all needful rules and regulations respecting this common property and territory of all the people, I do not see the impropriety in allowing the Senate a voice in prescribing the qualifications of the agent to represent this common interest. So far as the constitutional power is concerned it is extended to Congress, not to the House, and why it is competent for the Senate and the Executive to have a voice in saying that a Territory shall have the right to elect a Delegate and to provide the manner in which he shall be elected, and yet be excluded from all participation in prescribing or defining the qualifications of the agent who is to represent the common property and Territory, I must confess my inability to see. I am unable to extract any reason for such a position from the report, though I do not feel certain that the author of the report does not labor under the impression that he has furnished one. I quote again from the report:

This must not be construed into an opinion that the writer holds that the House of Representatives may disregard any law, which Congress has the constitutional power to pass. Such laws as are binding upon this House as upon any citizen or the write court Nor doesr of this report mean to be understood that it is not competent for Congress to provide, under the Constitution, for legislative representation of Territories; but it is denied that Congress can bind the House by any law respecting the qualification of a Delegate. It cannot affix a qualification by law for a Delegate and bind any House except the one assenting thereto. The qualification of members is fixed by the Constitution. Hence they may not be added to or taken from by law. But as to Delegates, they are not constitutional officers. Their qualification depends entirely upon such a standard as the body to which they are attached may make. It is urged this means a legal qualification. This is admitted, but that legal qualification is remitted to the body to which the Delegate is attached, because it is the sole judge of that requisition.

Now, I have always understood a legal qualification to mean a qualification fixed and regulated by law. But here we have a "legal" quallficatien prescribed by no law, and the right to pass any law fixing such a qualification absolutely denied.

Mr. Calkins. If the gentleman from Tennessee will allow me to interrupt him, I would remark that he seems to confuse two substantative propositions which I have blended into one. He will see, and so will anybody that will look, that there are two classes of qualifications mentioned in the Constitution. The qualifications of one class are those prescribed, which every member must possess at the time he is elected. The qualifications, or rather disqualifications, of the other class are such as may attach to the member after being elected, on account of which disqualifications he may be expelled; so that in dealing with a Delegate, excluding him from the constitutional provisions and remitting him, if you please, to the general parliamentary law, which gives to every legislative body the right to judge of the qualifications of its own members, the question of his legal qualification is remitted to the body to which the Delegate is attached, which always has had the power residing in every Legislature of prescribing the qualifications of its own members, a power which it cannot divide with any other.

Mr. Hammon, of Georgia. Does the gentleman base that proposition on the right to expel a member?

Mr. House. I understand the idea of the gentleman from Indiana. I understand that the qualification a a member must possess under the Constitution the gentleman denies Congress has the right to prescribe to a Delegate.

Mr. Hammond, of Georgia. Will the gentleman from Tennessee allow the gentleman from Indiana to answer my question—whether he put that proposition on the right to expel a member?

Mr. Calkins. No, sir; I put it on this basis——

Mr. Hammond, of Georgia. You used the word "expel."

Mr. Calkins. I did, in my remarks just now. I put it on this ground, that where any legislative body has the sole and exclusive right to judge of the qualifications of its members and where it is unfettered by constitutional restrictions, as I claim this body is with reference to Delegates, the two classes of qualifications which are recognized in the Constitution are consolidated in the House, and the House being relieved from that restriction which requires a two-thirds vote to expel for any cause, may exclude by a majority vote.

Mr. House. I will go on. I am perfectly willing the gentleman from Indiana should have an opportunity to make his explanation. I do not think I have done his argument any injustice, nor do I see his his explanation has helped his argument at all. I quote further from the report.

It [meaning the House] is unfettered by constitutional restrictions and cannot yield any part of this perogative to the other branch of Congress or the Executive. If it could the right to amend would follow, and the House might find itself in the awkward position of having the Senate fixing qualifications to Delegates, or the Executive vetoing laws fixing them; and by this means the power be which the Constitution resides alone in the House would be entirely abrogated.

Mr. Speaker, I stand silent in the presence of this logic and this law. The coolness with which this report assumes the very point in dispute and the dogmatic manner in which objections are disposed of are really refreshing. But as a matter of curiosity I would like to enquire what power is alluded to as residing under the the Constitution alone in the House, and which would be abrogated by allowing the Senate and the Executive to have a voice in passing a law fixing the qualifications of Delegates? Certainly not the power vested in the House by the Constitution to judge of the election, returns, and qualifications of its own members, for the report expressly takes the ground that this clause of the Constitution has no reference whatever to a Territorial Delegate, and as this clause of the Constitution is not referred to by the report I am utterly at a loss to conjecture what constitutional right of the House would be abrogated by the passage of the law alluded to. In fact, in the report it is claimed that the House is wholly unfettered by any constitutional restrictions in dealing with a Delegate, and yet it is asserted that if the Senate and Executive are allowed to have any voice in law prescribing the qualifications of a Delegate a constitutional power which resides alone in the House would be abrogated. I give it up. I am unable to comprehend the logic of the report; it may be my misfortune and not the fault of the author.

The position assumed in the majority report, so far as I am able to gather it, is, to state it briefly, that Congress has the right under the Constitution to pass a law—both Houses and the Executive, of course, participating—providing that a Territory shall have a right to elect a Delegate; that when elected he shall be entitled to a seat in the House of Representatives, but that it is incompetent for them to so provide by law as to inform the people of the Territory what qualifications their Delegate must possess. Their right to eleet is fixed by law by which the seat of their Delegate when elected is assured to him, yet after the people exercising this lawful right and in strict compliance with the statute have gone to the trouble and expense of electing a man possessing all the qualifications which the Constitution prescribes for a member of the House of Representatives, yet, when he arrives in Washington, presents his credentials, and asks to be allowed to take his seat, he is told, "We know the law gives your Territory the right to be represented by a Delegate; we know you were duly and legally elected to that position; we admit that you possess all the qualifications that the Constitution requires a member of the lower House of Congress to possess, yet you do not suit our taste, or caprice, on the standard which we have erected outside the law, and therefore we have concluded not to admit you. We claim the right to arbitrarily exclude you. We have, therefore, Mr. Delegate, proposed for the adoption of this House the following resolutions:

"Resolved, that George Q. Cannon is not entitled to a seat in this Congress as a Delegate from the Territory of Utah.

"Resolved, that the seat of Delegate from the Territory of Utah be, and the same hereby is, declared to be vacant.

"Go tell your people that the Forty-seventh Congress is capable of taking that position, and

> "If any fool should ask thee,
> Why we wear the crown;
> Tell him we wear the crown
> Because—it fits our head."

The people of the Territory thus denied the right of representation by an open and arbitrary disregard of the law, may at the next election select a man that comes up to the moral standard fixed by this Congress, but the Congressional liver of the next House of Representatives may be in a torpid condition, and the new Delegate may be told that he takes his whisky straight, whereas he ought to have sugar in it; that he dosn't wear his hair or his coat cut in the proper fashion; and that taken altogether a majority of the members of the House don't like his looks at all, and don't fancy the people that elected him, anyway, and therefore they have concluded to close the doors of the House to him and declare his seat vacant. A right to representation, however loudly it may be claimed by law, is not worth much to a Delegate or his people when it can be denied by the body to which he is sent at the mere whim or caprice of its members.

Mr. Speaker, why this effort to disregard all precedent and to violate all law to keep out of his seat this Delegate from Utah who has no right to vote? It seems that members wish to emphasize their abhorrence of polygamy by denying Cannon his seat. It strikes me that it would be much more creditable for members of Congress to emphasize their devotion to justice and their respect for law by refusing to trample either under foot, even though it might be done in obedience to a popular outcry, however well founded, against an odious practice. The right never demands of its votaries to call to their aid injustice and wrong to suppress an evil practice or an obnoxious doctrine. It may be a matter of small concern whether Mr. Cannon is allowed to take his seat in the Forty-seventh Congress; but it is not a matter of small concern for this Congress to repudiate all its precedents, violate its own laws, and perpetrate an act of injustice even against a Mormon. Polygamy cannot be crushed out in this way. Men can never be convinced of error by making them feel that they are the victims of injustice. A respect for the law of the land can never be promoted among any portion of our population by a disregard of the law on the part of law-makers themselves. This proposition to deny Cannon his seat had its beginning in the arbitrary act of the governor of Utah, who, in plain violation of the law, denied him his certificate of election. It is now proposed to crown that illegal act by a vote of this House declaring that he is not entitled to his seat, when every well-informed member of this House knows he is so entitled, unless the last four Congresses stultified themselves in admitting him.

Mr. Speaker, I cannot vote for the resolution proposed by a majority of the committee on elections. I cannot assent to their reasoning, accept their legal conclusions, or, surrendering my judgment to popular clamor, consent to establish a precedent so utterly untenable in itself and so dangerous in its tendencies. I cannot agree by my vote to clothe this house with arbitrary power to set the law at defiance or to trample on even the rights of a Mormon, however distasteful his doctrine on the subject of the domestic relations may be to me. I cannot avoid feeling that by such an act I had struck a much severer blow to the instincts of my manhood than I had to the pernicious doctrines of the Mormons. Several members of the committee on elections, of the majority side have favored the House with written reports, undertaking to set forth their reasons for denying Cannon his seat. These reports seem to be characterized more by a feeling of passion and indignation than by that calm judicial tone which should pervade such opinions given to this House for their guidance. My colleague, [Mr. Pendle on] in the conclusion of the report which he submits, uses this extraordinary language:

My vote and voice, then, is for a resolution denying to George Q. Cannon a seat as Delegate from Utah, because it is in gross violation of the dignity of the House, and would be an insult to the sovereignty of the nation to admit a self-admitted criminal violator of the laws of Congress to a seat in the body whereof we are members.

His reasons seem to be that he wishes to preserve "the dignity of the House" and the sovereignity of the nation. It is sad to reflect upon how the dignity of the House of the Forty-third, Forty-fourth, Forty-fifth, and Forty-Sixth Congresses was suffered to be impaired by the presence of this very man when that dignity was in the keeping of majorities of both Democratic and Republican members. What particular injury was inflicted on "the sovereignty of the nation" by Cannon during the time he held his seat in those bodies I have never seen any account of; but Cannon is stigmatized as a "self-admitted criminal violator of the laws of Congres." I fail to find in the record anything to justify this charge. I find a statement from Cannon to the effect that he belongs to the Mormon Church; that in accordance with the tenets of that church he had taken plural wives, who live with him, and have done so for many years, and have borne him children. Now, polygamy was not made a crime, nor was there any law in Utah prohibiting it until the act of 1862 was passed, and there is no evidence whatever that Cannon has married a wife since the passage of that act. So far, then, as this record discloses, and I know nothing of Cannon's marital relations outside of the record, he is not a self-admitted violator of any law of Congress.

Mr. Speaker, I once heard of an old judge who made it a rule never to give a reason for any judgment he rendered. His theory was that if he should happen to decide a case correctly, he might give a wrong reason for it and thus impair the force of his opinion. I commend the example of the prudent old judge to the author of this report.

Another gentleman of the majority (Mr. Miller) also indulges in a separate report. The utter contempt of precedents, opinions, and decisions displayed by him compels admiration of his courage, whatever impression may be left on the mind as to his judgment. He seems to move under an intensity of excitement and a fixedness of purpose that bears down all opposition and defies all legal restraints. He evidently started on the war-path to take the scalp of polygamy and to return to an admiring constituency with this trophy dangling from his wampum belt. I quote a few lines from his report as illustrative of his animated animus:

* * * Whenever this hydra-headed monster of injustice, iniquity, and anti-republicanism shall threaten the peace of this nation it is quite time that Congress should assert its prerogatives; should trample down ancient precedents, if they stand in the way; should disregard the opinions of any man, however reputable, if they are quoted ever so persuasively, and call a halt on the enemy of free government. The exercise of such power is not the exercise of "brute force," as some have denominated the majority action of this committee; it is the exercise of that right which is as inherent in governments as in citizens, the right of self-defense, of self-preservation, the right and authority and duty of governments to protect their existence from all enemies, domestic as well as foreign. In doing this you may run counter of a precedent or decision or opinion that once was highly esteemed; so much the worse for the precedent.

This red-hot sample of judicial logic ought certainly to commend this report to every member of the House who seeks by its perusal to reach the merits of this case. I quote these extracts from these reports as illustrative of the temper and spirit which seem to have inspired the investigation that conducted the majority to the remarkable conclusion at which they arrived.

The very ground on which the majority claim the right to exclude Cannon, to wit, that it is a matter resting solely in the discretion of the House, and that the Senate and the Executive have no right to assist in passing any law touching the qualifications of a Delegate, was abandoned by them at the present session when they voted for a Senate bill which provided that no polygamist should have a seat in this body as a Delegate from a Territory. Of course, according to the doctrine laid down in the majority report, that section of the anti-polygamy bill passed at the present session, so far as it seeks to deal with the qualifications of a delegatirn, is null and void, and not binding on the House at all. The authors of the majority report thus repudiate by their votes on that bill the very ground assumed in the report before it comes up for action in the House. They ought not to expect others to accept their position when they themselves thus repudiate at the first opportunity.

Mr. Speaker, anxious as I am to see the cancerous spot of polygamy eradicated from the body politic I felt constrained to vote against the bill passed at the present session. I did not believe that the bill would have the effect to destroy polygamy in Utah, and it contained provisions which I could not endorse. In some of its features it is more worthy of the barbarous and proscriptive spirit which made the legislation of three or four centuries ago than of the enlightened judgment and toleration of the present in the land of written constitutions and human rights. If it is determined, regardless of all considerations arising from obedience to law, respect for constitutions and human rights, to crush out polygamy, let the army be sent to Utah, and the mailed hand of military power exterminate it. But let us not pretend to give the Mormons the right of trial by jury, and then pack the jury on him to insure his conviction.

The Constitution gives to every man, whether he lives in Utah or Massachusetts, whether he is a Mormon or a Methodist, the right to a speedy trial by an impartial jury. Now, when it is provided, as it virtually is in the bill passed at this session, that none but anti-Mormons shall compose the jury in the trial of a Mormon for the crime of polygamy the accused has not the benefit of an impartial jury to try him. But it is said if you allow Mormons to sit on a jury you will never convict one of polygamy. That may be true. But does it follow that it is therefore legitimate to substitute the packed jury of expediency for the impartial jury of the Constitution? The provisions of the law in question strike the deadliest blow at the purity and impartiality of jury trial to be found anywhere in the legislative history of this country except in the reconstruction policy adopted toward the South after the late civil war, that policy was admitted by its wisest advocates to be ouside the Constitution.

This law, if sustained by the courts, will establish a precedent which may in the future undermine the whole system of trial by jury. A packed jury is an insult to the Constitution and a travesty on the administration of the law. It is true the law is only aimed at the Mormons, a sect living in a remote Territory of the United States and of insufficient voting power to make them formidable in elections; but this does not establish either the fairness or constitutionality.

If it was proposed in the trial of a Methodist or a Baptist or a Presbyterian all persons who belonged to the same church with the accused should be excluded from the jury the cry would be raised from one end of this country to the other that would drive the advocates of such a scheme into everlasting infamy and disgrace. The doctrine that if you cannot convict a man without packing a jury on him, it is then your right, legal, constitutional to do so, the jury may be good logic in some, but I cannot embrace it even though it be intended to apply only to the trial of a Mormon. But this is not the worst feature of this law. Section 8 of the law says that no polygamist, bigamist, or any person cohabiting with more than one woman shall be entitled to vote in any Territory or other place which the United States have exclusive jurisdiction, or be eligible to any election or appointment to, or be entitled to hold any office or place of public trust, honor, or emolument in, under, or for any such Territory or place, or under the United States. Now the inquiry arises, who is a "polygamist?"

Webster defines a polygamist to be: "One who practices polygamy or maintains the lawfulness thereof."

Johnson: "One that holds the lawfulness of more wives than one."

Worcester: "An advocate of polygamy;" and this is the first definition he gives of the word.

Craig: "One who maintains the lawfulness of polygamy."

Kenrick: "One that holds the lawfulness of more wives than one."

Ogilvie: "A person who maintains the lawfulness of polygamy."

Bailey: "One that holds the lawfulness of more wives than one at a time."

It will thus be seen from the definitions given by these eminent lexicographers that a "polygamist" is not only the man who practices polygamy, but any one who believes that polygamy is not wrong. I can very well conceive how a person, from reading the Old Testament Scriptures may honestly believe that polygamy is not morally wrong, although he may never have practiced it and may have no intention of doing so. Yet for this opinion merely he is declared ineligible for election or appointment to any office, even the most insignificant. In the case of Reynolds vs. United states, 98 United States Supreme Court report, Chief Justice Waite, after quoting Mr. Jefferson says:

Congress was deprived of all legislative power over mere opinion, but was free to reach actions which were in violation of social duties or subversive of good.

The idea of excluding a man from holding office on account of his religious belief, whether he believes in polygamy, the transmigration of souls, the resurrection of the dead, or believe in neither, is so palpably antagonistic to the whole spirit of our institutions and violative of the Constitution that it would be an insult to the understanding of every American citizen to attempt to argue the proposition. But the evil