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UTAH CONTESTED ELECTION CASE.

(Continued.)

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 these 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 persecutions 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 personal, the other institutional. In the case of institutional government the institutions themselves are the supreme power in the State. They are the ultimate tribunal; they are the power than which there is none higher. If you trample these down you start off with a mobocracy, and end inevitably in a military imperialism.

That is the question which in my judgment presents itself to every member here. I do not mean that gentlemen are not just as honest in their views in reference to this case as I am. But I do mean to say in my honest judgment this case puts to test the force and power of institutional governments. And I might say here in this connection there comes fresh to my mind the language addressed by the Earl of Chatham to the British Parliament in their lust for power and in their eagerness to grasp and sway without limit and without stint the rod of empire over the Western World. I know you can do in this case just what he said England might do in reference to the colonies. He said, substantially: "I know the gallantry of our troops and power of your armies, I know that in a good cause you can crush America to atoms; but in this struggle if America fall she will fall like the strong man embracing the pillars of liberty, she will drag the Constitution along with her."

Polygamy, Mr. Speaker, is odious. I have no sympathy with it. But in this struggle it has this advantage which we have unwittingly given it. It has in some form got behind the Constitution of the United States. You may embrace it, but in doing so you may embrace both, and when you drag down polygamy take heed lest you do not involve the constitutional liberties of your country in ruin. There is no occasion for it. There is no exigency in the life of the nation demanding it. The virtue and intelligence of the people of the United States certainly give us ample assurance that this leprosy cannot extend generally to the people of the United States. As was said yesterday so well by the gentleman from Tennessee, those people are brought now in contact with the outer world. They are no longer isolated. They are no longer away by themselves. Railways traverse their borders. Our people are pouring in and settling up and inhabiting the country. And no one need fear but that, if the advice as depicted by gentlemen yesterday is so hideous, so offensive as practiced in Utah, the American people will naturally be so startled that they will turn against it and destroy it. It will be corrected. There need be no fears on that score. But suppose it shall survive a day or two; suppose it shall live until next Congress and pass over the next Congress, it shall of itself be a monument in commemoration of the devotion to and love of the American people for the Constitution and laws of their country.

The gentleman from Iowa [Mr. Thompson] became so impassioned and so carried away with his theme yesterday in his efforts to seat Mr. Campbell, who received about one-tenth or less than one-tenth of the votes, that he actually enlarged upon and amplified the glory and sacred right of representation. Yes, the glorious right of representation! He tells us that there are 1,600 Gentiles who have voted for Mr. Campbell, and if you do not seat Mr. Campbell the people will be denied the right of representation, and hurt and outraged in the most vital principles of their liberties and rights; forgetting that about 18,000 had spoken on the other side, consenting to be represented by Mr. Cannon.

Now I would like to ask that if it is a matter of so much importance, a matter so imperious in its exactions, that we should admit Mr. Campbell last 1,600 persons who voted for him be left unrepresented, is it not ten times more important that we admit Mr. Cannon so that the 18,000 who voted for him shall not be left unrepresented?

In the few minutes which I have reserved I desire simply to state the logical conclusion of the argument which I intended to make in support of the minority report to the effect that Mr. Cannon cannot be excluded from a seat upon this floor without abolishing the office of Delegate from that Territory. And in supplement to what I have stated already, I desire to say simply by way of conclusion that the Christian religion is distinguished from all others by the fact that it does not make or require the help of temporal or political aid, but addresses itself directly to the head and heart of the individual, and depends alone upon the power of truth. It does not ask, but rejects as incompatible with divine truth, the aid of secular power.

Mr. Burrows, of Michigan, said:

Mr. Speaker: The issue between the House of Representatives and the polygamists of Utah is at last made up. At the beginning of the present Congress George Q. Cannon and Allen G. Campbell presented themselves at the bar of this House as rival claimants for a seat in the Forty-seventh Congress as Delegate from the Territory of Utah. Mr. Campbell claimed the right of admission by virtue of a certificate of election.

Mr. Cannon contested his *prima facie* case and affirmed that he (Cannon) was in fact duly elected. In reply Campbell asserted that if for any reason his *prima facie* title should be held defective, Mr. Cannon could not be seated for the reasons—

First That he did not receive a majority of the votes legally cast;

Second. That he was an unnaturalized alien, and

Thirdly. That he was a polygamist living in open violation of the laws of the United States.

Pending the discussion of the *prima facie* case of Mr. Campbell, and before its determination, the whole matter was, by order of the House, referred to the committee on Election for their examination and report thereon.

After investigation, that committee concludes and report to the House upon the first proposition as follows:

We therefore find that the evidence establishes that Mr. Cannon received 18,568 votes; that Mr. Campbell received 1,357 votes; and that there were 4 scattering votes. Mr. Cannon, therefore, received a majority of all the votes cast at the November election of 1880, and is duly elected a Delegate from the Territory of Utah, unless he is disqualified from holding a seat for one or more of the reasons alleged in the answer of the contestee.

Upon the second proposition the committee report:

We therefore hold that Mr. Cannon is a naturalized citizen of the United States, and that he is not disqualified, on the ground of alienage, from holding his seat as Delegate.

Thirdly, that he is a polygamist. This fact appears from the following admission:

I, George Q. Cannon, contestant, protesting that the matter in this paper contained is not relevant to the issue, do admit that I am a member of the Church of Jesus Christ of Latter-day Saints, commonly called Mormons; that in accordance with the tenets of said Church, I have taken plural wives, who now live with me, and have so lived with me for a number of years, and have borne me children. I also admit that in my public addresses as a teacher of my religion in Utah Territory, I have defended said tenets of said Church as being, in my belief, a revelation from God.

GEORGE Q. CANNON.

It is conceded on all hands that George Q. Cannon possesses all the constitutional qualities required for a Representative in Congress. A Delegate certainly does not require other or higher qualifications.

The simple and single issue in the case is whether this House has the constitutional power to refuse admission to Mr. Cannon upon the ground that he is a polygamist. While I am in full accord with the views of those who hold that a Delegate is not a member within the meaning of that word as used in the Constitution, and that our powers touching the exclusion of a Delegate are greater than those over a Member, yet in my view of the case I do not think the establishment of this principle necessary to the determination of the matter. I affirm that if a Representative from any of the States should demand admission to this House under the same circumstances as those surrounding Mr. Cannon, it would be within our constitutional power to deny him admission. If that position be correct, the importance of the distinction between a Representative and a Delegate disappears. In standing upon this ground I am aware of that provision of the Constitution which prescribes the qualifications of Representatives and that other provision which confers upon each House the right to judge of the elections and qualifications of its own members. Nor do I overlook the long and unbroken line of decisions that it is not within the constitutional power of Congress nor of the States to add to or in any way modify these constitutional requirements.

But it will be observed that the Constitution does not undertake to specify those things which disqualify a person for membership. The doctrine is well settled that to entitle a person to a seat in this House he must not only possess those affirmative qualifications mentioned in the Constitution, to wit, age, residence and citizenship, but he must be free from those things which by common parliamentary law disqualify. In other words, a Representative, though duly elected, a citizen, and of proper age would not be entitled to membership unless free from personal disqualifications. An idiot or a madman would not be entitled to membership, though duly elected and possessing all the constitutional qualifications. We would deny admission to a person infected with a contagious disease, and would be justified in so doing. Should a member elect after he was chosen, be arrested and convicted of some infamous offense and punished by imprisonment in the State prison, would it be contended that if he should present himself at the bar of this House at the expiration of his term of imprisonment and demand to be received into membership, that it would not be within the constitutional power of this body to refuse him admission? Instances of personal disqualification might be multiplied indefinitely. This is sufficient, however to illustrate my point.

I hold that George Q. Cannon, by confessing himself in this tribunal and in this contest guilty of polygamy, an offense punishable by imprisonment in the State prison, has that personal disqualification which renders him ineligible and a fit subject for the exercise of our constitutional power of exclusion. I could fortify this position by a long citation of authorities, but will detain the House with only a single case.

In 1870 B. F. Whittemore, a member of Congress from the State of South Carolina, was charged with selling a cadetship in violation of law. He admitted the charge, but pleaded in extenuation of the offense that he used the money for charitable purposes in his district. He was about to be expelled from the Forty-first Congress when (and the day before he expected the vote to be taken) he resigned and ousted the House of Representatives of jurisdiction to expel.

A new election was ordered, and Whittemore was returned a member to the Congress in which he committed the offense. The House refused to receive him by a vote of 130 to 24. Now, he had not been convicted of any crime, but the House to which he was re-elected was in possession of his own confession that he had done that which was an offense against the law of the land, and for which he might be imprisoned, and it exercised what I conceive to be its common parliamentary right to decline to receive him into membership. Other and numerous cases might be cited sustaining the same principle. So in this case, Cannon comes into this presence and solemnly admits his great crime, even in his speech just closed does not avoid, but rather justifies and seeks to shield himself under that broad mantle of religious toleration beneath which all religions in this country have ever found the amplest shelter. I regret, sir, that he should have sought to justify his crime by appealing to Holy Writ, and claiming that the inspired Word of God sanctioned this monstrous crime. The words of the poet come to my lips:

Just Father, what must be Thy look
When such a wretch before thee stands
Unblushing, with Thy sacred book,
Turning the leaves with blood-stained hands
And wresting from its rugs sublime
His creed of lust and hate and crime?

I repeat, the issue is made up. Brigham Young once declared in his own peculiar and uncouth phrase, "I will send a polygamist to their Congress and cram polygamy down the throat of the American nation." It was in execution of this audacious menace that he commanded the election of George Q. Cannon to the Forty-third Congress, since which time the representative of polygamy has sat unchallenged in this hall. Hitherto Mr. Cannon has effected his entrance into this chamber through the instrumentality of a certificate of election, that potent instrument against which it is difficult to interpose a successful barrier. He presents himself, however, at the door of the Forty-seventh Congress disarmed of this weapon, confessing himself guilty of an offense made by law a felony, but challenges the constitutional power of Congress to deny him admission for that cause. And so the issue is squarely made up, and we are now to see whether the constitution power of a living Congress is sufficient to cope with and overcome the infamous edict of a dead priest. I trust that the report of the majority of the committee will receive the unanimous support of this House, that the Forty-seventh Congress may place its seal of condemnation upon this relic of barbarism. The American people have long enough endured the shame of having seated in their high council a man who offends public decency, disturbs social order, defies national authority, and outrages the moral sense of all Christendom. Let the humiliation end now and forever.

(To be Continued.)

NOTICE.

ALL PERSONS KNOWING THEMSELVES to be indebted to the Estate of William Hopwood deceased, are requested to call at Philadelphia Restaurant, 64 Main Street, and settle immediately.

ELIZABETH HOPWOOD, Administratrix.

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NOTICE TO CREDITORS.

ESTATE OF WILLIAM HOPWOOD, DECEASED.

NOTICE IS HEREBY GIVEN, BY THE undersigned, Administratrix of the Estate of William Hopwood, deceased, to the creditors of, and all persons having claims against the said deceased to exhibit them with the necessary vouchers, within four months after the first publication of this notice, to the said Administratrix, at Philadelphia Restaurant, 64 Main Street, Salt Lake City, in the County of Salt Lake, U. T.

Dated at Salt Lake City, May 2d, 1882.

ELIZABETH HOPWOOD, Administratrix of the Estate of William Hopwood, deceased. d137 10d

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Having purchased the Altar Wines made under the immediate supervision of the Rev. P. J. Kaiser in the vineyards of His Grace, Archbishop Alemany, at the Old Mission San Jose; also the Wines made for

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Out of Col. Hooper's cellars at Sonoma, we herewith respectfully offer them to the clergy and others desiring an absolutely pure wine, made with the utmost care, and guaranteed of the vintages represented.

ARPAD HARASZTHY & CO.,

530 Washington St., San Francisco, Cal.

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

The vital importance of having pure Altar wine for the celebration of the Holy Sacrifice of the Mass is a matter which always gives the greatest concern to the Rev. Clergy, who are also aware of the difficulty experienced in procuring really pure wine by those living in remote regions from grape-producing localities. This difficulty, however, has now been entirely overcome, and every priest throughout the Union can rely upon procuring really pure wine for a trifle through the long-established and thoroughly reliable house of Arpad Haraszthy & Co., 530 Washington street, in this city, who have made arrangements with Rev P. J. Kaiser to be the sole agent in this city for the sale of all the wines made at the extensive vineyards at the Old Mission, San Jose, as well as the altar wine made by Col. Hooper at Sonoma. The firm of Arpad Haraszthy & Co. guarantee the perfect purity of these altar wines and are prepared to ship them in portable packages, in any quantity desired, and so put up that they will retain all their freshness during consumption. We think the enterprise of the house of Arpad Haraszthy & Co. is worthy of being encouraged, and we hope the Rev. Clergy throughout the Union will avail themselves of this excellent medium in order to secure for Divine service one of the most essential auxiliaries to its proper celebration.

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.

ARPAD HARASZTHY & CO.

ST. MARY'S CATHEDRAL, 628 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 as 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.

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