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AN ILLEGAL GRAND JURY.

SOME difficulty was experienced yesterday in empaneling a grand jury for the present term in the Third District Court. Only ten jurors were accepted while thirteen were rejected, and ten more names were drawn that the panel might be filled up. The challenge made by District Attorney W. H. Dickson, and sustained by Judge Hunter, was on the ground that the jurors believed in the doctrine of plural marriage as set forth in the revelation to Joseph Smith contained in the book of Doctrine and Covenants of the Church of Jesus Christ of Latter-day Saints. On acknowledging their belief in that doctrine the jurors were excluded from the panel. To-day by the same course a strictly non-"Mormon" grand jury was obtained.

In sustaining this challenge it is thought Judge Hunter was inconsistent with his ruling on a former occasion, when he declined to exclude grand jurors who expressed their belief in the doctrine of plural marriage. But we do not know that this view is correct. On the previous occasion the District Attorney was questioned as to whether he expected any prosecutions for polygamy, and replying that he could not say that he did, Judge Hunter declined to sustain the challenge of grand jurors on account of their belief. The challenged persons, too, expressed their willingness to find indictments according to the law and the testimony, irrespective of their private beliefs.

On the present occasion it is to be presumed that prosecutions for polygamy are expected, and that the District Attorney wants a grand jury which he thinks is likely to indict, and so makes his challenge and is sustained this time by the Court. We do not think the exclusion of the jurors on this account is lawful, but the Judge is probably not inconsistent with the former ruling in this matter, for the reason we have stated.

The only law that we are acquainted with under which this challenge of the jurors could be made with any show of reason, is the Fifth Section of the Edmunds Act, which provides;

"That in any prosecution for bigamy, polygamy, or unlawful cohabitation, under any statute of the United States, it shall be sufficient cause of challenge to any person drawn or summoned as a juryman or talesman, first, that he is or has been living in the practice of bigamy, polygamy or unlawful cohabitation with more than one woman, or that he is or has been guilty of an offense punishable by either of the foregoing sections, or by section fifty-three hundred and fifty-two of the Revised Statutes of the United States, or the act of July first, eighteen hundred and sixty-two, entitled "An act to punish and prevent the practice of polygamy in the Territories of the United States and other places, and disapproving and annulling certain acts of the Legislative Assembly of the Territory of Utah," or, second, that he believes it right for a man to have more than one living and undivorced wife at the same time, or to live in the practice of cohabiting with more than one woman; and any person appearing or offered as a juror or talesman, and challenged on either of the foregoing grounds, may be questioned on his oath as to the existence of any such cause of challenge, and other evidence may be introduced bearing upon the question raised by such challenge; and this question shall be tried by the court. But as to the first ground of challenge before mentioned, the person challenged shall not be bound to answer if he shall say upon his oath that he declines on the ground that his answer may tend to criminate himself; and if he shall answer as to said first ground, his answer shall not be given in evidence in any criminal prosecution against him for any offense named in sections one or three of this act; but if he declines to answer on any ground, he shall be rejected as incompetent.

It should be observed that the whole of this section applies only to trial juries. It is "*in any prosecution* for bigamy, polygamy," etc., that these challenges are made lawful. There can be no prosecution for these offences before a petit jury, until an indictment has been found by a grand jury. And this cause of challenge can only apply in a prosecution. Therefore it is not applicable to the empaneling of a grand jury, but only to a petit jury drawn for the purpose of trying a case of bigamy, polygamy or unlawful cohabitation. There is no law which authorizes the exclusion of a grand juror from the panel on account of his belief or his practice of plural marriage, or anything akin to it. But it has been the custom for the Federal Courts and Federal officers in Utah to make law, occasionally, when statutes did not exist suitable for their purpose. Challenges to petit jurors, on account of their belief, were made and allowed in the Miles case, long before the Edmunds law was enacted. There was no law to sustain it then, or why was the section we have quoted made part of the Edmunds Act? Yet it was allowed in practice without law, just as the challenges permitted in the Third District Court yesterday were permitted.

It may be asked, would it be proper to place men on a grand jury, when it is expected that indictments for polygamy will be presented, who are themselves believers in and practisers of polygamy? We answer that the disqualification, if any, would be in the disposition of the grand jurors to recognize the law and the binding nature of their oath in relation to it. As grand jurors they swear to act according to law and the evidence brought before them, and if there is no proof that they will violate their oath there is no reason why they should be excluded from the panel. A man may conscientiously believe that morally and religiously it is not wrong to have two living and undivorced wives at the same time, and yet, being sworn to find according to law and evidence, he might feel it his duty to bring in an indictment against a person in whose case there were reasonable proofs of a violation of the law. His private belief is one thing, his sworn duty under the law is another and different thing.

It should be remembered in this connection, as a matter of fact, that all indictments that have ever been found against polygamists have been found by grand juries partly composed of persons who believed in the rightfulness of plural marriage. They acted according to their sworn duty. The conflict between the word of the Lord and the law of man was not of their making and they were not reponsible for it. They believed in the former, but were sworn to act according to the latter, and they acted in accordance with their oath and their duty as grand jurors.

In a trial for murder it has been long held as a valid ground of challenge against a juror that he did not believe in capital punishment. But we ask is it customary to challenge grand jurors on any such ground? We think not. If grand jurors may be examined on their oath in regard to their belief in plural marriage, why not examine them in regard to their belief in capital punishment, and in the various penalties for the different crimes on which they are expected to find indictments? If the rule holds good in one case, way not in another?

And to bring this down to the present issue, we ask, why did not the District Attorney question the non-"Mormon" grand jurors in regard to their belief in or practice of unlawful cohabitation? Read the law. Any person who "is or has been" living in "unlawful cohabitation with more than one woman," is subject to the same challenge as one who is or has been living in the practice of bigamy or polygamy. And it is as lawful a cause of challenge that a juror believes it right to live in the practice of cohabiting with more than one woman, as to believe it right to have more wives than one.

Let the District Attorney and the Court carry out the law. If they challenge a "Mormon" on his belief in or practice of plural marriage, let them challenge non-"Mormons" on their belief in or practice of cohabitation with more than one woman outside of "the marriage relation." For if a juror has been guilty of an offense punishable by either of sections One to Four of the Edmunds Act, Section Five says he may be challenged, and one of the offences named is: "If any male person in a Territory or other place over which the United States have exclusive jurisdiction, hereafter cohabits with more than one woman." Therefore in a trial for bigamy or polygamy, a "Gentile" petit juror ought to be examined as to his practice of this offence, equally with a "Mormon" petit juror on his practice of plural marriage. And if it is lawful to challenge a "Mormon" grand juror on the question of plurality of wives, it is equally lawful and just as proper and pertinent to challenge a "Gentile" grand juror in reference to cohabitation with more than one woman.

We consider the grand jury now being empaneled an unlawful body. It is not organized according to law. Persons have been excluded whom the law does not exclude. So-called indictments framed by such a grand jury will not be legal indictments. The question ought to be tested. Perhaps it will be. In any important case that can be carried up to the higher courts, this ought to be made one of the grounds of appeal after it has been argued in the lower court on a motion to quash the indictment. We would like to hear the arguments than can be advanced to sustain the action of the District Attorney and the Court, to learn on what law they predicate their course. Meanwhile, if this is to be the practice, let the principle be extended as far as the Edmunds law so plainly indicates.

"SENIORS" AND "JUNIORS" IN POLITICS.

THE letter in Monday's EVENING NEWS, signed "Utah Boy," we find expresses the views of a great many people in regard to the correspondence and editorial which have appeared in the Salt Lake *Herald* on the subject of "Young Men In Politics." "Utah Boy," who is really what he claims to be, a young man born in this Territory who has never held a political office, has shown that the statement made by "Native Born" and endorsed by the *Herald*, that young men have been unfairly treated by the seniors, politically, is not borne out by the facts.

Young men are and have been brought to the front and placed in official positions for which they were adapted. And this has not been, as falsely intimated by "Native Born" for causes other than "qualification or character." In almost every instance the public men who are now "seniors," and are honored and respected for their experience, wisdom and integrity, commenced their public life as young men untried in the affairs of state. There is not now and has not been at any time in this Territory, any "organized effort" for the subjugation of young men or the elevation of the "seniors." All over the Territory young men have had their opportunities for usefulness both in and out of office. The rash statements of "Native Born" are remarkable for their bold and patent inaccuracy.

The case of Hon. Geo. Q. Cannon is mentioned by "Native Born" with a flippancy and disregard for the facts which are both impertinent and inconsistent. It is well known that the gentleman never sought or desired the office which he filled so long and ably, but was really averse to receiving it. Being elected by the people, who wanted his services, he represented them at the seat of government in such a manner as to gain and retain the respect of the best minds of the nation. When the position to which he was chosen by the people was assailed, he manfully battled for his rights, and in doing so contended for the rights of his constituents, as he was in duty bound to do. And he was never nominated or elected because he struggled for the office but because he was eminently qualified for the position and the people wanted him there. If he had sought the office, in all probability he would never have obtained it; for the people of Utah, leaders and followers, do not respect men who pull wires for position or are eager for place and power, and we commend this to the consideration of "Native Born" and others who may, like him, lust after political distinction and think they can force their way into office. We also call attention to the fact that when Brother Cannon was called into prominence he was a young man, as were most of our present seniors when brought forward into public life, and his case is one out of many that stand out in clear contradiction to the position assumed by the *Herald* and its recent correspondents.

We are and always have been in favor of recognizing talent and ability in the young. But we would remind the ambitious and enterprising youth of Utah that experience is of some value as well as energy, and that there is such a virtue as gratitude, which ought to be shown towards those public servants who have expended their forces and devoted their lives in the promomotion of the public good. Most of the seniors against whom "Native Born" desires to establish an organization of juniors, served the public years ago either without pay at all or for remuneration that was not the wages of a common laborer, and now that times have changed and offices carry with them something like decent pay, we would ask if it is proper to discard these seniors, who are noted for their ability and long-proven fidelity, just to gratify the budding ambition of some office-seeking juniors?

The fatuity of "Native Born" in exposing his chagrin at being left out of office at the present juncture, and complaining at young men being excluded just when they are more than ever being brought to the front, is really astonishing. He has taken the very course to defeat his own aspirations. Soreheads, senior or junior, never have much favor in this community. They are not considered the right kind of stuff for the offices in the gift of the people. Those who thrust themselves into notice and parade their claims or pretended qualifications excite disgust instead of winning favor. He makes it evident that he is vexed at not being selected for some post that he covets. A large number of young men have been called to fill positions of trust and profit, and he was not one of the elect. He being left out, the young men, as a class, are "abused" and "subjugated." And now he wants them to combine against the seniors and cause a division in the People's Party, which is exactly what the enemy has been trying in vain to effect for years. And what for? Simply that he and those who think like him may adopt the ways of the corrupt political world, and strive and wire-work and log-roll for office. And this is the very surest way to lose the object of their ambition. For they will for this reason, if for no other, be rejected by the great majority of the voters who know how to appreciate worth and despise pretence.

We admonish our young friends to beware of the sophistries of such aspirants as "Native Born." Office-seeking is not a noble employment. There are plenty of avenues for the pursuit of honorable distinction without running in the race for political preferment. Let every young man strive to develop the talents with which he is endowed, take part in public affairs according to his rights and privileges, and help in maintaining good order and the public welfare, to the best of his ability. And if he has within him the qualifications for public position they will be made manifest and be recognized in time. And if they are not, the same talents and qualities can be employed to profit and advantage outside of any office whatever. The whole tenor of "Native Born's" letter is to support the idea that office is the *summum bonum*, the great desideratum, the very apex of true ambition. And that is its great and glaring mistake in principle.

Another thing should be well understood: Anything that tends to divide the People's Party is wrong and unwise; any one who seeks to effect this by any means whatever is an enemy to its cause and principles. The strength which it bears is in its union. While that remains, connected with the franchise, it cannot be overcome. But divide it into factions and where will it be? And where will they be who caused the division? Repudiated alike by "Mormon" and anti-"Mormon," they will fall between two stools into the mire and slide into the "Slough of Despond."

And just examine the kind of division advocated by "Native Born!" The "juniors" rising against the "seniors." The sons standing up to fight their fathers. The youth, who are reaping the fruits of the toil of the pioneers and founders of the community, banding together to push aside the veterans who made it possible for them to exist and enjoy the benefits of good society in these blossoming vales redeemed from a wilderness!

This would be as monstrous as foolish. Why is it desired? Has any such distinction ever been made by the "seniors" against the "juniors?" Has any such division ever been known in Utah? Have there ever been two classes of that kind recognized or hinted at? If so, where does the line of the juniors end and that of the "seniors" begin? The assumption of "Native Born" is utterly false, and his attempt to make a party issue of it grotesquely absurd. The true interests of the young men are inseparably bound up with those of the older members of society. "As juniors," to quote "Native Born," they can accomplish nothing. As citizens identified with the People's Party they can do a great deal.

Youth, of itself, will be found no real qualification or recommendation pitted against maturity and experience. There is no middle wall of partition between them now, there ought not to be and will not be in the future. And if any are foolish enough to grasp at the shadow pointed out as a prize in the letter of "Native Born," and endorsed by the *Herald*, they will certainly lose the substance and either drop into insignificance and oblivion after briefly flashing into notice like a meteor, or go over body and spirit to the enemy where a worse fate is sure to await them. We do not think the proposed "third party" will amount to a baker's dozen of "the young men of Utah."

BY TELEGRAPH.

FOR WESTERN UNION TELEGRAPH LINE.

AMERICAN.

LATEST BY LIGHTNING.

Lynched.

STERLING, Ky., 15.—Fifty masked men went to Jackson, Breathitt County, on Wednesday night and took from jail Henry Kilburn, white, and Ben Strony, colored, and hung them. Kilburn was charged with the murder of Wm. Thorp last January. Strony was suspected of being connected in the same murder. A notice was pinned on the victims stating that all perpetrators of such crimes will receive like punishment. Kilburn had killed eight men.

Resumed Work.

AMESBURY, Mass., 15.—The weavers of the Hamilton mill accepted the proposition of the management for a reduction of charges for sewing, and now premiums on the cloth of a given standard of perfection are given and the hands have resumed work.

Serious Affray.

ST. JOHNS, N. F., 15.—An assault on Protestants of Carbonear, on Sunday night, culminated last night in a serious affray, in which shots were exchanged between the belligerents, but up to the present time none reported mortally wounded. All last night the Orange body under arms was parading the streets of Carbonear.

A Canard.

The rumored rescue of the Greely party by the sealing steamer *Vanguard* turns out to be a canard circulated on the first day of April.

To Resume Work.

The striking colliers of Ansler coal district have decided to resume work.

The Morrison Bill.

WASHINGTON, 15. — In expectation that the fight over the Morrison tariff bill will take place to-day, members on the republican and democratic sides who have daily been securing pairs for absentees, were kept busy this morning in seeing that the vote of no man should be worsted, but that all the pairs should contain the names of advocates and opponents of the measure.

The Morgan Gold Mine.

The Supreme Court of the United States has affirmed the decree of the lower court with costs in the suit involving the title to the famous Morgan gold mine of Calaveras County, Cala.

Fatal Wreck.

ATLANTA, Ga., 15.—A freight train on the Western & Atlantic R. R., ran into a washout near Acworth. Fourteen freight cars were wrecked. The live stock in two of the cars were all killed. Engineer St. Clair McDonald and fireman Ed. McCullough were killed.

Terrible Railroad Accident.

CHICAGO, 15.—The *Daily News'* Chattanooga special says: A terrible accident occurred on the Western and Atlantic Railway early this morning. The passenger train which left here last night, went through a trestle bridge near Ackworth, Georgia, and the engine, tender, mail and smoking cars, were dashed into the torrent. Edward Ware, mail weigher, was burned to death, and the engineer and fireman are believed to be fatally injured. The conductor and several train men were badly bruised. No passengers were injured. The accident was due to a terrific rainstorm last night, which caused many washouts on the railways.

From 60 to 70 per cent. of the salmon at present spawning in the Tweed are afflicted with the fungoid disease.

FOREIGN.

LATEST TRANS-ATLANTIC DISPATCHES.

Heavy Demands.

PARIS, 15.—It is reported that the French fleet has occupied Amoy in order to secure the payment of the indemnity for China. The capture of Hunghoa terminates the campaign in Tonquin. The financial question remains to be settled with China. The French demands will be very heavy.

French Dynamite.

Several English detectives have arrived in Paris for the purpose of tracing dynamiters. In spite of Col. Majendie's report it is declared that the dynamite used at Victoria station was made at a factory near Boulogne. A rumor is afloat that an attempt will shortly be made to blow up one of the public buildings in London. The activity of the dynamiters continues unabated. They meet twice a week for the purpose of making plans and preparations for future outrages. It is believed that the English and French police are fully acquainted with their movements, and that every efforts will be made to counteract their plots. It is also believed that one of the most trusted of the dynamite leaders keeps the police fully informed of all their plans.

The Funeral.

LONDON, 15.—The remains of Chas. Reade were interred to-day at Willesden. The funeral was private. Geo. Augustus Sala, Edwin Arnold and a few other literary friends of the deceased were present.

The total value of diamonds found in Griqualand West during the last 11 years amounts to over $20,000,000 sterling. At present the yield of diamonds from the mines averages £3,250,000 sterling per annum, and no diminution whatever is reported in the yield of the mines.