as a parliamentary body to say what his qualifications should be, as well after he is sworn as before. Not being within the provision of the Constitution, he is not subject to the two-thirds clause relating to expulsion; and a majority at any time may expel him. That is the proposition and there is where we divide, and, so far as I am able to discern, the only real difference between us.

Now, what do those who oppose this view say? They all admit that delegates are not within the constitutional provision and are not members in the constitutional sense. What do they say? That by the act of September, 1850, Congress extended the Constitution and laws of the United States over the Territories, and thereby the Constitution became by positive law a part of the law of Congress, as applied to Territories, and being applicable in cases of delegates, the same rule should apply to delegates as applies to members. That is their argument—that Congress having extended the Constitution and laws of the country over the Territories, therefore, as a matter of statute law, the Constitution should be applicable. I deny it. I deny that the constitutional provision is applicable, or can be applicable so far as it relates to the election, qualifications, and returns of a delegate. It cannot be applicable by any rule of construction with which I am familiar. I never heard of a respectable text-writer who said you could carve out a part of a section and make it applicable and controlling to a given subject, and disregard the residue. The whole must be applicable or none. And if you make it applicable to the case of delegates, you must extend to them the right to vote. You cannot step half way; so your position proves too much and is wholly illogical and cannot stand.

Apply another familiar maxim, namely, "Where the reason is the same, then the rule is the same." Is the reason the same as applied to Members and Delegates? My friend from Texas, [Mr. Jones,] in an able and earnest speech to-day, said that the reason was precisely the same. I beg his pardon. What is the potent power of a member of this House? Is it simply the indulgence and right to talk and introduce bills and exercise the franking privilege? Is that it? Oh, no, the potent power of a member of Congress is his vote. It is his voice that renders him powerful and potent on this floor. For all other purposes he might as well stay in his district if he could by staying there reach this House just as well by telegraph, and through the public press get his speeches and his bills before Congress. It is his vote that levies the taxes and distributes the money, and gives direction to general legislation affecting fifty million people. That makes the member potent on the floor. This essential feature every Delegate lacks. He lacks it by law. And I doubt whether Congress in exercising any constitutional power could extend it to him. At least it has not been so claimed by any gentleman on the other side. And I most positively deny the right of Congress to do it. The potency, I say, of a member is the right to vote.

Very many times, Mr. Speaker, I have heard the vote of a member lightly spoken of, but I hold in my hand a volume, part of the records of this body when there were troublesome times in the country; and I recall now the value of one vote in this House. It was the time Kansas was applying to be made a State in this Union. You will remember it was the policy of a large part of the democratic party whose representatives were then in Congress to fasten upon Kansas, when admitted as a State, a slave constitution. You will remember that the Lecompton constitution—an instrument conceived in sin and brought forth in iniquity—was before the House, and when the scales were finally held up at the Speaker's desk, and freedom was on one side and the slave and the shackle on the other, the question was put whether the Lecompton constitution should be saddled upon that free territory in the West. The roll of members was called, down to the last name, and, trembling even in the balance, the last vote recorded settled the queation in favor of freedom, and Kansas was free. That illustrates the power and potency of the vote of the member; and that is what the Constitution designed to protect when it defined the rights of members of this House.

The reason, then, is not the same. There is no reason why a Delegate should be twenty-five years old. It may be presumed that the framers of the Constitution believed in fixing the age of members at twenty-five, that they should have arrived at mature and considerate years before being intrusted with vital questions in the government of a great people. What reason is there why a Delegate over twenty-one years of age should not be a competent member? The whole thing is answered, Mr. Speaker, inferentially and argumentatively in the speech made by Mr. Madison away back in 1794, when he said that Delegates were not constitutional members, and you could not impose upon them the duty of taking the oath as other members of Congress did; and Mr. White was seated without being desired to take it.

So the position that because by law the Constitution and laws of the United States were extended over the Territories, and the reasons being the same the rule ought to be the same, in my humble judgment fails. The reasons are not the same. Besides, the law expressly says that the Constitution and laws shall be extended over the Territories only in cases where their provisions are applicable, and we all know what that was intended to do. It did not refer by any manner of means to the right of the people of a Territory to elect a Delegate to Congress. It was intended to bring them within the purview of the Constitution and laws of the country so as to provide them with courts, protect the people in person and property, organize them in bodies-politic, and prepare them for final admission as States into the Union.

It is urged that the Constitution having been construed, and the true construction of it being that members possessing the three qualifications before alluded to are entitled to seats on this floor, by parity of reasoning it applies to delegates as well, who must first be seated before they can be excluded or expelled for causes not included in the constitutional qualifications. The same reason why this proposition is not sound is the one given in my answer to the other. There is no reason why the House should do so foolish a thing as to seat a Delegate for the purpose of expelling him the next moment. If it can expel him by a majority vote then, without a constitutional limit upon it, as in the case of members from States, it can do the same thing in the first instance by denying him a seat; and a delegate being without the pale of the Constitution, this House can exclude him in the first instance by a majority vote.

I come now to an argument which has been urged by the gentleman from Tennessee [Mr. House] and the gentleman from Illinois [Mr. Moulton]. They say that those who join in the majority report will be "hoist by their own petard," for Congress has recently passed an anti-polygamy law, and if our position is correct the next House of Representatives may seat a polygamist notwithstanding the law. Now, I beg the gentleman to look at the law. It does not pretend to fetter this House. It is a limitation upon the people of the Territory who are debarred from the right of sending such a man here to represent them.

Mr. Springer. Suppose they do.

Mr. Calkins. Suppose they do. Then my judgment is that the rule laid down in the law would be a wholesome rule for Congress to adopt, as we are about to adopt it now.

In further answer I must be permitted to say: We have on the statute-book a law which prescribes the manner in which contestants and contestees shall proceed to take testimony in contested election cases. That law was passed by the House and the Senate and approved by the President. Yet there has never been a House since that law was passed that has not violated it almost every time it has tried a contested election case. And why? Because it has been truly said that Congress cannot pass a law limiting the right of each House to judge of the election, qualification, and return of its members. And Justice Strong, who was the author of that law, admitted upon the floor when it passed that it did not bind any Congress but the one which passed it; that it was a wholesome rule and should be followed, but that it did not have the effect of positive law, and was only binding when Congress chose to follow it. McCrary in his valuable work on elections takes the same view.

Mr. Springer. Do I understand my honorable friend to say that no matter what qualifications Congress may by law prescribe for a Delegate, a subsequent House may disregard those qualifications and admit any Delegate that the majority of that body may see fit to admit?

Mr. Calkins. I am coming to that in a moment. The next proposition urged is that Congress, having the constitutional authority under that clause of the Constitution which has been so often quoted giving to Congress the power to dispose of and make all needful rules and regulations respecting the Territories of the United States—that Congress under that clause has the power to provide for a seat for a Delegate on this floor, and, having provided for it, it necessarily follows that this body is bound to receive the Delegate whom the people have chosen. Now, does that follow?

To provide the right to a seat for a Delegate is one thing; to provide who may fill that seat is another thing. If that position is correct, then when Congress under the constitutional power has provided the seat, this body is stripped of all right to examine at all as to the qualifications of the person to fill it. And as my friend from Illinois [Mr. Moulton] argued, as I understood him, you must let the man who comes here, though he be a Comanche Indian, fill that seat. For if Congress has the constitutional power to provide the seat and there is no law, as there confessedly is none, fixing the qualificotions of Delegates, and if this body has not the right to judge of the qualifications of its own members when unfettered by constitutional restrictions, then as a logical sequence you must seat any man the people of a Territory may send here, no matter who or what he may be and regardless of all qualifications.

Again this position proves too much, and we cannot stand upon it. The true doctrine is that this House is remitted to that power under the constitutional clause respecting the qualifications of members, or under the power of general parliamentary law, which gives to every legislative body the right to pass upon the qualifications of its members. Upon this doctrine we can all safely stand, and I submit it is the only safe one.

Mr. Springer. Do I understand the gentleman to hold that after Congress has provided by law for the election of a Delegate from a Territory, and has prescribed the qualifications of that Delegate, when a person comes here possessing those qualifications, this House may refuse him his seat because he has not some other qualifications which the House may set up?

Mr. Calkins. That is precisely it. I take the ground just as the gentleman has stated it. Congress cannot bind this House as to the qualifications of its own members, except as the Constitution has bound it.

Mr. Springer. Not members, but delegates.

Mr. Calkins. Delegates in this House are the persons I am speaking of, and they are not constitutional members.

Mr. Moulton. The law settles it.

Mr. Calkins. There is no law that settles it. The moment Congress attempts to pass a law upon that subject the House divides the right which alone resides in it, that power which this House as a legislative body possesses, which is inherent in it as a parliamentary body, and it surrenders the right to judge of the qualifications of its own members. Such a law is clearly unconstitutional and wholly void, and Congress cannot prescribe such qualifications; because if that were admitted, this House might propose a bill fixing one qualification for Delegates; the Senate might fix an entirely different qualification, and the bill going to the President might be vetoed by him because it did not correspond with his views. Thus you would have the Senate and the President prescribing the qualifications of Delegates who are to sit in this body.

Mr. Springer. Nothing would be prescribed until the law had been passed by both Houses and approved by the President.

Mr. Calkins. Certainly not; but the moment you say that the law prescribing the qualification must be submitted to the Senate and the President, you take away the power of the House on this subject.

Mr. Springer. Allow me one question more. Suppose Congress should pass such a measure as that which is known as the "Pendleton bill," admitting members of the President't cabinet to seats on this floor, to speak on questions of legislation. Suppose such a bill, after passing both Houses, should be approved by the President, would a subsequent House of Representatives be authorized to refuse to members of the President's cabinet seats on this floor?

Mr. Calkins. Assuming that Congress has the constitutional power to pass such a law, I say that this House, and this House alone, would be the judge of the qualifications of those cabinet officers if they should become members.

Mr. Springer. Then this House could exclude them.

Mr. Calkins. This House could exclude them because it is a power residing unfettered and unrestricted in every parliamentary body. Without it the House could be imposed upon to an unlimited extent. This House and every legislative body must have this power in order to protect themselves.

Mr. Atkins. I ask the gentleman to give way now for a motion to adjourn. He can finish his remarks in the morning.

Mr. Calkins. I shall be through in ten minutes.

Mr. Atkins. We can vote in the morning just as well as this evening. It is a piece of tyranny to force us to stay here longer to-night.

Mr. Calkins. I shall be through in ten minutes, and I hope the gentleman will not interrupt me now.

My friend from Tennessee [Mr. House] was pleased to enter into some animadversions with reference to the report of the majority of the committee. One of his points, I am free to say, was very well taken. Where the word "legal" occurs it was, I admit, inaptly used. But the gentleman understands the sense in which it was used. It was in contradistinction to the idea that some qualification might not be prescribed by the House. In a technical sense my friend was right, but I submit to him that criticism of the use of language is not a forcible answer to the substance of the question; and when arguing the questions as a matter of substance he was, I submit, quite disingenuous in his remarks. Again he said, after quoting from the report of the majority:

> Mr. Speaker, I stand silent in the presence of this logic and this law.

Now, that was designed as satire; —cold, crushing satire! — nipping, biting satire! But as a matter of fact, my friend did not stand silent very long, for he immediately proceeded to exercise his lung power, and his eloquence, and his persuasive faculties, and his legal genius, to make his hearers walk contentedly by the "wheel of the Mormon chariot." How far he succeeded will very soon be seen. I am content to let the report and the remarks I have made with reference to this constitutional question go down side by side with the gentleman's speech, and let the pen of impartial history say which is right.

I now come, Mr Speaker to the last point which I desire to discuss in connection with this case; it is the religious phase of the question. It is true that under the Constitution we are prohibited from passing any law which shall impair the right of any person to worship God according to the dictate of his own conscience. But an examination of the authorities disclose a distinction between that which as religion is harmless or beneficial to society, and that which, under the guise of religion, is mischievous. The law says that no man can put on the robe of sanctity and use it as a cloak or commit offences against public morals and against public decency. Whenever any one undertakes to do so, the law-making power and the courts step in to prevent it, in spite of the religious garb attempted to be set up as a defense and justification I admit that vagaries which harm nobody but those who practice them may be practiced under the cloak of religion without the interference of the law and even under its protection. But whenever any one under the garb of religion attempts that which is harmful to the public, and which degrades morality, that moment the robe falls, and the law seizes the offender, as it does another malefactor or law-breaker who violates decency without such pretense.

My friend from Tennessee, [Mr. House] said yesterday:

> The history of the world and of the religious persecutions that have disgraced churches and governments establishes this fact beyond controversy or doubt. "The blood of the martyrs is the seed of the church" has held good in all the past, and will prove true to-day.

In answer to that statement as well as that part of the contestant's remarks in which he spoke of the Mormon Church as a Church receiving inspiration and new life from Heaven, I desire to say that for eighteen hundred years, wherever civilization has blessed a people, the foundation, the corner-stone of the laws of that people has been the doctrine taught by the Nazarene. Whenever that doctrine has been departed from decay, inevitable decay, has followed swift and fast.

The name of religion cannot cover crime. Men may steal the livery of Heaven to worship at the shrine of Beelzebub, but it cannot be religion. Freedom of conscience is the offspring of liberty, but the love of liberty is the love of law. The contestant has spoken of tearing out the corner-stone of our Constitution by the suppression of polygamy. He says it is their religion. Our civilization has for its central vitalizing power the pure truths taught by the Nazarene. The debasing dogma of plural wives finds no sanction there. Our laws, liberties, and growth are interwoven with the doctrines and morals of the sacred code. Paganism, of which Mormonism is the latest example, is the destroyer of homes and the cancerous root of empire.

I hold in my hands the letters of Pliny the Younger, published in the second century after the birth of Christ, and I desire to read a sentence to show that the early Christians practiced the doctrines of the the Nazarene as they are now taught. In a letter by Pliny to the Emperor Trajan he said he had not yet been present at the trial of the Christians, and desired to take advice from him what punishment to inflict. Here is his description of what the Christians said when brought before him:

> They affirmed, however, that this had been the sum, whether of their crime or their delusion; they had been in the habit of meeting together on a stated day, before sunrise, and of offering in turns a form of invocation to Christ, as to a God; also of binding themselves by an oath, not for any guilty purpose, but not to commit thefts, or robberies, or adulteries, not to break their word, not to repudiate deposits when called upon. These ceremonies having been gone through, they had been in the habit of separating and again meeting together for the purpose of taking food—food, that is, of an ordinary and innocent kind. They had, however, ceased from doing even this after my edict, in which, following your orders, I had forbidden the existence of fraternities.

This was the oath these early Christians took. These were the teachings of the Nazarene. These are the truths which make men better, which make republics better, which give substance and foundation to governments, but when ignored, everthing that is pernicious must necessarily follow. (Applause.)

This is the corner-stone of this Republic. It has been the theme of every American statesmen—it will continue to be while the Republic lasts. To-day in all the laws of all the States this same doctrine is universally recognized; and I say to the gentleman from Utah, and all his aiders, abettors, apologists and followers, that the doctrine of plural wives must be forborne, and the Mormons must yield not to the demands of the Republican party, not to the demands of the Democratic party, but to the universal voice of the civilized world. (Great applause.)

Mr. Calkins. I have fifteen minutes left, which I yield to the gentleman from Massachusetts, Mr. Ranney.

Cries of "vote!"

Mr. Oates said:

Mr. Speaker. The system of governments in the United States is, or ought to be, pre-eminently *one* of law. Every citizen's rights, however humble or exalted *he* may be, should in all cases be determined by the law, honestly and fairly applied. The question before the House is not one of morals, but of legal right. Approval or disapproval of polygamy is not involved. This House has given a very potential expression of its opinion upon that question in the law passed at this session for the suppression of polygamy.

There is no dispute about the facts. There appears from the reports of the committee to be no issue of fact. All admit that Cannon was elected. The first question then, to be settled is, was he eligible to the office when elected? No one, I believe, questions, and certainly the evidence does not controvert that fact. Has anything transpired since his election to render him ineligible or to deprive him of the right to his seat? It is contended by those who oppose seating him, that the recently enacted law of Congress, declaring among other things any person who is guilty of polygamous practices ineligible to a seat in this House, disqualifies him, and presents a legal impediment to Cannon's taking his seat here as a delegate from the Territory of Utah It is a sound rule of interpretation o