

DESERET NEWS: WEEKLY.

TRUTH AND LIBERTY.

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WEDNESDAY, - JUNE 20, 1883.

"OUTSIDE THE BOUNDS."

The Commissioners have rendered a decision, to be found elsewhere in this paper, in regard to the officers to be elected at the August election. We shall not here consider their right to adjudicate upon this question, a subject on which much might be said, but pass to a consideration of the conclusions at which they have arrived. The decision that "all the offices which should have been filled at the general election in August, 1882, are to be filled at the next general election in August, 1883, for the unexpired term," we think to be incorrect because the laws of the Territory in reference to some of those offices provide to the contrary. Probate Judges are to be elected every two years, for a term of two years and until their successors are elected and qualified, and the election comes on the even years, not the odd ones.

If the Hoar Amendment be permitted to figure in this connection, the election of 1883 will not relieve any supposed discrepancy with the laws of the Territory. If the "hold over" principle is good at all, it is good until the term has expired, which will not be until August, 1884.

But this, perhaps, is a matter of minor importance compared with the decision in regard to the Territorial offices. These have been filled by election as provided by the laws of the Territory duly enacted, signed by the respective Governors in office at the time of their passage, and submitted to Congress; that body not having disapproved of those laws, they stand as valid, and the implied approval of Congress gives them the virtual sanction of the National Legislature.

In passing upon those enactments the Commissioners again step outside the bounds of their calling and assume judicial functions, so far as their opinion shall affect the election to fill the Territorial offices. This is a grave matter, and opens a question which we think they have no authority to determine. And if we are not mistaken, the Supreme Court of the United States has passed upon this very question, taking a view entirely opposite to that of the Commissioners.

However, we anticipate no great trouble to arise over these difficulties; they will, we have no doubt, be arranged so that public affairs will not be obstructed, but we call attention to them chiefly because of the great stretch of authority which the Commissioners appear to have exercised.

WILL THE COURTS SUSTAIN THEM?

The decision of the Commissioners in the Jennings case is not surprising, in view of their rendering of the eighth section of the Edmunds bill at the time when they first issued their registration rules. Mayor Jennings' name remains stricken from the registration list although he appeared and took the oath prescribed, which he could conscientiously do, because, as he states to Commissioners, he is not, and has not been for many years, a bigamist or polygamist, neither has he cohabited with more than one woman, or at any time entered into any marriage relations contrary to the laws of the United States. His plural family relations were contracted before there was any law of the United States relating to bigamy or polygamy, and ceased many years before the passage of the Edmunds law. It remains now to take the case to the courts.

It would puzzle a Philadelphia lawyer to show any authority in law for the oath which the Commissioners enacted, with the object of

preventing persons who had ever been connected with the practice of plural marriage from voting at any election in Utah. But supposing they had legal authority to formulate their peculiar oath and compel all citizens to take it or be disfranchised; where can any authority be found for the punishment of individuals who are not liable to conviction for crime?

There are several classes of citizens who, in our opinion, have been unlawfully deprived of the elective franchise, thus being dispossessed of valuable "property" without due process of law. Legal redress is open to them and it should be sought for. Many men and women are prevented from voting on the ground that they are or have been polygamists, who cannot be convicted in any court, because the statute of limitations bars their prosecution. Can they be lawfully debarred from exercising their political rights? We think not. There are others, who, like Mayor Jennings, never violated any law of the United States, having entered into plural marriage prior to the passage of the law of 1862 and emerged from it before the passage of the Act of 1882. It should be always remembered that the law of 1862 was directed solely against the ceremony of plural marriage and not against the cohabitation of the parties. There are still others, who both entered into and ceased their plural family associations prior to the enactment of the law of 1862, and therefore cannot, even by implication, be said to have violated the law against polygamy.

All these persons, we believe, have been unlawfully deprived of the exercise of a vested right. They had acquired the right to vote at elections in Utah by subscribing to the laws relating thereto. The elective franchise is not an inherent right, it is a privilege conferred upon citizens by law. But when it is acquired and exercised it becomes a political right, and is the property of its possessor and cannot be taken from him in a constitutional way without due process of law. It follows, then, that those citizens whose status we have briefly described have been unlawfully dispossessed, and their only remedy lies in the Courts, established for the purpose of protecting the people against improper encroachments upon their liberties.

It is a matter of extreme regret to those who think the Commissioners are actuated by a desire to fulfil the duties imposed upon them by the Edmunds law, that those officers have gone beyond the sphere plainly described in the only section of that enactment which relates to them, their duties and their powers. No one expected that they would show the least favor to the people against whom the Act was directed. It would have been unreasonable to do so. They were appointed to aid in the administration of a law intended to disfranchise persons, both male and female, engaged in the practice of polygamy, and so far as they were authorized to proceed, so far the people chiefly affected will sustain those gentlemen; even though it be to the hurt of the objects of the legislation. But where in they have stepped over the bounds of their lawful authority and have made law and acted judicially, they are not sustained by the people, and with all the disposition that exists to rule unfavorably against the "Mormon" side of any question, we do not believe that they will be sustained by the Courts. By all means let this be tested soon.

THE ANNUAL SCHOOL MEETINGS.

It is time that the School Trustees in the several School Districts of this Territory were preparing for the annual meetings to be held, according to law, on the second Monday of July. At least ten days' notice is required to be given by the Trustees, either by advertising at least three times in some newspaper published in the county and having general circulation therein, or by posting notices in three public places in the district. The notice must state the time, place and object of the meeting.

One Trustee has to be elected in each district for the term of three years, and if any present Trustee holds his office by appointment, that position must also be filled by election. The registered voters of the District may vote for the election of School Trustees. But if the intention is to levy a tax for school

purposes at the same meeting, the property taxpayers resident in the District are authorized to vote on that question whether they be registered voters or not, but none but registered voters may vote for the election of School Trustees. In our opinion it is better to have separate meetings for the election of trustees and for the levying of a tax for school purposes. But if both are intended, or any further business, at the same meeting, the notice must specify the several objects of the meeting. The annual report of all moneys received and expended by the Trustees during the year, must be submitted at the same meeting held for the election of Trustees. This report must be examined by an auditor appointed by the Trustees who is not one of their number, before it is submitted to the meeting.

Before that meeting the Trustees must cause to be taken a census of the school population, that is, the children residing in the District between the ages of six and eighteen years. A statistical report, filled out according to a form printed in the school law, must be furnished by the Trustees to the County Superintendent before the tenth day of the ensuing August, or they are liable to prosecution on their bonds for neglect of duty.

If the business of the meeting should include the raising of a tax for school purposes, a copy of the notice of the meeting and of the minutes thereof, must be filed with the County Superintendent within ten days after the meeting, for the inspection of any member or taxpayer of the District.

The question has been raised as to whether the election of School Trustees comes within the provisions of the Edmunds law relating to the conduct of elections in Utah. This question we have invariably answered in the negative, for the reason that the law provides for no election officers at school meetings. The choosing of School Trustees is not such an election as is contemplated in the election laws of the Territory. It is a matter belonging to the people in their several School Districts which are not included in the political divisions of the Territory, such as precincts and counties. The people meet and choose their own Chairman and Secretary and their own manner of conducting the meeting, except that the voting must be by ballot. No ballot box is required or returns to be made as provided for in a political election, and the whole matter is of a different nature. To set the matter at rest, however, the following was this morning submitted to the Commissioners:

OFFICE OF TERRITORIAL SUPERINTENDENT OF DISTRICT SCHOOLS.

Salt Lake City, U. T.

June 15th, 1883.

To the Hon. U. S. Commissioners of Utah Territory:

Gentlemen—The matter of the election of School Trustees at the election to be held in July having been submitted to me by many of the County Superintendents of District Schools in the Territory. I desire to call the attention of your honorable body to the school laws of this Territory by which meetings are authorized and required to be held in the several School Districts, on the second Monday of July in each year, for the purpose of electing one School Trustee for each District, and for the transacting of other school business. See Laws of Utah of 1880, p. 27-8; 1882, p. 83.

Also to ask your honorable body whether, in your opinion, the said meetings and election come within the meaning of the ninth section of the Edmunds law of March 22, 1882, thereby bringing them within the jurisdiction of the Commissioners?

As notices for these meetings should be posted at an early date, an immediate reply will greatly oblige.

Yours respectfully,

L. JOHN NUTTALL,

Ter. Supt. of Dist. Schools.

To this the Commissioners made the following response:

OFFICE OF THE UTAH COMMISSION,

Salt Lake City, Utah,

June 15th, 1883.

L. John Nuttall, Territorial Superintendent of District Schools,

Salt Lake City, Utah:

Sir:—In reply to your communication of June 15th, 1883, asking "whether the school meetings to be held on the second Monday of July,

come within the meaning of the ninth section of the Edmunds law," I am directed by the Commission to say that as there are no election officers under the school law; and inasmuch as a registry list has been prepared under their direction as the basis of said school meetings they are of the opinion that no further action on their part is necessary.

I am, very respectfully,

ARTHUR L. THOMAS,

Sec'y Utah Territory.

The Trustees, then, may proceed to issue their notices and the people in due time to hold their meetings, and go on with the choosing of Trustees. And we remind all our friends, male and female, who are legally qualified to vote, that it is their duty to attend these meetings in full force, and elect such men as will work for their interests and the cause of education. If we are dilatory and negligent in those that appear to be small things, how shall we succeed in those that are great?

STATEMENT OF ELDER JOHN ALEXANDER.

THE outrage upon Elder John Alexander, which has made one more indelible stain upon the escutcheon of the State of Georgia, has occasioned much comment here and elsewhere. The facts have already appeared in this paper, also some false and ridiculous statements in relation to them sent by telegraph to the papers on the Coast which have been refuted by the parents of the young man who was injured. We now present the personal statement of Elder John Alexander made by him this morning, and have no doubt that it will prove highly interesting, because it comes from his own lips although it contains little that is new to our readers. His escape from death was certainly astonishing and will be considered directly providential by those who are willing to "acknowledge the hand of the Lord in all things."

On the morning of the 1st of June I left Brother Reed's about three miles from Adairsville, Georgia, for that place. I told him I would go to Adairsville and see if I could make an appointment to preach as we had never held any meetings in that neighborhood. I talked to a few farmers along the road, but the results were not satisfactory, and when about a mile from Adairsville I started to return to Brother Reed's. When about half way between the two places, as I was singing aloud one of our hymns, I was startled by a noise and saw three masked men step out of a thicket and face me (the road here passed through a forest). This was about 11 o'clock in the morning. The men were masked by having what appeared to be some unbleached calico tied round their faces under their eyes, and which hung down on to their breasts. Their hats were pulled down over their foreheads to conceal the upper portions of their faces. One of the men was a slim man, over six feet high, I believe, who seemed the leader, the other two were men of about 5 feet 9 or 10 inches. When about 10 feet from me, the tallest man said, "Are you one of those Mormon Elders from Utah?" I told him I was. He replied "You G—d—d son of a b— go up there in the brush. I answered, "I don't feel like going up. What do you want me to go for?" On this he blurted out, "You son of a b— go. I won't tell you again." He then drew his pistol and covered me. The other two following his example. I walked into the brush 50 yards the way they pointed. Then I stopped and turned round. The leader told me to go on. I told him I had gone as far as I was going. At this they drew their pistols and presented them at my face, about four feet off. I then turned to start up the hill again, when the leader gave me the first kick which threw me on my hands and knees. I raised myself and struck at him, but he was down hill and I missed him and struck a small tree and fell flat on the ground and rolled on to my side. Just as I fell one of the others, who was above me on the hill, ran three or four steps towards me and jumped on my stomach. Just as I was getting up the third one kicked me on the left side. I then started up the hill, very slowly, because of my great pain. When I had again gone about 160 yards I made the last stop, I

turned round and said, "For God's sake, men, you don't mean to kill a young, innocent man. What have I done?" The leader answered, "Well, you son of a b—, you come out here preaching false doctrine, and you know false, and say that it is." I replied, "No, sir; I don't think it's false, I know it is not false, and I can't say that it is." He said, "Well, you're going to die right here, have anything to say?" I told him, they meant to kill me, I had nothing to say. He continued, "What is it?" I asked him, you allow me to offer up a few words of prayer." "Yes," he said, you'll be damn quick about it," he held my right hand up and my left across my breast and "Oh, my God, if it is Thy will, I am willing to die," and a few words which I do not recollect, then dropped my arm and folded across my breast and looked straight in the face. As I lowered their pistols, pointing to my face, another closed my eyes. The moment eyes closed the three shots were fired. I recollect hearing the shots, but nothing after. My consciousness seemed taken away. I fell falling, but do not recollect striking the ground. When I came to, the first thing that I remember is on my hands and knees looking around. Just as soon as I had done this I arose to my feet. I was rather staggered or stumbled to the road, and started, I know which way I was going, where I was going, but I did not until I found myself at Brother Reed's fence; and that was the time I realized where I was. I fell exhausted, and Brother Reed came, picked me up and carried me into the house. In about half an hour, I think, I came round that I could talk to him. I do not remember it was about noon when I reached Brother Reed's. Brother Reed and I took the greatest care of me. My travelling companion, Bro. O. M. Wilson, of Hyrum, Cache Co. came to me the next evening. O. Sunday Brothers Barber and Parrish came with a buggy and, about 2 o'clock (they having held a meeting at Bro. Reed's in the morning), we started for Bro. Barber's home at Haywood, about 16 miles distant. They left me at Bro. Smith's, Haywood, until Wednesday, when Bro. Barber took me to Rome, about 15 miles, and on the evening Bro. Parrish started for Chenoega with me.

Of the three shots one went through the front of my hat (a crown black and white), and as I was a little up the hill, and the hat was slightly tilted back, the ball went in at the front and immediately came out of the crown giving the appearance of glancing upwards. This was the shot fired by the leader, who I noticed had a pistol pointed at my head.

My coat was rather open, and a bullet passed through it on the side, just grazing the slide of a watch chain. The third ball did not touch me.

When the three men shot, they were standing in a row about steps from me.

I have no idea who any of the mobbers were, though the neighbors suspect certain parties.

BAPTISM FOR THE DEAD.

AN enquirer asks the Christian Union:

"Can you give me any light on the reference in I Corinthians 12:29, to being 'baptized for the dead'?"

To which the answer is given that

"Scholars differ; some suppose that it refers to the heathen offering themselves in baptism on account of the triumphant deaths, which they had seen, of unbelievers. The phrase then would read, 'Who shall they do which are baptized because of the dead?' Others suppose that it is a reference to a custom which certainly existed at a very early age in the church, of baptizing the living in lieu of the dead."

How much "light" is there in this reply? Just about as much as is usually shed by modern "divines" upon any subject of theological discussion. They can tell what scholars think, and give the drift of learned opinions, but have nothing to offer which will satisfy the mind eager after knowledge. How much better off is the inquirer who propound