gress did not incorporate into the organic act any such provisions as are now insisted upon.

Take the Forty-third, the Forty-fourth, the Forty-fifth, and the Forty-sixth Congresses; at times republican and at times Democratic. Yet the right of this people to be represented by a Mormon was recognized by all. Now, we are told that the presence of a Mormon on this floor will offend the dignity and sensibilities of certain men and women living elsewhere; hence, we must commence a crusade against Mormonism.

Gentlemen, are you in earnest in that? It is said that you may judge a tree by its fruit. Now, if you are in earnest and really want to extirpate polygamy, the way is easy and the constitutional method plain. What is that? Why, just gather together thirty or forty thousand of you and *go out there and settle.* They cannot hinder you from doing so, and then you can settle this question.

The Forty-third Congress had this question before it, and the Forty-fourth Congress, and the Forty-fifth and the Forty-sixth. It has passed the crucial test of all of them in a constitutional point of view, and they all decided that there was then no existing law, no such disqualification of polygamy as now contended for by gentlemen on the opposite side of this question. Congress, by acquiescing, by receiving the delegate, is now, if there can be any such thing upon the unbridled power claimed by this Congress, estopped from interposing and exacting for the first time a qualification hitherto unknown either to the Constitution, to the law, or to precedent.

The present Congress admits that; there is no question on that subject. Why hurry through in hot haste at the present Congress what is known as the Mormon bill, except to reach Mr. Cannon's case? Everybody knows that. You admit that the law and the Constitution sustained Mr. Cannon's *right to a seat on this floor.* And in order to overreach him you introduced this bill, known as the Mormon bill, and passed it in order to accomplish by indirect means what you could not effect directly. Now, is there a lawyer on this floor who does not know that what cannot be accomplished directly cannot be accomplished indirectly? Can you evade, and thereby defeat the Constitution of the country?

It is maintained by some gentlemen that this act of this Congress changes materially the attitude of this case. It is maintained by the gentleman from Pennsylvania [Mr. Beltzhoover] that for the first time we have polygamy confessed by Mr. Cannon. Now, does not everybody know that it was just as well known by general notoriety as a thing could be known? Did Mr. Cannon ever deny it heretofore? And now because the man was too honest, too frank, to deny the truth, but came up boldly in his manhood and admitted it, did not put the country to any trouble to prove it, that is seized upon as conclusive evidence of guilt.

Now, was he guilty of any offense, any legal offense? I will inquire about that by and by. He had taken his wives before the act of 1862.

Mr. Beltzhoover. Will the gentleman allow me to ask him a question?

Mr. Jones, of Texas. Certainly.

Mr. Beltzhoover. Has the gentleman ever read the report of the committee on elections of the Forty-third Congress in the Cannon and Maxwell case?

Mr. Jones, of Texas. No, sir, I have not.

Mr. Beltzhoover. Then I would suggest that the gentleman should not make the assertion that Mr. Cannon did not deny that he was a polygamist.

Mr. Jones, of Texas. I say that he did not deny it then.

Mr. Beltzhoover. He did deny it.

Mr. Jones, of Texas. Denied that he ever had been married?

Mr. Beltzhoover. In the contest which Mr. Cannon had with Mr. Maxwell, in the Forty-third Congress, (1874,) he denied most emphatically that he was "living with four wives or living or cohabiting with any wives in defiant or wilful violation of the law of Congress of 1862." He denied that he was then "living, or had ever lived, in violation of the laws of God, man, his country, decency, or civilization, or of any law of the United States." These broad denials on the very issue which was the chief one involved in that contest doubtless had a great deal to do with the finding in Mr. Cannon's favor.

Mr. Jones, of Texas. Very well. It is now stated that the case has been materially changed, that he admits—admits what? He does not admit that he has violated any law. He does not admit that he has been convicted of any offense. The fact that he admitted it in the Territory where he was directly amenable to the law and subject to prosecution in case of guilt shows a consciousness on his part that he was not thus liable.

The fact about it is that his polygamist errors, or whatever you please to term them, all took place before the enactment of the law of 1862. Will any gentleman pretend that Mr. Cannon could under that law be convicted and punished for an act which when done was not a crime?

The gentleman from Pennsylvani (Mr. Beltzhoover) says there is nothing that Congress cannot do in its treatment of the people of the Territories. But it seems to me that on this point he has read to very little profit the decisions of the Supreme Court if he has not been informed that, with all our legislative power, we cannot, to save our lives, make a law *ex post facto* in its nature or even impairing the obligation of contracts. In the celebrated case of Hepburn vs. Griswold, involving the legal-tender question—a case with which members of the bar are all familiar—the Chief-Justice, delivering the opinion of the court, grouped not the powers of the Government in order to show that it could do thus and so, but actually grouped in the inhibitions by the Constitution upon the powers of the States—for what purpose? To show that by the very nature and genius of our Government *ex post facto* laws and laws impairing the obligations of contracts have no part or place in our entire system. The Federal Government cannot exercise the power to pass any such law. There is no authority, either State or national, that can by any act passed to-day make that which was done yesterday a crime.

The eighth section of the act of March 22, 1882, has been referred to. Let me read it:

> That no polygamist, bigamist, or any person cohabiting with more than one woman, and no woman cohabiting with any of the persons aforesaid described in this section, in any Territory or other place over which the United States have exclusive jurisdiction, shall be entitled to vote—
>
> That does not affect votes heretofore given—
>
> at any election held in any such Territory or other place—
>
> Not heretofore but hereafter held in such Territory or other place—
>
> or be eligible for election or appointment to—
>
> Not in the past but in the future—
>
> 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, in construing this provision I submit that the general and well known rule that all statutes are to be construed so as to give them operation in the future, applies in this case. No statute can be construed as having a retroactive or *ex post facto* effect, even where there exists power in the legislative body to give it such effect, unless it be made so by express and unmistakable language. Now, apply that rule to this eighth section, which, it is claimed, works a change in the character that this case presents to us. Under the application of this rule the whole argument falls to the ground.

But accepting the confession which this argument implies of your inability to reach this case in any other mode, let us concede that the law-makers intended to do just what you claim has been done—to reach Mr. Cannon and impose upon him a disqualification on account of polygamy; can you do it? Have you done it? Is not the law, if so construed, necessarily *ex post facto!* Was not Mr. Cannon duly elected to this Congress? Did he not acquire by virtue of his election at vested right of property in his office? Can you deprive him of it, except by due process of law? Is it true, as you affirm, that the people residing in the Territories have no protection whatever? Is it true, as you affirm, that the ægis of American liberty does not cover those poor, helpless people out there? Is it true, as you maintain, that when a man, invested in his own State with all the rights of American citizenship, happens to transcend the territorial borders of the State sovereignty, he loses his stature as a man and forfeits his rights as an American citizen. Why, sir, this idea reverses the whole theory of our government. Our fathers thought that governments were organized to conserve and protect the innate, inherent rights of man; yet you reverse that principle, and in these Halls, familiar in the past with the teachings of Douglas and Clay, and other illustrious men, you gravely tell us that the people of the Territories have no rights whatever that we are bound to respect. Why, gentlemen, we are retrograding; we have got away back of 1765.

My friend from Pennsylvannia [Mr Beltzhoover] had better go a little behind the history that he read, when he undertakes to deny these people the right of representation. He could even go to the English Parliament and get valuable lessons from the Earl of Camden. When the same power was claimed for the British Parliament over the American colonies, what was the response of that noble lord? He maintained that whatever is a man's own is his own absolutely, and no one has a right to take it from him without his consent; whoever attempts to do so does him an injury; whoever does so commits a robbery. Whenever you undertake to deprive the people of Utah of the right of representation, of the right of a voice in their own legislation, however wayward they may be, you do those people an injury, and if successful you rob them, not of rights which you gave them, but of rights which they received from nature and nature's God.

Now, then, if Mr. Cannon was elected, and that is the main point I wish to impress upon this House, he is entitled to his seat. He has not been, as I maintain, and I think the intendment of this section clear in support of that view, deprived of it by this act of Congress. If the act had so intended, it is unconstitutional, and therefore inoperative. He is not in any view of its construction, deprived of his right, and the logical conclusion is that he cannot be excluded without abolishing the office of Delegate from that Territory. I say, then, to gentlemen on the other side of this House, in all fairness, let them meet this question as it confronts them. Let them meet this question fairly. Here it is: Mr. Cannon is supported by his constitutional right, by his legal right. You find the Constitution and laws of your country and his country, however widely you differ in your religious views, are the same. You find them confronting you. They stand between you and him. They are opposed to you. The spirit of our Constitution and laws is opposed to you, to say nothing of their express language.

What are you going to do? What shall we do? That is the grave and solemn question for us to decide. Will we do as our predecessors have done, recognize this right, the right of representation in the people of the Territories, the right of Mr. Cannon to come here and voice their interests, to represent them in asserting their rights, in communicating to Congress such information as may be deemed necessary in their treatment, or will you ignore these rights?

Here you are brought in front of the Constitution itself. You cannot get around it and you cannot get over it. There is no escape. There is but one alternative: you must either admit Cannon or you must trample the Constitution of your country under your feet.

I do not propose at this time to undertake to discuss, or even to state the constitutional questions involved as affecting the rights of the people in a Territory. It is not a new question. I accept as true that construction of the second clause of the third section of the fourth article of the Constitution in reference to the power of Congress over the Territories, as stated by the gentleman from Pennsylvania, [Mr. Beltzhoover]. Under that clause of the Constitution Congress has the power to do what? To dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

I submit to any fair minded man whether both the legal and grammatical intendment of this language is not unmistakable. Does not the qualifying word "other" in its relation to the subject place Territory in the same category with property? I submit that the plain intendment of the language, the word "other" referring back to territory, puts it in juxtaposition with property.

I will not now repeat what to my mind has been the unanswerable argument of Case and Douglas on this question. I desire to affirm that I believe, as they maintained, that the power here given is limited to property as land in the Territories. At the time the Constitution was adopted the Territorial government had already been provided for the Northwest Territory. The first Congress under the Constitution of the United States passed an act confirming the Territorial government in its relation to the new Government, succeeding and supplanting the old That is all it did. They elected and sent their representative to Congres; they chose their representatives and lawmakers under it. Here we have, then, I may say, taking it in its historical relation and bearing, a direct expression of the sense of those who framed the Constitution.

The history of their struggle with British power was too fresh in the minds of our fathers for them to assume that the people who inhabited the Territories had no rights. They recognized in their brothers residing in a Territory the same capability, the same right to treat, regulate, and control their own affairs that they had so recently asserted for themselves. That is part and parcel as it were, of the Constitution itself. The clause "to make all needful rules and regulations," &c., to which I have just referred, was intended to and did give Congress power to establish a system of land surveys, to dispose of and regulate the sale of public lands. At that time it might be reasonably supposed Congress was not looking to the acquisition of further territory, but Congress was empowered by the Constitution to make treaties and declare war, and under the power to make treaties Congress could acquire territory—this very Territory of Utah. In the execution of that power it did acquire this Territory.

The force of analogy and the example of the framers of the Constitution can leave but little room for doubt as to relations of rights and powers between the Government and the Territories. Conforming to those relations as interpreted by analogy and example, Congress organized Territorial government, securing to the people the right of *local self-government.* The rights of the people in that Territory were recognized, as were those of the people in the Northwest Territory, thus conforming to the genius of our government. The people accepted the government thus provided, and by accepting, made it their own. If I had time, Mr. Speaker, I would like to reproduce some of the Fourth of July orations I have read on this great subject. Why, I have been so weak, and credulous as actually to believe that all just laws derive their sanctions from the consent of the governed. I have been so weak and credulous as an American citizen. In fact, I used to pride myself in the genius of our institutions and in the faith that such was American doctrine and such the spirit of our Constitution and our laws.

I used to believe in the doctrine that all men are born with certain inalienable rights, but especially so with reference to the one to which I have referred; but I now find that I have been hugging delusive phantoms; that man has no rights except those conferred by the government, and that Congress has absolute power over the domestic affairs of the hardy frontiersmen in the Territories, and the right to establish for them such a system as shall suit the people in the States, without regard to the will and welfare of the governed, give them bad names, call them polygamists, and try them in their absence and condemn them without a hearing. Is such the genius of American institutions? Is that American doctrine? "Oh," say gentlemen, "it won't do to let this despised people alone." James Madison was a lunatic when he said that time, forbearance, and example will do the work and correct the evil. Polk and Jackson and Jefferson and Madison and Clay and Webster were all beside themselves and should have been sent to lunatic asylums when they maintained that the second sober thought of the people would correct all political evils. Why all of our forefathers were madmen when they laid the foundation of the government upon the broad principle of the right of the people and upon the basis of the virtue, intelligence, and patriotism of the masses; that the people might be safely trusted with the settlement of all these political questions, and that the evils which would probably spring up could be corrected by the virtue and intelligence of the people themselves.

But, Mr. Speaker, gentlemen say we cannot trust the virtue and intelligence of the people in Utah. Well, then, whom can we trust, and to whom shall we entrust the government? What power shall we invoke above that of the people themselves? It is said they have no rights. Whence do we get power to govern them at will and without restraint? It is proposed, as I have already stated, to legislate for them, and yet we are not responsible to them for the abuse of power. Separate responsibility and power and right is a myth and liberty a name. In this very case we have more concern to please our constituents than to promote the welfare of the people in Utah. In response to whose demands are we now pressing to a vote the unseating of Mr. Cannon? Is it done to help or benefit the people of Utah? Or is it done to respond to the demands of our own constituents, far removed from the influence of our action, and not affected by the consequences which you propose to impose upon others?

There are wrongs in Utah as there are in all other Territories; but it is tyranny for us to make laws that do not affect ourselves or constituents, and for which we are wholly irresponsible to the people on whom they act, however oppressively they may be affected by them. I may be what some people call an old fogy on these questions, but I have never forgotten the teachings of the fathers of the Republic. It may not be fashionable to remember them now. I know that other views and other opinions are current upon these questions, but when I turn to the Constitution what do I find? I find that our fathers, (and that Constitution embodies their wisdom and experience,) *taught* by the cruel persecution of witches, crucified by the pereecutions of Catholics and Protestants alike, taught by all those bitter experiences, declared that religion should have no place in our Constitution lest hypocrisy should thereby find pretense for outrage and wrong upon the innocent.

I find no power in the Constitution that warrants gentlemen in taking the position that we must to the rescue of the Christian religion and stamp out Mormonism, lest its *virus contaminate the Christian* world. The Christian religion is distinguished from all others by the fact that it does not ask or require the help of temporal aid, but addresses itself directly to the head and heart of the individual, and depends alone on the power of truth. It does not ask, but rejects as incompatible with divine truth, the aid of secular power. It is not a fact that Mormonism endangers either our religion or liberty.

But gentlemen say it will not do to trust the presence of this viper, this poison in our midst; that the virus will effect and spread itself through the entire mass of the people of the United States. Why, if the people have the virtue and intelligence that we claim for them we can trust it to them safely. If they have not, if a whole people, *fifty millions,* invincible in war and irresistible upon the Western Continent, have all their rights and liberties endangered by a few wild, superstitious Mormons, our fathers were greatly mistaken when they laid the foundation of our Government upon the virtue and intelligence of the masses. We have made that grand discovery, and I suppose now their work is to be discarded. We are to tear down this superstructure from its foundation of sand, and dig down and find rock for a new foundation. We do not know whether it is to be this artificial rock now made by recent invention and process, or some old rock—granite, or what not; we cannot tell whether it is to be Baptist or Presbyterian, Catholic or Mohammedan.

Now, Mr. Speaker, to be brief in recapitulation: Cannon was, by an overwhelming majority of the people of that Territory, elected a delegate to this Congress. He was qualified under the law then in force. He is qualified under the Constitution of the United States, and it is not in the power of this House in judging of his qualifications to add to or subtract one thing from them.

The question here confronts us, shall we admit Mr. Cannon and uphold the Constitution and laws of our country, or by rejecting him, trample them beneath our feet and gain the plaudits of the inconsiderate and intemperate? The question is a grave one. It is a solemn one. It embraces all that is vital in constitutional liberty. There can be but two forms of government, one per-

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