

professed a belief in polygamy, and their so-called prophets and revelators claimed to have received revelations from God commanding its practice. It was the most distinguishing feature of the Mormon Church, and its members had settled here that they might practice it undisturbed. It was publicly taught in their churches and openly practiced in all parts of the Territory by the people. The Governor and members of the Legislative Assembly belonged to the Church, and polygamy was established and the approved condition of the people. In order, however, to induce women to willingly enter into such a life, it was necessary to provide, as far as possible, for the support of such women and their children, and I think it cannot be disputed that this statute was passed for this purpose, although it does not, in express terms, mention plural or polygamous wives or their children. At common law illegitimate children were incapable of being heirs, nor could they have any heirs but those of their own body. (Blackstone's Commentaries, Vol. I. p. 249.) While the rigid rule of the common law has been more or less modified in most of the States of the Union, so that an illegitimate child can inherit from its mother and a mother from the child, and in some of the States an illegitimate child may inherit from its father, if recognized by him during his lifetime, yet in no State or Territory, except in the Territory of Utah, nor in any civilized nation of the world, so far as I am aware, is there a statute giving to illegitimate children, when not recognized by the father during his lifetime, the right to prove after his death that they are his children and to inherit from him the same as if they were legitimate.

I think it is plain that the Territorial statute countenanced and protected the practice of polygamy and was therefore annulled by the act of Congress referred to. It follows that George H. Cope is not an heir of the decedent, Thomas H. Cope, and is not entitled to share in the distribution of the estate.

The judgment of the Probate Court is affirmed.

UNDER THE NEW LAW.

Following is the full text of the opinion of the Territorial Supreme Court, delivered Jan. 21, and deciding that the coming city election is to be conducted under the new law:

In the Supreme Court of Utah Territory.

The People *ex rel.* Edward M. Bynon vs. Henry Page, Registration Officer, Salt Lake City.

Petition for Writ of Mandate.—Original Application.

BLACKBURN, A. J.:

This is a petition by the plaintiff for a peremptory writ of mandate, to require the defendant, who is the proper officer to give election notices for the coming municipal election in Salt Lake City, to put notices of said election, stating among other things that there will be chosen by the qualified voters at said election fifteen councilmen, one mayor, one

recorder, one treasurer, one marshal and one assessor and collector, and one justice of the peace for each of the five precincts of said city.

This involves a construction of a portion of the act of the last Territorial Legislature, entitled, "An Act for the Incorporation of Cities."

The purpose of that act seems threefold:

1st—To incorporate new cities.

2nd—To provide a mode by which cities already organized can re-incorporate under this act.

3rd—To apply to cities already incorporated certain portions of the act as amendments to their charters, without re-incorporation.

The question raised by this petition is: Does this act require that the officers provided for in it shall be elected at the coming municipal election in Salt Lake City? Or, shall the officers provided for in the charter of said city be chosen?

I think the officers provided for in this act are hereafter the proper ones to govern the city.

Section 14, Art. 1, by express words, applies to cities now organized, and provides that they shall be divided into three classes; all cities having a population of twenty thousand and over shall belong to the first class, etc.; other portions of the act point out the way any city may determine the class it belongs to; but the mode mentioned in the act is not exclusive.

If Salt Lake City has in fact a population of twenty thousand or over, and the court can judicially know that fact, it is a city of the first class, whether it takes any steps to ascertain that fact or not. Courts take judicial notice of all the political acts of the government. The census of 1880 shows this city to have a population of over twenty thousand; and that is a political act of which the courts take judicial notice.

Therefore, I think Salt Lake City, under this act, is a city of the first class, without anything done on its part.

Again: Section 3 of Article 20 expressly provides that section 1 of article 6, among other provisions of this act, shall apply to all cities already incorporated. Although there is no repealing clause in this act, yet section 5 of article 20 has the effect to make these several provisions amendments to the charters of all cities to which they are applicable.

Section 1 of Article 6 provides that the officers of cities of the first class to be elected by the people shall be three councilmen from each municipal ward, a mayor, a recorder, a treasurer, an assessor and collector and a marshal.

Another provision of the act provides that cities of the first class shall be divided into five wards, and that one justice of the peace shall be elected from each ward. Both parties having appeared and this application argued at the hearing, there is no need of an alternative writ. Therefore the peremptory writ will issue as prayed for.

We concur. Zane, C. J., Anderson, A. J.

Judge Henderson was absent at the hearing of this case, and took no part in the decision.

CURRENT TOPICS IN EUROPE.

On December 29th at his house at Hawarden, Mr. Gladstone celebrated his eightieth birthday. So numerous were the messages of congratulation that it required a special staff at the telegraph office to receive them. Not merely from Great Britain and Ireland, but likewise from France and Italy, and from lands beyond the Rhine, came good wishes and testimonials of regard. Nor was this all. America also sent her congratulations and far-off Australia and the isles of the sea took up the refrain and echoed their best wishes to the "Grand Old Man." It has often been remarked that the month of December has exercised a dominant influence on the destiny of the great orator and statesman, over whose vigorous mind and frame fourscore years have passed without impairing their singular powers. Thus on December 29th, 1809, a child was born of Scottish parents at Liverpool who has since lived to share with Pitt, Peel, Palmerston, and Beaconsfield, the honor of being one of the five great British statesmen of the nineteenth century. It was in December 1832 that Gladstone was sent to Parliament for the first time as member for Newark. In December 1845 he was appointed Secretary of State for the Colonies, and in December 1852 he became Chancellor of the Exchequer. It was also in December 1868 that Mr. Gladstone reached the pinnacle of his fame by becoming Prime Minister of the British Empire. Sixty-eight years have elapsed since he began life as an Eton school-boy, and from that day to this he has allowed no particle of time to go to waste. The superiority of Gladstone over so many of his contemporaries seems to lie in his wonderful health and untiring energy. Like many other light and sinewy men, without an ounce of unnecessary flesh, Mr. Gladstone, despite his enormous load of work and responsibility, has had very few hours of sickness.

Progressive by temperament, he broke away from the conservatism of his early years and became the advocate of all measures which seemed to him for the good of his fellow-men. No sooner is one advance gained than his vigorous mind immediately makes another step in the highway of reform. In power or out of it, he is one of the most persistent and energetic of workers. Even at this moment it would be difficult to name a man of any age who is capable of doing a greater amount of intellectual work. In his last great public speech, delivered at Manchester a few weeks ago, his voice rang out with wonderful clearness, and at the close he seemed scarcely more wearied than when, in 1853, he held the House of Commons spell-bound by his eloquence for nearly five hours and a half. In his mind there are but few symptoms of decay. His thirst for knowledge seems as great as in former years, his writings are as logical and terse as they were thirty years ago. He is a grand example