

THE 'LIBERAL' ASSAULT ON JUDGE ZANE.

THE decision of Judge Zane in the Bennett case, although it is in exact keeping with the decision of the Supreme Court of the United States bearing on the question at issue, seems to give great offense to that class of "Liberals" who designed making political capital out of it. The common sense and legal conclusions are simply these:

A man who has contracted a plural marriage and who now maintains this plural family relation, is viewed as a bigamist or polygamist. If he has dissolved the relationship, and either has but one wife or no wife whom he recognizes as such, or he is now a widower, he is not a polygamist. The plural marriage relation being illegal, there is no legal method of divorce. If the parties sever their marriage relations and actually cease them, their former status is changed without any judicial action. If the relationship was formed under the sanction of some authority which the parties recognized, although the law did not so recognize it, a formal separation under the sanction of the same authority will be the most effectual manner of effecting it. The divorce will be just as legal as the marriage, no less and no more, and one will be as binding before a court as the other.

A man cannot be considered a polygamist in the eyes of the law or of the community, who has actually, at the present time, but one living recognized wife. It matters not what he may have been in the past; it is the status now which is to be considered. The Supreme Court of the United States ruled that the status ceased when the relation of husband and wife was finally and fully dissolved; but it did not point out any "effective manner" of that dissolution, from the fact that the union itself was not within the law and therefore no legal manner of divorce could be judicially designated.

But it is argued by some "Liberal" casuists, as set forth in their organ, that the Edmunds Act provided the effectual manner, when it authorized the President to grant amnesty to offenders. This is a great mistake or a very transparent sophism.

The amnesty powers of the President do not extend to the dissolution of the marriage bonds, whether they be legal or illegal. They relate simply to the pardon or condonation of offenses in order to relieve

offenders from criminal punishment. One effect of such pardon or amnesty may or may not be the restoration of the pardoned person to the elective franchise. That depends entirely upon circumstances. In any case no person who is still a polygamist, that is, holds the relation of husband to more than one living and undivorced wife, whether he cohabits with them or not, can take the oath provided in the Edmunds-Tucker Act, and therefore, pardon or no pardon, amnesty or no amnesty, he cannot vote or hold office under existing laws.

The idea of endowing the President, or a court, or anybody under the sun, with power to legally dissolve a marriage that never had a legal existence, was not mooted during the discussion of the anti-polygamy laws, and probably never entered the brain of any individual except a limb of the law and of the "Liberal" party.

From the same brilliant source we are informed that "The original Edmunds Act made polygamy a misdemeanor, but the Edmunds-Tucker Act makes it a felony." The latter law is a continuation or amendment of the former. If polygamy is a misdemeanor under the first, it is the same under the second. No change has been made. But any one who can read English can find out the facts, which are that in neither act is the offense formally defined under either head. Polygamy, under the Acts of Congress, has not yet been authoritatively declared a felony.

The "Liberal" opponent of Judge Zane goes on to state that His Honor holds that:

"There is no offense the moment a man can get a Church divorce and get two or three neighbors to testify that they understand the pair have separated."

Here is what the Judge actually said:

"The most effectual manner of dissolving the polygamous relation is for the man and his polygamous wife to agree in good faith to terminate and dissolve the polygamous relation, to cease to recognize each other as man and wife, and to refuse to maintain the relation longer. A divorce would not of itself terminate unlawful cohabitation, and pardon and amnesty would not terminate the polygamous relation if the parties should continue to recognize each other as husband and wife. Such a construction as given above encourages polygamists to abandon unlawful cohabitation and the polygamous relation, and in that respect obey

the law and become good citizens. The dissolution would be effective if the parties, before other persons, agree in good faith to separate and afterwards continue to disregard the polygamous relation and abandon it, and refuse to recognize each other as husband and wife. Of course it is for the jury to determine whether the dissolution is in good faith and whether the parties are keeping it."

The reader will see how "Liberal" Judge Zane is misrepresented by his "Liberal" friends, when he dares to rule contrary to their designs and purposes. The same falsifier proceeds to state that the Edmunds law disqualifies a man from sitting on a jury who "believes it is right for a man to have one living and undivorced wife at the same time," and that "surely if a man has a right to register and vote, he has also the right to sit on juries."

The truth is, the right to vote and the right to sit on juries are not identical. In Idaho a "Mormon" cannot vote or hold office, but he can sit on a jury, as judicially decided by a bitter anti-"Mormon" judge. And to settle the matter, the Edmunds Act, which says a believer in polygamy may be challenged as a juror in polygamy cases, may not be denied the right to vote on account of any belief he may entertain in regard to the rightfulness of polygamy.

Another "Liberal" falsehood in this connection is:

"The Edmunds law flatly declares that before a man so tainted can exercise the full privileges of citizenship; before he can vote or hold office or sit on juries he shall petition to the President for amnesty."

There is nothing in the Edmunds law or any other law of Congress which says anything of the kind. We have shown what the law is in regard to the amnesty powers of the President and what their effects may be. There is no requirement upon anybody to apply for the exercise of those powers. The statement that there is, may be set down as sheer fiction, or "Liberal" argument, which is about the same thing. Judge Zane judicially decides as follows:

"Pardon and amnesty are not intended as a means of terminating a polygamous relation. Pardon is the remission of the consequences of an offense after the parties have been convicted. Amnesty is the remission of the consequences of a crime, and may be after or before a conviction. Though pardoned, the defendant might be guilty of maintaining and recognizing the polygamous relation."