And now Hon. J. M. S. Williams, a Republican member of the present House of Representatives from the Cambridge District in Massachusetts, who, as living under the eaves of Harvard College and basking in the full light of Boston religion, ought to know what culture and Christianity can do for the morals of the community outside of the Mormon realm, in addressing his Baptist brethren at Washington on Monday evening last, at their monthly "Social Union," spoke as follows—we quote from the *National Republican*, the leading Administration organ at the Federal capital:

"He referred to the fact that Harvard College had more than a million of property not taxed, and the question in Massachusetts came up both in a collegiate and religious form. He contended that the Government should not tax church property, which was intended for the benefit of so many people. He believed it was better to have any religion than none at all. He favored even the exemption of the Mormon Church from taxation. *Salt Lake City was the most moral city in the world, and it was due to the restraining influences of their religion.*"—*Patterson, (N. J.) Guardian, April 3.*

PORTLAND, DALLES AND SALT LAKE RAILROAD. — Washington, April 25th.—In the House, to-day, Hurlbut, from the Committee on Railways and Canals, reported a substitute for the bill previously reported by the committee in aid of the Portland, Dalles and Salt Lake Railroad, and also of a telegraph line. The bill provides that the United States shall guarantee and pay interest on 5 per cent. ten-year bonds, to be issued by the railroad company to the extent of $8,000 per mile—amounting in all to $5,600,000—as each section of 25 miles shall be completed, to aid in the construction of the road from the Columbia river to some point on the Pacific Railroad between Ogden and Kelton. When this portion of the road shall be finished, similar aid, on the same conditions, is to be extended to the remainder of the road, between Portland and the Colorado river. In return, the railroad is to transport mails, troops and Indian supplies, and also send Government dispatches free of charge forever. No discriminations shall be made against freight and passengers at any point, and pro rata charges between any specified points are omitted. — *Sacramento Union.*

CONTESTED ELECTION,

TERRITORY OF UTAH.

Geo. R. Maxwell vs. Geo. Q. Cannon.

Argument of Halbert E. Paine, Counsel for Sitting Member.

(Before the Committee on Elections of the House of Representatives of the United States, Washington, D. C., 1874.)

(CONTINUED.)

The proceedings will be found on page 5447 of the 80th volume of the *Globe*.

In the 40th Congress, Simeon Corley, of South Carolina, P. M. B. Young and Nelson Tift, of Georgia, and R. R. Butler, of Tennessee, and in the 41st Congress, Francis E. Shober, of North Carolina, members of the House, were relieved of their political disabilities long after their election; and yet, when so relieved, were admitted to their seats in the House. All were ineligible when elected, and yet in no case was the election treated as void.

In the case of Joseph C. Abbott, in the Senate of the 42d Congress, the doctrine asserted by the counsel for the contestant was fully considered, and was repudiated by the Senate.

It is probable that there never was and never will be, in this country, another discussion of the subject so exhaustive as that which it received in this case. The English authorities were all presented, and very few, if any, of the American decisions, whether judicial or parliamentary, escaped the scrutiny of the Senators who submitted the majority and minority reports, which you will find printed together in Senate Report, No. 58, of the 2d session of the 42d Congress.

I now ask your attention to the case of the sitting member.

In order to meet, at the threshold of the discussion, the grave constitutional question involved in this case, disregarding the strictly logical order of the argument, I will at once proceed to inquire whether Mr. Cannon possesses all the qualifications which are prescribed in or can be prescribed under the Constitution of the United States, for the office which he now holds. I will afterwards consider the questions of his election and return to the contested seat.

It is charged that Mr. Cannon is a polygamist, and has taken the so-called endowment oath of the Mormon church; and that he is, for these reasons, ineligible to a seat in the House. It is not charged that he has been indicted for or convicted of either of these offences.

Now, let it be assumed at this point, for the purpose of argument, that these charges are—as I shall in due time show you that they are not—sustained by the proof in the record of this case. I do not believe that polygamy, either before or after indictment and conviction, can be held a disqualification for Congress either by this committee in the consideration of the pending contest, or by the House in judging of the election returns and qualifications of its members. Whether it is or is not a valid ground for expulsion by a two-thirds vote, under the constitutional provision applicable to that subject, is a question foreign to this case.

The qualifications of Representatives in Congress are prescribed by the 2nd section of the 1st article of the Constitution of the United States.

They are—1st. That they shall have attained the age of twenty-five years. 2nd. That they shall have been seven years citizens of the United States. And 3rd. 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 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 vain attempt made by Mr. Randolph, in the case of Barney *v.* McCreery, in the 10th Congress, to vindicate a claim of that kind in favor of the States, signally failed, and has never been repeated in the House. It has been claimed that Congress possesses the power to provide that ineligibility to the House may be, by sentence of court, inflicted as a punishment for crime, upon trial and conviction of the party charged. While I am not satisfied of the validity of this position, I shall not controvert it on this occasion, because it is wholly immaterial to the pending case. No such statutory provision exists. No charge of indictment, conviction, or judgment, under any such statute, is preferred against the sitting member.

Mr. Justice Story, in his discussion of the subject of the qualifications of Representatives in Congress, says that it would seem but fair reasoning, upon the plainest principles of interpretation, that when the Constitution established certain qualifications as necessary for office, it meant to exclude all others as prerequisites; that from the very nature of such a provision the affirmation of these qualifications would seem to imply a negative of all others; that the States can exercise no powers whatsoever, which exclusively spring out of the existence of the national Government, which the Constitution does not delegate to them; that they have just as much right, and no more, to prescribe new qualifications for a Representative as they have for a President; that each is an officer of the Union, deriving his powers and qualifications from the Constitution, and neither created by, dependent upon, nor controlled by the States; that it is no original prerogative of State power to appoint a Representative, a Senator, or President for the Union; these officers owe their existence and functions to the united voice of the whole, not of a portion, of the people; and before a State can assert the right, it must show that the Constitution has delegated and recognized it; but no State can say that it has reserved what it never possessed. (Story on Const., secs. 625, 627.)

This subject was considered by the House in the contested election cases of Fouke *v.* Trumbull, and Turney *v.* Marshall, (1 Bartlett, 168,) from the State of Illinois. The tenth section of the fifth article of the constitution of the State of Illinois, which was adopted on the 6th day of May, 1848, provided that the judges of the supreme and circuit courts should not be eligible to any other office or public trust of profit in that State, or the United States, during the term for which they were elected, nor for one year thereafter; that all votes for either of them for any elective office (except that of judge of the supreme or circuit court,) given by the General Assembly or the people, should be void.

Each of the contestants in these cases claimed the right to a seat in the thirty-fourth Congress solely upon the ground that the votes cast for Messrs. Marshall and Trumbull respectively "were null and void," not because of any disqualification in the electors who thus voted, but because Mr. Marshal had been elected a circuit judge and Mr. Trumbull a supreme judge within the State of Illinois, for a term of years, which term had not expired at the time of the election.

This presented the question whether a State could superadd to the qualifications prescribed for representatives in Congress by the Constitution of the United States.

The committee of elections, in their report, which was submitted by Mr. Bingham, having shown that the qualifications of a representative under the Constitution are, that he shall have attained the age of twenty-five years, shall have been seven years a citizen of the United States, and, when elected, an inhabitant of the State in which he shall be chosen, declare that it is a fair presumption that when the Constitution prescribes these qualifications as necessary to a Representative in Congress, it was meant to exclude all others. And they conclude that it is equally clear that a State of the Union has not the power to superadd qualifications to those prescribed by the Constitution for Representatives; to take away from "*the people of the several States*" the right given them by the Constitution to chose, "*every second year*," as their representative in Congress, ANY PERSON who has the required age, citizenship, and residence; that to admit such a power in any State is to admit the power of the States, by a legislative enactment or a constitutional provision, to prevent altogether the choice of a representative *by the people*; that the assertion of such a power by a State is inconsistent with the supremacy of the Constitution of the United States, and makes void the provision that that Constitution "*shall be the supreme law of the land*," anything in the constitution or laws of any State to the contrary notwithstanding. They submit that the position assumed by those who claim for the States this power, that its exercise in nowise conflicts with the Constitution or the right of the people under it, to choose *any* person having the qualifications therein prescribed, has no foundation in fact; that by the Constitution the people have a right to choose as Representative *any person* having *only* the qualifications therein mentioned, without superadding thereto any *additional* qualifications whatever; that a *power to add new qualifications is certainly equivalent to a power to vary or change them;* and that an *additional qualification* imposed by State authority would necessarily *disqualify* any person who had *only* the qualifications prescribed by the Federal Constitution.

(TO BE CONTINUED)