

DESERET NEWS: WEEKLY.

TRUTH AND LIBERTY.

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CHARLES W. PENROSE, EDITOR.

WEDNESDAY, - FEB. 16, 1881.

INCH BY INCH.

THE notice of contest served on Allen G. Campbell reads as follows:

WASHINGTON, D. C.,
Jan. 20, '81.

Allen G. Campbell, Esq.:

Sir—I have the honor to notify you that I shall contest your right to hold a seat in the House of Representatives of the Forty-seventh Congress of the United States as delegate from the Territory of Utah, and also your right either to be sworn or enrolled, or to hold a certificate of election as such delegate, on the following grounds:

1. That the returns of the election of delegate to the Forty-seventh Congress of the United States, held on the 2d day of November, 1880, in the several counties of the Territory of Utah, which were prepared and forwarded to the Secretary of the Territory, under sections 23 and 24 of the Compiled Laws of the Territory of Utah, copies of which returns, marked respectively A, B, C, D, etc., are hereto annexed, showed, as the fact was, that 18,568 votes were legally cast for me at said election, that only 1,357 votes were cast for you, and that only eight votes were cast for all other candidates, and that I was, therefore, legally elected to said office of delegate from the Territory of Utah in the Forty-seventh Congress, and was also entitled to receive the certificate of election, and to be enrolled and sworn as such delegate.

2. That said returns showed, as the fact was, that you received less than one-thirteenth of the votes legally cast at said election, and therefore were not entitled to hold said office of delegate from the Territory of Utah in the Forty-seventh Congress, or to be enrolled or sworn as such delegate, or to receive the certificate of election to said office.

3. That the action of the Governor of the Territory of Utah in withholding the certificate of election from me, and giving it to you, was illegal and fraudulent.

Very respectfully,
GEO. Q. CANNON.

The exhibits referred to consist of the election returns from the various counties, as made out by the respective county clerks and filed in the office of the Secretary. It will be seen from the above that our Delegate will not only contest the seat to which Mr. Campbell aspires, and which he intends to get, if possible, contrary to the wishes of the people who hold the right of selection, but the validity of the certificate, also the enrollment and swearing in of the holder of the fraudulent document.

In this the Delegate-elect will be sustained by almost the entire body of citizens in this Territory, male and female, including a considerable number of respectable non-"Mormons" who despise the chicanery and injustice of the whole conspiracy, and do not acknowledge Campbell as their candidate or representative in any sense. The promoters and supporters of the scheme to prevent the duly elected Delegate from taking his seat, do not expect that their instrument will obtain the place when the case comes to a test. But their plan is to get the holder of the fraudulent certificate sworn in and temporarily seated, and then to stave off the contest as long as possible before the elections' committee and then before the House.

The right to the seat so clearly belongs to the present incumbent that there can be no doubt, if evidence and justice prevail, he will be adjudged the rightful Delegate from Utah. But the policy of the conspirators is to keep him from the position to which he is lawfully and morally entitled, just as long as wire-working and technicalities and positive falsehood can extend the time.

In view of this we shall rejoice to

see any proper steps taken to upset the villainous conspiracy, and prevent the pretender from obtaining even the least of the advantages of the position. We commend the course of the Delegate in proceeding to contest every point, and trust that there will be a sufficient number of just and honorable men in the next House of Representatives to refuse the admission to a seat, temporary or otherwise, of a person whose pretensions are not merely tainted but saturated with fraud, and who comes to the front with unblushing impudence to claim a position which he knows, without the shadow of a doubt, belongs to a gentleman whom he wants to cheat out of his rights.

Let the contest go on now, and every point be fought for, inch by inch. And the success of the right, in this instance, will be applauded, not only by the people of Utah on whom this fraud has been attempted, but by honest people of all political parties throughout the land, who recognize in this scheme a blow aimed at the foundation principles of popular government, the glory and strength of the great American republic.

AN IMPORTANT STEP IN THE CONTEST.

ON the 8th instant, application was made in the Third District Court, before Hon. John A. Hunter, Chief Justice of Utah, for a writ of mandamus against Acting Governor Arthur L. Thomas, requiring him to give a certificate of election to Hon. George Q. Cannon, who was duly elected Delegate to Congress on the 2d of Nov., 1880. Copies of the documents filed in the case are given below, from which it will be seen that application has been made to the Acting Governor and Secretary for a certificate in due form of law; that the gentleman refused to issue such certificate; and that Judge Hunter at once granted an alternative mandamus, requiring the Acting Governor to issue the certificate or show cause why he has not done so on the 14th day of the present month.

The matter is very simple. The law requires the Governor to perform a certain specified duty which he has not performed and which he now refuses to perform—the Acting Governor being now in fact the Governor—the Court therefore issues its writ to compel the performance of the required duty, or the production of sufficient reasons for the neglect or refusal to do so. That the Court has authority to exercise this power there can be no reasonable doubt; it has been done in a number of instances in more States than one.

It may be a question in some minds whether a mandamus will apply in this case, seeing that it was decided to be not applicable in the recent case of Assessor Robt. T. Burton. But in the latter case the plaintiffs sought to compel an officer to perform something contrary to law, while in this case it is asked for, to compel an officer to perform something which he is commanded to do by law. According to the wording of the statute under which the Governor is required to act, the person having the greatest number of votes is to be declared duly elected. But the Governor took the words of another part of the law, relating to other and different offices than that in question, and by a singular combination of the two portions, made out a definition of one word not warranted by the context. He construed the word "person" to mean "citizen." And on this construction of language he predicated his argument to the disfavor of the Delegate-elect.

It will be perceived that in the present application nothing is said about the citizenship of the Delegate. It forms no valid part of the inquiry. Taking up that extrinsic question with which he had nothing to do, caused the Governor to fall into the series of blunders wherein he is now floundering, one false step ever leading to more. The citizenship question is merely avoided because it lies entirely outside of the present subject, not because there is any flaw in the evidence of our Delegate's naturalization, as will be fully set forth in due time.

It may be asked, how can the Governor be compelled by order of the court to issue a certificate to the person elected, when he has already issued one to another person? To which we reply, the Governor has not issued any certificate as required by law, but has done something of his own volition and in his own way

contrary to that which the law commands him to do, so that pretended certificate is bogus and not worth anything more in fact or in law, than a counterfeit bank note or forged check or any other worthless piece of paper.

That Hon. George Q. Cannon is lawfully and justly entitled to the certificate there is no doubt in the mind of any one who understands the matter. And a manifest injustice having been committed to his injury and the injury of the citizens of Utah who voted for him, and the writ of mandamus having been introduced in jurisprudence, "to prevent disorders from a failure of justice," therefore it is evident that the present proceedings ought of right to prevail, and the case being so plain and simple, all points but one having been conceded by the Governor himself, there can be little doubt that that the writ will be made peremptory, and that the proper officer will be required to issue the certificate to Delegate Cannon.

PETITION FOR MANDAMUS.

The District Court of the Third Judicial District of Utah, Salt Lake County.

The People of Utah Territory

ex rel.

George Q. Cannon

vs.

Arthur L. Thomas,

Acting Governor of Utah.

Your petitioner George Q. Cannon respectfully shows that he is a resident of Utah, over twenty-five years of age; that he has been Delegate from the said Territory of Utah to the 43d, 44th and 45th Congresses and is now a Delegate to the 46th Congress.

That he was on the 2nd day of November, 1880, entitled and qualified to receive the votes of his fellow citizens of Utah Territory, and in case of receiving the greatest number of votes, to be declared by the Governor elected to the office of Delegate to Congress from said Territory, in pursuance of Section 1862 of the compiled laws of the United States.

That on the day last aforesaid, Tuesday, November 2d, 1880, an election was held in the various precincts and counties of said Territory for the office of Delegate to the House of Representatives for the 47th Congress: that at such election a total of 19,933 votes were cast for that office, of which your petitioner received 18,568; Allen G. Campbell 1,357; E. D. McKim 3; John R. McBride 1; Robert Williams 1; Willis Clark 1; Isaac Harrison 1; and Joseph S. Rawlins 1; thus giving your petitioner the greatest number of the votes cast; that returns were made prior to January 8th, 1881, from the proper officers of the various counties to the Secretary of the said Territory, showing the vote aforesaid; that the respondent Arthur L. Thomas was such Secretary. That on the 8th day of January 1881, your petitioner by his agents, demanded of Eli H. Murray, Governor of Utah, that he declare your petitioner elected to said office of Delegate to Congress from Utah, which said Governor refused to do, as petitioner alleges on information and belief.

That on the 8th day of January, 1881, Eli H. Murray, Governor of Utah, departed from that Territory, has not yet returned, and that Arthur L. Thomas, the Secretary, became the Acting Governor of the Territory; that on day of January, 1881, petitioner by his agents demanded of said Arthur L. Thomas that he declare your petitioner elected to said office of Delegate to the House of Representatives for the 47th Congress of the United States, and issue to your petitioner the usual certificate of election; which said Arthur L. Thomas refused and still refuses to do, as your petitioner alleges on information and belief.

Your petitioner prays that the writ of mandamus may issue out of and under the seal of this court, commanding said Arthur L. Thomas, Acting Governor of Utah, to declare your petitioner elected to the office of Delegate to the House of Representatives of the 47th Congress of the United States, and to issue his certificate of election therefor to your petitioner.

Your petitioner prays for such further relief as may be proper.

GEO. Q. CANNON.

ARTHUR BROWN, Attorney for
Petitioner.

District of Columbia,
City of Washington,
County of Washington. } ss.

George Q. Cannon, being sworn, says: I have read the foregoing petition: I am the person making the same, and I know the contents thereof. The same is true of my own knowledge, except as to the matters therein stated on information and belief, and as to those matters, I believe it to be true.

GEO. Q. CANNON.

Subscribed and sworn to before me, this 23th day of January, A. D. 1881.

(Notary's
Seal.)

FRANK GALT,
Notary Public.

AFFIDAVIT OF JOHN T. CAINE.

TERRITORY OF UTAH.

In the District Court for Third Judicial District, Salt Lake County.

The People of Utah Territory,

Ex rel.,

George Q. Cannon

vs.

Arthur L. Thomas,

Acting Governor of Utah.

SALT LAKE COUNTY, } ss.

John T. Caine, being duly sworn, says that he is the agent of George Q. Cannon above named, for the purposes of making the demand hereinafter set forth, and Arthur Brown is the attorney for relator for demanding and taking proceedings relative to the certificate of election hereinafter spoken of.

That on the 5th day of February, 1881, deponent and said Brown together called upon above-named Arthur L. Thomas, and after stating to said Thomas that deponent and said Brown were authorized so to do as aforesaid, demanded of said Thomas that he declare George Q. Cannon elected to the office of Delegate to the House of Representatives of the Forty-seventh Congress of U. S., and requested him to sign and execute annexed certificate, Ex. A. And the said Thomas then and there refused to declare said George Q. Cannon elected to said office and refused to sign said certificate. Said Brown then demanded of said Thomas that he declare said George Q. Cannon elected to said office, and that he certify that fact in any form to suit himself, all of which said Thomas then refused and declined to do.

Deponent further says that he was present at the time of counting the returns made by the several county officers to said Thomas as Secretary of said Territory for the said office of Delegate to the House of Representatives of the Forty-seventh Congress of the U. S. for the election held in said Territory, November 2, 1880, and that by those returns 18,568 votes were cast for said George Q. Cannon, 1,357 votes for one Allen G. Campbell and 8 scattering votes for other persons.

And deponent further says that on the 7th day of January, 1881, he, as such agent of said George Q. Cannon, demanded of Eli H. Murray, Governor of Utah, that he declare said George Q. Cannon elected to said office of Delegate to the House of Representatives of the Forty-seventh Congress of the United States, which said Murray declined and refused to do. And further deponent saith not.

JOHN T. CAINE.

Subscribed and sworn to before me this 7th day of February, A.D., 1881.

[SEAL]

JAMES JACK,

Notary Public.

FORM OF CERTIFICATE.

EXHIBIT "A."

United States of America, } s.s.
Territory of Utah.

I, Arthur L. Thomas, Secretary and Acting Governor of the Territory of Utah; the Governor of the Territory, Eli H. Murray, now being absent therefrom; do declare and certify that at a regular election for Delegate to the House of Representatives of the Forty-seventh Congress of the United States, held in said Territory on the first Tuesday after the first Monday in November, A. D. 1880, returns whereof were opened and counted by me in the presence of Eli H. Murray, Governor, George Q. Cannon received 18,568 votes; Allen G. Campbell received 1,357 votes, scattering 8; that therefore, the said George Q. Cannon is the person who received the greatest number of votes for that office. And I do hereby, by virtue of the act of Congress, declare said George Q. Cannon elected to the said office of Delegate to the House of Representatives of the Forty-seventh Congress; and I do give this certificate accordingly.

In testimony whereof I have hereunto set my

[SEAL] hand and affixed the great seal of the Territory. Done at Salt Lake, this 5th day of February, 1881.

ORDER OF COURT.

The District Court for the Third Judicial District, Salt Lake Co.

The People of Utah Territory,

Ex rel.,

George Q. Cannon,

vs.

Arthur L. Thomas,

Acting Governor of Utah.

The People of the Territory of Utah, to Arthur L. Thomas, Acting Governor of Utah, greeting:

Whereas, it manifestly appears to us by the affidavits of George Q. Cannon, relator herein, and of one John T. Caine, that on the 2d day of November, A. D. 1880, an election was held in the said Territory of Utah, for a Delegate to the House of Representatives of the Forty-seventh Congress of the United States; that at said election the relator herein, George Q. Cannon, received the greatest number of votes cast for said office of Delegate; that said George Q. Cannon, was at the time of said election a resident of Utah, over 25 years of age, and qualified to receive votes for said office of Delegate to Congress, and to be declared elected to said office; that the returns of said election were made by the proper officers of the various counties in said Territory, to you the Secretary of said Territory before the 8th day of January, 1881, and were opened and counted by said Secretary, in presence of the Governor of said Territory; that by said returns said George Q. Cannon received 18,568 votes, Allen G. Campbell, 1,357, and scattering, 8 votes, and thereby George Q. Cannon received the greatest number of votes cast for said office; that said George Q. Cannon, by his agents, did, on the 7th day January, 1881, demand of Eli H. Murray, Governor of said Territory, that he declare said relator elected to said office, which was refused, and the said Governor on the same day left said Territory, whereby you, as Secretary of said Territory, became Acting Governor of said Territory, and it appearing that on the 5th day of February, 1881, demand was made upon you by the agents of said George Q. Cannon that you declare him elected to said office and issue a certificate accordingly, which you refused to do; and it appearing that there is not a plain, speedy and adequate remedy in the ordinary course of law; therefore, we do command you that immediately after the receipt of this writ, you do declare George Q. Cannon elected to the office of Delegate to the House of Representatives of the Forty-seventh Congress of the United States, and issue a certificate accordingly, or that you show cause before this Court at the Court room thereof, in the city and County of Salt Lake, on the 14th day of February, A. D., 1881, at 10 a. m., at the opening of Court on that day, why you have not done so.

Witness the Hon. John A. Hunter, Judge of the Third District Court of the Territory of Utah, and the seal of said Court.

NOT AUTHORIZED.

COMMUNICATIONS having been received from settlements south of this city to the effect that persons have been traveling in those places with a work entitled, "The Life of Joseph the Prophet," and representing that they are authorized by the Church to sell the book; that in consequence of railroads passes through Church influence, they are able to sell at a reduced price; also that it is an acknowledged Church work, president Taylor announced that these representations are false, and says, emphatically:

"I have never given any passes or obtained such for the parties or purposes referred to, neither have I ever given my sanction and approval of the work spoken of as a Church work."

This should be a sufficient answer to all questions on this subject. People have the right to offer books for sale anywhere in this Territory, but not to make false pretences of authority from the Church in order to obtain patronage. Such a course is highly reprehensible by whomsoever it is followed, and the Latter-day Saints are hereby notified that they may not be deceived.