr. Brown. The Senator was right when he asked to correct me to a "certain extent" only. According to his own statement he sat in the Legislature of his own State by the side of a Catholic, who sat there in open violation of the constitution of New Hampshire.

I have no disposition to misrepresent New Hampshire, but the Senator's statement does not much better the case. He admits that until three years ago if a Catholic occupied a seat in the Legislature of New Hampshire he had to do it in violation of the Constitution of New Hampshire, which I presume each member was sworn to support. Popular opinion did not enforce the Constitution, the Senator says, but still the Constitution forbade that the Catholic be a member. I am glad it does not now forbid it.

While I think we are becoming more liberal as members of the different churches, and as citizens of States, I fear yet to trust too much to excited legislation under the lash of popular clamor.

A few years ago in my own State we all stood by slavery. No one then questioned that it was right. That the institution may in some cases have been abused, as every institution is abused cannot be denied; but it was as little abused as any other could be. Slavery has been wiped out; none of us desire to restore it. We stand now by the liberty and the rights of the former slave. Still there is an incident that I cannot help remembering during that transition stage. After the end of the war the reconstruction measures were passed. I had then a little taste of the rule that we now propose to apply to Utah. I stood by the polls disfranchised and not permitted to vote, while my former slaves, emancipated, walked up and deposited their ballots. I made no issue. I accepted it. Why? Because I had no power to do anything; and I held that Georgia had seceded from the Union, and having seceded, and having been conquered, the conquering power had the right to dictate the terms. But the "Mormons" have not seceded from the Union. The Federal authorities might in my case possibly have made a religious test, and said that I should not hold any office because of the test. If my theory was right they could, because I believed we were out of the Union when we passed the ordinance of secession. But if their theory was correct, they had no right to prescribe such a religious test. I did not, however, make any point about the political test, because I believed we were obliged to acquiesce in the dictates of the conqueror. I mention these matters not to stir up unkind feelings, but because they are a part of the history, and point the danger of legislation of the character we are now proposing to apply to Utah.

The bill proposes to apply a religious test to the "Mormons." I do not mean that part of it that would punish them for immorality, but in so far as it punishes the "Mormon" for his opinions, it is a religious test applied. He believes that Joseph Smith was a prophet as much as I believe that Jeremiah was a prophet; and while I think he is in an egregious error, I have no right to proscribe him because of his belief as long as he does not practice immorality. And I have no right to do more as a legislator than to prescribe rules to punish him for his immoralities and leave him to his full enjoyment of his religious opinions, just as I claim the right to enjoy my own opinions. If we commence striking down any sect, however despised or however unpopular, on account of opinion's sake, we do not know how soon the fires of Smithfield may be kindled or the gallows of New England for witches again be erected, or when another Catholic convent will be burned down.

Mr. Edmunds. Or another colored school burned down.

Mr. Brown. Yes, I accept the amendment. As the senator from

Vermont says, "or another colored school burned down," I trust it may not be. We do not know how long it will be before the clamor would be raised by the religious institutions of this country, that no member of a church who holds the infallibility of the Pope or the doctrine of transubstantiation should hold office or vote in this country. We do not know how long it would be before it would be said that no member of a church who believed in close communion and baptism by immersion as the only mode should vote or hold office in this country. You are treading on dangerous ground when you open this flood-gate anew. We have passed the period where there is for the present any clamor on this subject except against the "Mormons;" but it seems there must be some periodical outcry against some denomination. Popular vengeance is now turned against the "Mormons." When we are done with them, I know not who will next be considered the proper subject of it.

Mr. President, believe I have made about all the remarks that I care to make on this subject. In conclusion, I have to state that I cannot vote for the bill in its present shape. I cannot vote for any bill that will leave it with any returning board in Utah, with the pretext that they will have in this case to prescribe any class of people there on account of their political or religious opinions. I am ready to vote for any bill that is necessary to punish the people of that Territory or any other for the practice of immorality, leaving it to the courts to decide whether they are guilty or not.

I therefore insist upon the amendment that I have already introduced. I was not in at the moment when the Senator from Missouri [Mr. Vest] offered his amendment. I wish to offer two amendments more. Before I take my seat I will read them for information. In section 7—

Mr. Edmunds. You mean section 7 as it is in print?

Mr. Brown. Yes, sir, as it is in print.

Mr. Edmunds. That would be now section 8.

Mr. Brown. In section 7 [8] line 1, after the word "bigamist," I shall move to insert the words "who has been legally convicted of practicing the same;" and after the word "woman" in line 2 to insert "and legally convicted of the same;" and after the word "section" in line 4 to insert "who has been legally convicted;" so that that part of the section would read:

That no polygamist, bigamist, who has been legally convicted of practicing the same, or any person cohabiting with more than one woman, and legally convicted of the same, and no woman cohabiting with any of the persons described as aforesaid in this section, who has been legally convicted, in any Territory, &c.

With those amendments, much of the objection I have to the bill would be removed, though I think there are other very serious objections to it.

WHAT A CLERGYMAN SAYS ABOUT THE VITALIZING POWER OF COMPOUND OXYGEN.

A clergyman, Rev. W. B. Hines, of Waynesboro', Miss., writing to the *New Orleans Christian Advocate*, says, referring to an advertisement of COMPOUND OXYGEN in that paper: "Please allow me a few words of commendation. My wife being in feeble health, and having been so for many years, I persuaded her to use it, which she did. She began very soon to improve in strength, and continued to improve, and passed through the unusually hot summer of 1878 and the fall, attending to all her domestic duties with more strength and less fatigue than she had done for ten years preceding; then during the winter nursed the sick day and night, with more than the usual loss of sleep and exposure and effort, and all without breaking down, which she could not have done at any period during ten years past up to that time. In order to have some experimental knowledge of the effect of this Treatment, I used it several times myself. In all my life I never used anything that produced so soon such a pleasant, healthful naturalness of condition. Gave a glow of youthful buoyancy by increasing the vital forces of mind and body. It gives a compass and power to my voice that it never had before." Drs. STARKY & PALEN, 1109 and 1111 Girard Street, Philadelphia, Pa. send their Treatise on Compound Oxygen free to all who write for it.