

*nomine*, but the matter is plainly left to the discretion of the legislature and the election officers. This class embraces idiots, insane persons, persons in prison, every person who is a bigamist or polygamist or is living in patriarchal, spiritual, or plural marriage, and so on. The last clause of the provision supposed to refer to the Mormons embraces persons who are excluded because they belong to an organization which teaches and advises that the laws of the state prescribing rules of civil conduct are not the supreme law.

In this second class of disabilities no reference is made to convictions whatever. There is nothing in the proposed constitution on that subject. Everything is left in this important, in this most precious, matter to the citizen, to the will of the legislator.

The provision in regard to membership of organizations which teach or advise that the laws prescribing rules of civil conduct are not the supreme law of the land is of a very grave nature.

I do not say that it is intended to trench upon religion; I do not say it is meant to interfere between a man and his God; but I do say that it has a broad latitude, a latitude so great that in times of popular passion it may embrace within its fold many and many an organization, spiritual or temporal, which today we have no idea can be subject to it. Wrong ideas grow. It is not the prerogative of good alone to thrive.

Why, Mr. Speaker, it is only a few years ago that that great and beneficent order, the Masonic body, was attacked from one end of the country to the other as being hostile to the freedom of the country and as setting itself above courts and above the laws themselves. There is another body, a church, venerable with years, noted for its learning for the great good it has done in the world, and for buttressing civilization against paganism, against which this very reproach is made, a church which like the Masonic body denies the truth of that reproach, and denounces it as a calumny invented by its enemies. And yet I can imagine, and any man on this floor can imagine, in times of high excitement, especially of high religious excitement, excitement the most unreasonable, the most vindictive to which the human mind can be subject—I can imagine that in such times men might become so frenzied by prejudice and fear that even the very convent fires which were the shame of Boston may be relighted and sectarian hate rule men with savage power.

Why, even the Savior of mankind was accused of setting up and teaching a religion which claimed to be superior to the state. The histories of your race and the histories of all religions are crowded with thumbscrews, racks, scaffolds, and the fires in which men have been tortured or destroyed because accused of making this very claim; men who we now see in the clear, calm light of history were put to death unjustly, as they were treated

cruelly and barbarously while living. While error is multiform, its essence is the same.

And it is only just to say of this Mormon Church that it denies the imputation that it essays to overturn the law.

Shall it be honored with the cross, or martyred at the stake? Shall its adherents, deluded though they are, be robbed of the hearing in the courts we give to every class of criminals? Shall their rights as citizens be determined by less solemn methods than your rights and mine? Shall a mere election board have power to ostracize, to disfranchise a citizen and their finding of the facts be conclusive on the courts? This may be done under the constitution, and—

Mr. Struble—Is it within the recollection of the gentleman that any court in this land has ever held as to either of these societies or to any except the Mormon Church that it was a criminal organization?

Mr. Chipman—No, sir; I do not remember anything of that kind. But I do not see the pertinency of the question.

Mr. Struble—Is not the gentleman aware that one court in Utah and another in Idaho have held to that effect as to the Mormon Church?

Mr. Chipman—Now, what else do you want to ask? Ask your question and then sit down.

Mr. Struble—Are you not aware of such a decision having been rendered by judges of your own party?

Mr. Chipman—Party! What do I care for party? (Applause.) We are discussing the rights of the people. We are discussing a grave question of elemental right; but the gentleman talks of party. It is party when you try to pension soldiers. It is party when you essay to give any laws to the people. It is party when we seek to protect the sanctity of the franchise. (Applause.) I think nothing of party. I care nothing for party in this discussion. I am making no attack on your party. I am making no attack on you, and you will please sit down and let me go on.

Mr. Struble rose.

Mr. Chipman—Take your seat.

But let us go another step, Mr. Speaker. What have these decisions to do with the controversy which is pending here? If the gentleman is no better lawyer than his question implies, if he has no more idea of the force of authority than his question illustrates, I feel very sorry for him indeed. (Laughter.)

What I am contending is not that the courts have not decided it, nor that polygamy is not a crime, but that the constitution you bring here silences the courts, the true refuge of all our rights and the only certain asylum against oppression and corruption. That is my contention.

But the gentleman answers me that somewhere in the country, somewhere else, the very thing has been done which I contend ought to be done under this instrument which you bring here and ask us to vote for. I suppose the answer will be that this clause of the constitution does not execute itself, that it cannot execute itself. Although I

am not entirely certain how far that is true, I am certain that in one sense it does execute itself. In one sense it prohibits the recourse to the courts.

It does that not only by what it says, but by what it does not say. It provides in what case you shall go to the courts, and it makes provision by which a person having a certain belief or doing a certain act shall, without the intervention of a court, be disfranchised. In the case of guardianship, in the case of conviction of crime, other provisions apply. In those cases the courts are invoked; but in the case of insanity, which is a condition of body, and also in the case of Indians and Mongolians and of the Mormons, it expressly strikes at the interposition of the courts. I have looked at the provisions of this constitution in regard to the jurisdiction of the supreme court, and in my judgment, unless a law is passed very carefully guarded, the entire decision of the facts will rest or may rest with the boards of election officers, and so strip the courts of all real jurisdiction.

I believe the gentlemen say this will not be done. But how do you know it will not be done? How do you know that the strong tide of passion which engrafted on this constitution so dangerous a provision will not induce the people to pass laws to carry it out in the most severe and obnoxious manner possible? You say it will not be done. I say liberty, the rights of the citizens, public safety demand that you shall confer no power, give no opportunity to inflict an oppressive rule upon the citizen.

Mr. Baker—Will the gentleman yield for a suggestion in the shape of a question?

Mr. Chipman—Yes, sir; with great pleasure.

Mr. Baker—Has the gentleman overlooked the provision in the constitution which meets the point he makes?

Mr. Chipman—What is it?

Mr. Baker—That a person claiming a right to vote may purge himself of this disqualification by taking the oath.

Mr. Springer—Where is it?

Mr. Mansur—It is not in the constitution.

Mr. Baker—The test oath.

Mr. Chipman—I have not found it.

Mr. Mansur—You can answer it by saying that it is not in the constitution.

Mr. Chipman—I have not seen such a provision.

I have observed, though, I will state to the gentleman from New York [Mr. Baker], in the majority report of the committee something which they roll as a sweet morsel under their tongue, and bearing about the same relation and potency as authority to the matter at issue as the question of the gentleman over there a short time ago, but which is cited by the committee as conclusive. In the case of a Mr. Davis against a sheriff, suit was brought in Idaho involving the legality of a test oath disclaiming connection with Mormonism, and the Supreme Court held that the oath