

Thursday, May 12, 1874.

## CONTESTED ELECTION.

TERRITORY OF UTAH.  
Geo. R. Maxwell vs. Geo. Cannon.  
Argument of Halbert E. Paine,  
Counsel for Sitting Member.(Before the Committee on Elections of the  
House of Representatives of the United  
States, Washington, D. C., 1874.)

(CONTINUED.)

The power of the State over crimes was thus committed to the Legislature, without a definition of any crime, without a description of any punishment to be adopted or to be rejected, and without any direction to the Legislature concerning punishments. It was, then, a power to produce the end by adequate means; a power to establish a criminal code, with competent sanctions; a power to define crimes and prescribe punishments by laws in the discretion of the Legislature.

But though no crime was defined in the Constitution, and no species of punishment specially forbidden to the Legislature, yet there were numerous regulations of the Constitution which must operate as restrictions upon this general power. A law which should declare it a crime to exercise any fundamental right, or to violate the Constitution, and the right of suffrage or the exercise of religious worship, would infringe an express rule of the system, and would therefore not be within the general power over crimes.

A law enacting that a criminal should, as a punishment for his offense, the right to trial by jury, would contravene the Constitution, and the deprivation of this right could not be allowed in the form of a punishment.

But while many rights are consecrated as universal and inviolable, the right of singularity of office was not so secured. It is one of the express rules of the Constitution, and was not declared as a right or mentioned in terms as a principle in any part of the instrument. Important as this right was, it stood as the right to life itself stood subject to the general power of the Legislature over crimes and punishments. As a right flowing from the Constitution, it could not be taken away by any law deeming that classes of men, or even a single person, not convicted of a public offence, should be ineligible to public stations, but it could, and was expressly denied by the Constitution. It might be, from convicted criminals when the Legislature, in their plenary power over crimes, deem such a deprivation a necessary punishment. To say this was to say in substance that the right in question might be forfeited by crimes when the Legislature chose to do so. This right was taken from none but malefactors, in punishment for offences declared by law, and ascertained in the due course of justice, the sense of the whole Constitution was maintained. And he added, that as the authority of each house of the New York Legislature was to be exercised in the same questions concerning the qualification of its own members, if either house should consider such a qualification unconstitutional, or for any reason whatever should disapprove it, the opposition of the house would prevail in respect to the seat and rights of a member declared ineligible, and the disqualification pronounced by the courts would fail to produce an exclusion from the Legislature, but it would, nevertheless, be effectual to exclude from all other public stations; that its effect in respect to all other public employments would be decided by the courts.

(TO BE CONTINUED.)

**THE UTE TREATY.**—A private telegram from Mr. Chase to the New York Tribune giving the intelligence that the Ute treaty was ratified by the Senate on Wednesday. This fact will be satisfactory in the highest degree to all residents of the San Juan district, and to those who contemplate removal to that point. It secures to the energy and enterprise and muscle of the mining population, a district of unusual richness, and which, with proper capital and development, will prove one of our most productive and remunerative districts. Having obtained this prize—to white men valuable, to Indians worthless—by fair and equitable terms, we urge upon all men in that nation, whether now there as going, a strict and faithful compliance with its terms. We asked for the mines and got them; now let us be just to the Utes. The two men to whom Colorado is most indebted for the consummation of this fortunate and just treaty are James Dyer and Samuel H. Elbert, who have labored persistently and untiringly to this end. The announcement puts the cap-sheaf on the prospects of San Juan for this season; removes all doubts about the securing of titles, and puts at rest the question of peace and war with the Utes. The Indians have acted wisely and generously, and should be treated honestly and fairly in return.—*Denver News.*

**THE MORMON PUZZLE.**—The Mormon puzzle still remains unsolved. It has been a problem for statesmanship and the opprobrium of the country for many years, and the evils seem as far from extinction now as ever before. It has been recognized as something incompatible with Christianity, and antagonistic to the laws of all Christian nations, but it has hitherto failed to every attempt of the Government to "stamp it out." When the Polygamy Bill was passed through the Territory, so few people saw in the easier access by Federal troops, the beginning of the end of polygamy. But the national arms can only support the civil powers of the Territory, and that is Mormon. The people cannot be put under martial law, for they are not in insurrection. Every trial and jury will be a Mormon jury, from which it would be idle to expect a conviction. Thus, notwithstanding the many propositions among Congressmen, it does not appear how polygamy is to be extirpated without grave departures from constitutional prescription, and many purples in their nature, revolutionary and at war with all popular ideas of liberty.—*Broadway Journal.*

## MINING STOCKS.

AFTERNOON BOARD.  
San Francisco, May 12.

225 Valley, 10; 10½;  
225 My. 20; 20½;  
225 Gold, 20; 20½;  
145 Diamonds, 6½;  
120 Diamonds, 6½;  
210 Diamonds, 50; 50½; 250; 50; 50½;  
100 Diamonds, 50; 50½;  
225 Charcoal Gal., 10;  
75 Watson, 8;  
100 Diamonds, 50; 50½;  
50 Patch, 5;  
250 Zinc, 6½; 6¾;  
500 Copper, 50; 50½;  
100 Diamonds, 50; 50½;  
250 Charcoal Gal., 10;  
125 Diamonds, 50; 50½;  
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