DESERET EVENING NEWS.

TRUTH AND LIBERTY.

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UTAH CONTESTED ELECTION CASE.

[Concluded.]

When it is asserted that a Delegate exists *ex gratia* only, it is belittling the office, unless we add that it is by the grace of Congress and not of the House alone. It is hardly just or fair to call it grace when we consider what this country did or said about the right of representation when they were themselves colonies of Great Britain. The people embodied its principles in the very spirit and letter of the Constitution, and have acted them out ever since, and it is too late now to go back on them in reference to our Territories, which are part of the domain of this country. That this House has heretofore regarded the statutes fixing the qualifications of Delegates as binding upon them is apparent when we look at the various attempts which have been made at different times to change them so far as to disqualify a polygamist, and all without success until the present session. Even now, if the doctrine of the majority is sound, the present act obtained after so long a struggle, and hailed with so much joy throughout the country and which does that thing, is nugatory as law and not binding as a rule of the House. It was wholly unnecessary for the purposes of this contest. It will come up to plague the friends of this act in the future and serve to hoist them, as their own petard, in the possible event of a change occurring in the complexion of the majority.

I beg leave to notice one other phase of the views of the majority; for they do not agree altogether among themselves. Some of them concede all that I have claimed in regard to the power of Congress and that this House in judging of the election, returns and qualifications of Delegates are acting under the clause of the Constitution relating to members. In order to reach their result they have resorted to an apparent popular idea as to what "judging of the qualifications" means, to wit, that the House has a right in each case to say what they shall be and abridge or enlarge those prescribed by the Constitution or the statutes. While the main report does not assent to this doctrine so far as members are concerned, but admits that the House cannot add to or take from the qualifications fixed by the Constitution for them, yet he contends that the status fixing the qualifications for Delegates are not obligatory upon the House and a different rule of law prevails.

Now, sir, I am not ready for one to contravene and reverse the doctrine as laid down by Story, Kent, and other eminent jurists and the long line of uniform precedents found in the history of Congress and say, as is written on page 25 of the report, that they are chiefly valuable on account of their age and uniformity and that this House should, if it could, reverence them and hold to the contrary.

If anything can be said to be settled on principle and authority it is this.

When we come to the statutes prescribing the qualifications for Delegates we find that Congress attempted and intended to do to them just what the Constitution had done in that regard to members, to wit, adopt the representative principle, fix the qualifications deemed to be primarily essential, and leave all else to the electors and allow them to select their own Representative. Congress does this very thing, only it allows the legislative assemblies to add others, subject to its approval.

The Constitution and laws of the United States, except so far as locally inapplicable, are extended by statute over the Territory.

If these statutes are valid they must be interpreted according to their intention. If the purpose is manifest, to enumerate the qualifications prescribed and to exclude all others by implication, and to leave the rest to the electors or to the Legislative Assembly to determine, they must be so interpreted, just as the Constitution was, because the rule of construction under which this was done applies to statutes as well as to the Constitution. (Sedgwick on Con. of Statutes, etc., page 31, note.)

That such was the intention of Congress most manifestly is apparent from the language of the same; it is according to the policy of the Constitution and in consonance with the genius of the Government. The Constitution and laws of the United States are made by statute the constitution and fundamental law of the Territory.

It was never intended clearly to leave the admission of the Delegate subject to the discretion, caprice, or what not of the House, but to regulate this office by some rules of law. Otherwise, there would be nothing to guide the electors in their choice, and the office would become in the House a "floating waif on the billows of excitement," and possibly occasionally lead to the exercise of "caprice under the specious appearance of manifested resentment."

At the next Congress a polygamist may appear again as Delegate, and yet he can be admitted notwithstanding the recent act. Of his politics, religion, or what not, may not suit the majority, and he may be rejected although made eligible by statutes and elected in good faith and in full reliance on the same by the electors.

It seems to me that the provisions of the Constitution in regard to judging of election, returns, and qualification of members, and as to their expulsion, are the ones under which this House are to act in relation to Delegates; and that the same course of proceeding is to be adopted by analogy. Such has been the decision of this House heretofore in the case of Maxwell vs. Cannon, and such its practice always.

The law regulating contested election cases applies in terms to members only, and yet it has been used in the case of Delegates. If it does not apply, the whole prior proceedings in this case have been irregular and were unauthorized by law.

While a Delegate is not a Member strictly, he has always been treated as a Member *sui generis*. While not a constitutional officer, in the sense in which a full Member is, he is still the creature of the Constitution through the medium of a statute authorized by that instrument; he has been given powers and rights which are so guarded as not to infringe upon the prerogatives of a Member, or endanger the rights of the States. Both have been elevated to equal dignity and honor save in the power to vote. The power of the House to regulate its own proceeding has not been impaired or abridged, and the House has always succeeded in adapting its rules to the law, and Member and Delegate have each hitherto enjoyed their rights and privileges in perfect harmony. It is too late now to attempt to antagonize them, and reduce one of them to the position of a suppliant at the doors of the House for the courtesy of a seat, and dependant upon the sovereign grace of an omnipotent House for all he has. Rather let both be treated as legal creations of the Constitution, directly or mediately, and with rights, privileges, and powers conferred and secured by law.

I submit, therefore, that it is better not to resort to any doubtful rules of law even, and especially one which is so subversive of all prior authority and precedent, and which will involve so much peril for the future, but to exclude Mr. Cannon distinctively on the grounds which the new act furnishes and which are stable and sure.

This case has assumed a new phase since it was heard and reported upon to the House. It has been argued in two aspects: first, as it stood under the law prior to the act of March 23, 1852; and, second under that act.

I do not propose to discuss the case in the view of the law as it was. I have already presented my views in committee, and they are before the House in print. All I desire to say is that I could not vote for the pending resolutions on the grounds assigned in the majority report. I dissented from them in committee, and I do the same now. I deem the doctrine so predicted to be in contravention of all authority and precedent, unsound in principle, and mischievous in practice.

But I can now, and propose to, vote for the pending resolutions, because the new act expressly provides that a polygamist shall not be entitled to hold any office or place of public trust, honor, emolument, etc.

I have no doubt that this act applies to the present case because of this clause, nor of the fact that Mr. Cannon can safely be assumed to be a polygamist now upon his written admission filed. He is presumed to continue in that relation, and there is no pretense that there has been any change in his status since that written admission was filed and made a part of the record, and under the issues raised presenting that question for action.

Contestant cannot be admitted to a seat which he would not be entitled to hold if already in the same. A public office of the kind is subject to Congressional control, as it is but the creature of a statute, and the salary is only an incident and must fall with it. There is no ground whatever, in my judgment for the charge that the law is unconstitutional for any of the reasons urged or otherwise, and I hardly deem these objections worthy of an answer.

These views I would like to express and elaborate more at length, but the time set for this vote having expired without my being given the half hour allotted to me, there is no opportunity allowed for doing so.

I say the doctrine of the majority is likely to be mischievous, for the laws may be invoked hereafter to defeat the operation of the very act now passed, and come up to plague the friends of the same. For if the House can disregard the statutes as they stood before, they can do the same as to the present one hereafter.

In my judgment it would be much better to adhere to the established doctrines, and apply the present law to this case, thus emphasizing it, and avail ourselves of this the first opportunity to apply it.

Mr. Calkins. I now call for the vote.

Mr. Thompson, of Iowa. I am well convinced, Mr. Speaker, of the fact that a large majority of the House is opposed to the resolution I have submitted as a substitute, and for the purpose of saving them I now withdraw it.

The Speaker. The question recurs on the amendment of the gentleman from Illinois, [Mr. moulton,] which will be read.

The Clerk read as follows:

Resolved, That George Q. Cannon was duly elected and returned as Delegate from the Territory of Utah, and is entitled to a seat as Delegate in the Forty-seventh Congress.

Mr. Moulton. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 79, nays 123, not voting 89; as follows:

YEAS—79.

Aiken,	Dowd,	Reagan,
Arnfield,	Dunn,	Robertson, Wm. R.
Atkins,	Ermentrout,	Robinson,
Barbour,	Ervin,	Scoville,
Belmont,	Finley,	Shackelford,
Blackburn,	Frost,	Singleton, Jas. W.
Blanchard,	Fulkerson,	Singleton, Otho R.
Bragg,	Garrison,	Sparks,
Buchanan,	Gunter,	Speer,
Bushnell,	Hammond, N. J.	Springer,
Cabell,	Hardenbergh,	Talbott,
Caldwell,	Hatch,	Thompson, P. B.
Campbell,	Herndon,	Throckmorton,
Chalmers,	Hoge,	Tillman,
Chapman,	House,	Tucker,
Claudy,	Jones, Geo. W.	Turner, Henry G
Clark,	Jones, James K.	Upson,
Clements,	Kenna,	Vance,
Cook,	King,	Warner,
Cox, Samuel S	Klotz,	Wellborn,
Cravens	Latham,	Whitthorne,
Culberson,	Manning,	Williams, Thos.
Davidson,	McMillin,	Willis,
Davis, Lowndes H.	Money,	Wise, George D.
Dennis,	Monroe,	Wise, Morgan D.
Dibble,	Muldrow,	
Dibrell,	Oates,	
	Phelps,	

NAYS—123.

Aldrich,	Hawk,	Pierce,
Anderson,	Hazelton,	Pound,
Barry,	Heilman,	Prescott,
Bayne,	Hill,	Ramey,
Beltzhoover,	Hiscock,	Ray,
Bowman,	Holman,	Reed,
Brewer,	Horr,	Rice, T. M
Briggs,	Houk,	Robertson, D. L.
Brown,	Hubbell,	Richardson, D.
Brumm,	Hubbs,	Ritchie,
Buck,	Humphrey,	Robinson, G. D.
Burrows, J. C.	Jacobs,	Robinson, J. S.
Calkins,	Jadwin,	Russell,
Candler,	Jorgensen,	Ryan,
Cannon,	Joyce,	Scranton,
Carpenter,	Kasson,	Shallabarger,
Cassidy,	Kelley,	Sherwin,
Caswell,	Lacey,	Skinner,
Chace,	Lewis,	Smith, D. C.
Cobb,	Lord,	Smith, J. H.
Colerick,	Marsh,	Spaulding,
Crapo,	Mason,	Steele,
Cullen,	Matson,	Stockslager,
Davis, G. R.	McClure,	Strait,
Dawes,	McCold,	Thompson, W. G.
Deering,	McKinley,	Townsend, A.
DeMotte,	Miles,	Turner, O.
Dezendorf,	Miller,	Tyler,
Dingley,	Moore,	Updegraff, J. T.
Dunnell,	Morey,	Valentine,
Dwight,	Musgrove,	Van Aernam,
Errett,	Murch,	Van Horn,
Farwell, S. S.	Norcross,	Wadsworth,
Ford,	O'Neill,	Walt,
Godshalk,	Orth,	Walker,
Grout,	Pachoco,	Ward,
Guenther,	Page,	Webber,
Hall,	Parker,	White,
Hammond, J.	Paul,	Williams, C. G.
Harris, B. W.	Payson,	Willits,
Haseltine,	Peelle,	
Haskell,		

NOT VOTING—89.

Atherton,	Harmer,	Rice, Wm. W.
Beach,	Harris, H. S.	Richardson, J. S.
Belford,	Henderson,	Robeson,
Berry,	Hepburn,	Rosecrans,
Bingham,	Herbert,	Ross,
Black,	Hewitt, A. S.	Sapler,
Bland,	Hewett, G. W.	Shelby,
Bliss,	Hobilitzell,	Shultz,
Blount,	Hooker,	Simonton,
Burrows, J. H.	Hutchins,	Smith, A. H.
Butterworth,	Jones, Filmore	Spooner,
Camp,	Ketchum,	Stephens,
Carlisle,	Knott,	Stone,
Converse,	Ladd,	Taylor,
Cornell,	Leedom,	Thomas,
Cox, Wm. R.	Le Fevre,	Townshend, R. W.
Covington,	Lindsey,	Updegraff, T.
Crowley,	Martin,	Urner,
Curtis,	McCook,	Van Voorhis,
Cutts,	McKenzie,	Washburn,
Darrell,	McLane,	Watson,
Dugro,	Mills,	West,
Ellis,	Morrison,	Wheeler,
Farwell, C. B.	Morse,	Wilson,
Fisher,	Mutchler,	Wolf, Benj. A.
Flower,	Neal,	Wood, Walter
Forney,	Nolan,	Young.
Geddes,	Pettibone,	
George,	Pidgeter,	
Gibson,	Randall,	
Hardy,	Rice, J. B.	

So the resolution was not agreed to.

Mr. Calkins moved to reconsider the vote by which the resolution was rejected; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The Speaker. The resolutions reported by the majority of the committee will now be read.

The resolutions were read, as follows:

Resolved, That Allen G. Campbell is not entitled to a seat in this Congress as a Delegate from the Territory of Utah.

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 vacant.

The Speaker. If there be no objection the vote will be taken on the three resolutions together.

There was no objection.

The resolutions were agreed to.

Mr. Calkins moved to reconsider the vote by which the resolutions were adopted, and also moved that the motion to reconsider be laid on the table. The latter motion was agreed to.

BRIEF TELEGRAMS.

The filibustering in the House goes on.

Brevet Major General George D. Ramsay, U. S. A., retired, died in Washington yesterday.

A secret meeting of the distillers of the West was held this afternoon, and was well attended.

At St. Louis, yesterday, the greenbackers held an excited session and adjourned *sine die*.

Blochman, Vogel & Co., of St. Louis, wholesale boots and shoes, have failed; liabilities unknown.

The republicans in the Third District of Kansas nominated Thomas Ryan for re-election to Congress.

The Independents at Philadelphia nominated Senator Stewart for governor. Agnew's name was withdrawn.

In New York the high joint trunk line committee held a secret session yesterday to execute a contract for pooling passenger rates.

Wm. H. Brown, surveyor general of California, and Louis D. Lyle, of Pennsylvania, consul at Funchal, were confirmed to-day.

T. A. Watkins, of Denver, is now in St. Louis, searching for his missing daughter, and offers $5,000 for her dead or alive and no questions asked.

The health of Senator Ben Hill, of Georgia, is much improved, and his physicians say there is strong hope of a cure, or at least, that is life will be greatly prolonged.

An official messenger announces that the Russian Government is resolved to punish inexorably all outrages against the persons and the property of the Jews.

The President goes to New York Friday with Secretary Folger and will attend the Decoration Day services with Secretary Lincoln and Gen. Brewster at West Point.

The republicans scored a good point in the election fight yesterday by dividing the democrats on the question of allowing a democrat to debate on the Mackey-Dibble case.

James C. Houston, general agent in New York for the Associated Press, has received through the Department of State, from the German Government, the medal for saving from imminent danger.

Hon. Horatio C. Newcomb, an old citizen, and for many years a leading lawyer and judge at Indianapolis, died yesterday. At the time of his death he was one of the assistant supreme judges of the State.

In reply to the protest of Turkey against the presence of the English and French squadrons at Alexandria, England and France informs the Porte that their vessels will leave as soon as a durable normal state of things is re-established.

All the papers comment upon the significant divergence among the Irish members in the division last evening in the Commons on Gladstone's motion. Besides O'Donnell and Arthur O'Connor, there refused to follow Parnell, Thomas P. O'Connor, Redmond, Finnegan, Richard Power, Sexton, McCarthy, Biggar, O'Sullivan, Moore, Healy, Sullivan, Leaming, Callan and Shiel.

"I was entirely cured of rheumatism by St. Jacobs Oil," says Col. C. W. Herbert, of the Forest Park Restaurant, St. Louis, Mo.

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[S. F. *Monitor Aug.* 25 1881.]

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REV. DEAR SIRS: Referring to our circular, we herewith annex copy of letter addressed to Rev. P. J. Kaiser by the Most Rev Archbishop Alemany of San Francisco, Cal.

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ST. MARY'S CATHEDRAL,
633 California Street,
SAN FRANCISCO, July 19, 1881.

The bearer, Rev. P. J. Kaiser, having to spend some time in the East, for motives of health, may have occasion to speak to those desirous of procuring a genuine article of pure wine.

To all such I would say, that the wines made directly by himself or under his direction, are pure and genuine.

For some years he has had under his charge for me the Diocesan Vineyards of the Old Mission, San Jose, Cal. And these Vineyards he has quite renovated and brought to a state of considerable perfection; therefore I know the wines to be pure and genuine. I have given other letters to wine growers more or less commendatory, but none so strong as I would desire to make this, as in no other case did I have so good means of knowing.—And what I say for Father Kaiser's wines, I would say for his Olive Oil produced at the same place.

Very respectfully,
JOSEPH S. ALEMANY,
Archb. of San Francisco, Cal.

The wine is sold in original packages under seal, just as it leaves the vineyard. With such endorsement it may be relied upon for family and medical purposes. Family trade supplied by the bottle or cask, by

GEO. A. MEEARS,

WHOLESALE AND RETAIL,

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DR. E. C. WEST'S NERVE AND BRAIN TREATMENT: a specific for Hysteria, Dizziness, Convulsions, Nervous Headache, Mental Depression, Loss of Memory, Premature Old Age, caused by over-exertion, excess or over work of the brain, which leads to misery, decay and death. One box will cure recent cases. Each box contains one month's treatment. One dollar a box, or six boxes for five dollars; sent by mail prepaid on receipt of price. We guarantee six boxes to cure any case. With each order received by us for six boxes, accompanied with five dollars, we will send the purchaser our written guarantee to return the money if the treatment does not effect a cure. Guarantee issued only by Z. C. M. I. Drug Store, Salt Lake City, Utah.

☞ Orders by mail at regular price.

GRIST MILLS,

TENTS, PLOWS, MOWERS, TONGUES, HARROWS, SCRAPERS, LAWN MOWERS, WAGON TIMBER, VICTOR CANE MILLS, AMERICUS CIDER MILLS, ASSORTED SIZES BELLOWS, IRON BEAM RAILROAD PLOWS, SULKY AND WALKING PLOWS, HAZARD'S CELEBRATED POWDER,

SAW MILLS

AND

STEAM ENGINES,

MORRISON

PLOWS,

Etc.

BOLTS, BELLS, SLEDGES, REAPERS, HAMMERS, THRESHERS, FEED CUTTERS, PORTABLE FORGES, SULKY HAY RAKES, THE SMITH PURIFIER, IMPROVED HOWE SCALES, FULL SUPPLY PLOW POINTS, WESTERN WHEEL SCRAPERS, WOOD BEAM RAILROAD PLOWS

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Portable Saw Mills, any size, either SINGLE or DOUBLE.

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CHILLED PLOWS, all Sizes;
STEEL PLOWS, all Sizes;
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I have handled the Case Plows for two years and said but little about them, as I desired to see them thoroughly tested before recommending them to the Public, I now say that their STEEL PLOWS are EQUAL TO ANY, and, in my opinion, their CHILLED PLOWS, SUPERIOR TO ANY.

☞ Private Purchasers and Co-operative Stores will find it to their interest to buy these Plows, which are taking the lead in the Market.

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Seed Drills and the Ladow Disc Harrows.

A number of parties who have used them near Kaysville, pronounce the Ladow Disc Harrow, the greatest Labor Saving Implement for putting in Grain they have ever seen.

I have a very Large Stock of RAILROAD CONTRACTORS SUPPLIES, such as SCRAPERS, GRADING PLOWS, TENTS, HARNESS, Etc. Also,

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