

## Utah Contested Election Report.

George R. Maxwell vs. George Q. Cannon—Contested Election, Territory of Utah.

April 21, 1874—Ordered to be printed.

(CONTINUED.)

Amendment Proposed to be Submitted by Mr. Gerry W. Hazleton to the Report of the Committee on Elections in the case of Maxwell vs. Cannon.

Whereas George R. Maxwell has presented a contest against the sitting member, George Q. Cannon, now occupying a seat in the Forty-third Congress as Delegate for the Territory of Utah, charging, among other things, that the said Cannon is disqualified from holding, and is unworthy of, a seat in the House of Representatives for the reason that he was at the date of his election, to wit, on the 5th of August, 1872, and prior thereto had been and still is, openly living and cohabiting with four women as his wives under the pretended sanction of a system of polygamy, which system is notoriously endorsed and upheld, against the statute of the United States approved July 1, 1862, which declares the same to be a felony, to wit, the great scandal and disgrace to the people and the Government of the United States, and in abuse of the privilege of representation accorded to said Territory of Utah, and that he has taken and never renounced an oath which is inconsistent with his duties and allegiance to the said Government of the United States; and whereas the evidence in support of such charge has been brought to the official notice of the Committee on Elections; Therefore,

Resolved, That a committee be appointed, of the same number as the standing committees of the House, to inquire into the said charge, and report to the House as to the truthfulness thereof, and to recommend such action on the part of the House in the premises as shall seem meet and proper.

VIEWS OF THE MINORITY.

I dissent from the conclusions at which the majority of the committee have arrived. I agree fully with a majority of the committee that the proof shows that the contestant, George R. Maxwell, was not elected; and that, while there was undoubtedly, at some of the precincts or voting places in the Territory, frauds perpetrated and undue influences used by the political or partisan friends of the sitting Delegate, he received an overwhelming majority of the legal votes cast at the election, and was duly elected a Delegate from the Territory of Utah in the Forty-third Congress.

As the result of the investigation of the case, the majority of the committee report for the action of the House, and recommend the adoption of a resolution declaring that the contestant, George R. Maxwell, is not entitled to a seat as a delegate, in which action I fully concur; and the majority also report for the action of the House, and recommend the adoption of a resolution to the effect that George Q. Cannon was duly elected, but fell to go further, and declare that said Cannon is entitled to his seat as a delegate from the Territory of Utah.

To this view of the case taken by the majority, which induced the sitting delegate, Cannon, was duly elected and returned, to stop short of recommending the adoption of a resolution declaring that he was entitled to the seat as the delegate representative of the people of the Territory of Utah, I cannot assent, for the following reasons:

The majority of the committee have failed and declined to report a resolution to the effect that Geo. Q. Cannon was entitled to the seat, upon the ground that he was disqualified by reason of the fact that he was the husband of more than one wife, and, as is assumed, guilty of a violation of the act of Congress which denounces a penalty of fine and imprisonment against any person in any of the Territories of the United States who practices bigamy or polygamy.

The committee, under and in pursuance of a long course of decisions of the House, had a plain duty to perform—that of ascertaining and reporting to the House which, if either of the parties to this contest was elected and returned, and as to the qualifications of the party found to be so elected and returned.

If the committee found, as they did, that Mr. Cannon was duly elected and returned, and that he was the husband of more than one wife, and, as is assumed, guilty of a violation of the act of Congress which denounces a penalty of fine and imprisonment against any person in any of the Territories of the United States who practices bigamy or polygamy, unless the qualifications of a Delegate in Congress are fixed by the Constitution or the United States requires shall be possessed by members of the House, it follows logically that there was one other duty for the committee to perform, and that was to report a resolution declaring that he was entitled to the seat.

It is admitted in the report, and the fact has been admitted, and it is denied, that Mr. Cannon possesses the constitutional qualifications, unless the qualifications of a Delegate in Congress are fixed by the Constitution or the United States requires shall be possessed by members of the House, it follows logically that there was one other duty for the committee to perform, and that was to report a resolution declaring that he was entitled to the seat.

There can be no sufficient reason assigned for the action of the committee, unless it be that the qualifications are any different. The Constitution does not in express terms prescribe the qualifications of a Delegate in Congress; it does prescribe those of a member of the House of Representatives, and of course the constitutional provision on the subject is a limitation on the right or power of the House to select or fix any other qualifications of a Representative in Congress.

The qualifications of Representatives in Congress are prescribed by the second section of the first article of the Constitution of the United States. They are, first, that they shall have attained the age of thirty-five years; second, that they shall have been seven years citizen of the United States; and, third, that they shall, when elected, be inhabitants of those States in which they shall be chosen. No other qualifications are prescribed in the Constitution.

If the Constitution of the United States had vested anywhere the power to prescribe the qualifications of Representatives in Congress additional to or different from those prescribed by the Constitution itself, it is obvious that this power would have been conferred either upon Congress, or upon the House alone, or upon the States.

In the history of our government it has never been claimed that the House of Representatives, acting alone, possessed the power to add to or change the qualifications of its members. The only instance made by Mr. Bingham, in the House of Representatives, in the year 1840, to invalidate a Representative, was on the ground that he was not a citizen of the United States, and he was not a citizen of the United States.

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