## DESERET EVENING NEWS: TUESDAY, FEBRUARY 13, 1900.

# CONSTITUTIONAL RIGHTS.

speech of Hon. Chas. E. Littlefield on the Roberts Case in the House of Representatives, Jan. 23, 1900.

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Mr. Wilson lock the same view, say-ing Besidea, a partial enumeration of cases will disable the legislature from description, edicus, and dependent cases will distant the termination disqualifying odicus and disqualifying (Ibid., page 373.)

when this section in the draft was when this section after "three" had maler discussion, after "three" had bed stricken out and "seven" inserted allow been stricken out and "seven" inserted been stricken out and "seven" inserted as to differentiate the section be so altered mored "that the section be so altered as to require merely citizenship and in-ast to require merely citizenship and in-halitaner," and suggested that "the halitaner," and suggested that "the institute of determining the rule of natur-sization will then leave a discretion to alization will then leave a discretion to the lagislature on the subject which will maker every purpose," (Ibid., page 401

Here it is clear that, as Hamilton con-(1.) Here it is clear that, as Hamilton con-strated this provision, without this lati-inde as to naturalization, the legisla-inde as to discretion or power. From the affirmative language of this pro-the affirmative language of the spectral the committee of detail, and the under-the affirmative language of the consti-standing of the framers of the consti-result of any debate. In its affirmative result of any debate. In its affirmative result of any debate. In the pro-result of any debate. In the sections that had been form, with other sections that had been form, with other sections that had been fally acted upon, and their construc-tion and terms definitely settled, it was tion and terms definitely settled, it was referred to a committee "to revise the syle of and arrange the articles which had been agreed to by the House, and this committee consisted, among others, of Mr. Hamilton, Mr. Gouverneur Mor-ris, and Mr. Madison, (Ibid., page 530.)

rts and Mr. Madison. (Ibid., page 530.) This committee had no power to make any change in the legal effect of any of the clauses submitted to them. They were simply "to revise the atyle of and wange." Certainly, with his very pro-numed views, Mr. Madison would not sumed views, Mr. Madison would not have made a change in Article IV, sec-tion 2, that would, in his opinion, have placed it within the power of the legis-later to "subvert the Constitution." Tet when the committee reported the

Yet, when the committee reported the Constitution as it now stands, Article IV is rearranged so as to be included in Article I, and the original affirmative section 2 of Article IV appears in the section 2 of article IV appears in the section 2 form as the second independmt paragraph of Article I, somewhat ent paragraph of Article I, somewhat changed, it is true, but in no sense con-beted with or dependent upon the pre-reding paragraph, which, with an im-provement in phraseology, is section 1 of Article IV of the draft. This de-prives the argument sought to be dewed from the juxtaposition of all sigpiscance. (Ibid., page 559.)

An examination of the finished work discloses the fact that the rearrangenest and changes in phraseology by the committee were extensive. The by elist unquestionably was, to make the ement more orderly and lucid, and the language more perspicuous and sidious. To hold that in any particuist any change was intended to be made in the legal effect, is to impeach the integrity of men whose characters ne of the most illustrious in our his-To assert that they unwittingly nade such changes, is a much more playous assault upon their intelligence ed ability.

Mereover, we are not left to inference stohow this clause in its present form minterpreted by the most eminent of is famers. The Federalist, as is well town was published while the Constithe was undergoing public discus-is and while it was being ratified by plates. It had been ratified by six and only when the numbers of the Malist hereafter referred to ap-ped. The author of No. 52 evidently senses that all of the qualifications of horsentatives has been "very properyousidered and regulated by the con-

Henvs:

mittee on detail, being positive in form, was exclusive. I would like to have some metaphysical, hypercritical mem-ber give this House the distinction be-"shall have attained"-"he shall not have attained twenty-five years of age" and "at least twenty-five years of age." Why is "at least" any more pregnant why is "at least any more pregnate with the idea of exclusiveness than "shall not have attained"—"shall not have attained" twenty-five years; in other words, must be "at least" twenty-five? Why are they not in essence sy-

nonymous' This is the whole proposition upon which these gentlemen rest their case, that they can add, not only in legisla-tion by Congress, but by the act of this House alone, a disqualification that is not mentioned in the Constitution. Let them stand here—some member with an analytical mind—and explain the dis-tinction between the words "shall not have attained" and "at least." It may be substantial, but I do not believe they will attempt it.

Sound reason does not sustain this claimed right. If the construction contended for is admitted, it must be con-ceded that the power of adding quali-fications is unlimited, as there is nothing in the Constitution which circum-scribes it. The suggestion in Barker vs People that the only power to add is in case of a conviction of crime is pure-ly arbitrary and gratitious, and absolutely no constitutional authority is given therefor. The rigid confinement by the court

of the right to break away from the Constitution to a conviction for crime must have been in the nature of expl-ation, a satisfying of the judicial con-science for the departure thus made from the Constitution. If the power exists, it must be unlimited; and therefore, while you can not take from, or narrow, the first two specific elements, you have unlimited power to add to

them. For instance, unless a man is at least twenty-five years of age he is not eligible; therefore the Constitution does not undertake to say that a greater age may not be required. In fact, the necessary inference is, that only the minimum limit as to age has been istablished and the Legislature has un-limited power to add to that qualification, and hence may require all Representatives to be fifty years of age. The same course would be pursued with reference to the seven year's citizenship clause; you cannot act within the do-main to which the Constitution has confined itself. Outside of it you can do anything.

But we do not stop here. If this pro-vision in the Constitution which is now under discussion is not exclusive, why is it that in 1866, the American Con-gress, by reason of experience through which it had recently been-why is it that the American Congress saw fit to propound an amendment to this Con-stitution, adding a qualification? Why observe a solemn form of submitting it to the States for ratification?

I submit to the common sense of the House. Was that act of the American Congress, when ratified by the requisite number of States, a solemn farce, a vain ceremony, or was it necessary to amend the Constitution in order to exclude men who were there denominated as trait-ors. Such men had been excluded, were being then excluded, but why amend Constitution if this tremendous the power exists, existed then, this "general welfare" power to do anything and everything under heaven that this body happens to want to do, when it meets a man it does not like, and sees fit to read a disqualification into the Constitution and exclude him? Why pass the fourteenth amendment? I read section 3: No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold ance any office, civil or military, under the Inited States, or under any State, who, having previously taken the oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebelliou against the same, or given aid or comfort to the enemies thereof.



BAD COMPLEXIONS, pimples, blotches, blackheads, red, rough, oily, mothy skin, dry, thin, and falling hair with irritated scalps and dandruff, red, rough hands, with itching, burning paims, shapeless nails and painful finger ends, and baby blemishes, prevented by CUTICURA SOAP.

It removes the cause of disfiguring eruptions, loss of hair, and baby blemishes, viz. : the clogged, irritated, inflamed, or sluggish condition of the PORES. No other medicated soap ever compounded is to be compared with it for preserving, purifying, and beautifying the skin, scalp, hair, and hands. No other foreign or domestic toilet soap, however expensive, is to be compared with it for all the purposes of the toilet, bath, and nursery. Thus it combines in ONE SOAP at ONE PRICE - namely, 25 CENTS - the best skin and complexion coap and the best toilet and the best baby soap in the world. Sold everywhere. POTTER DRUG AND CHEM. CORP., Sole Props., Boston, U. S. A. "How to Purify and Beautify the Skin," free.

Complete External and Internal Treatment of Every Humor. CUTICURA Consisting of CUTICURA SOAP (25c.), to cleanse the skin of crusts and solies and solies THE SET 51.25 the thickness cuticis, CUTICURA CONTENT (50c.), to instantly allay itching and irritation and soothe and heal, and CUTICURA RESOLVENT (50c.), to cool and cleanse the blood. A single set is often sufficient to cure the severest humor when all clea fails.

try who had never taken an "oath as a member of Congress, or as an officer o the United States, or as a member o any State legislature, or as an executive or judicial officer of any State to sup-port the Constitution of the United States." What about that vast body? When there is a constitutional provis-ion limiting the disqualification to those who had taken such "oath," would this committee and this House hold that they could go further, and exclude any and every traitor, irrespective of his having taken the oath? Why, they say they can now. Here is a clause in this Constitution that provides for the method to be adopted when a man who is disloyal stands at the door and

knocks. And what does the chairman of this committee say? What does the gentleman from Ohio (Mr. Tayler) say? He says the member from Utah, Mr. Rob-erts, is "disloyal." Well, if he is dis-loyal, does he not come under the fourteenth amendment? Has this House, in the plentitude of its power, or rather in the plentitude of its determination, the power and the right to do anything that it sees fit, under any circumstanc-es, when this constitutional amendment confines the right to exclude, to a man who has taken such oath? And there is no pretense that the gentleman from Utah has taken an oath, and there were thousands and thousands of traitors

who never have taken the oath to sup-port the constitution of the United States. Let me see, has something been said about the sacredness of the Constitution? The minority of your com mittee stand here to say, that they take the Constitution as it reads, and stand for its interpretation upon reasonable logical, common-sense principles. M'CULLOCH VS. MARYLAND. The case of McCulloch against Mary. land is, on the part of the gentleman from Ohio, said to have great signifiin construing this provision of the Constitution; and as I remember when he made his speech to the House on the second day of the session, he said, he shuddered to think what Judge Marshall would have said, if some one had suggested that you cannot add to this provision of the Constitution relat-ing to qualifications. If the gentleman had taken a little pains, and read th opinion through, he would have found that Chief Justice Marshall was discussing a section of the Constitution (section 8, Article I), which confers var-ious powers upon Congress. That section concludes with this provision: To make all laws which shall be necessary and proper for the carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof. That is the section of the Consti-tution that Chief Justice Marshall was discussing-in relation to the powers vested in Congress and the right to execute those powers and carry them into effect. Purely as a dictum, made by way of illustration, when discussing the powers reasonably to be implied from the concise and general provisions of this se tion, necessary, appropriate, and plainly adapted to effectuate its purposes, he said that-He would be charged with incanity who should contend that the legislature might not superadd to the oath direct-ed by the Constitution, such other oath of office os its wisdow might suggest. This does not impress me as entitled to much weight in construing a provision of the Constitution, which the court was not considering, and to which the doctrine "that the government intrusted with such ample powers, on the due execution of which the happiness and prosperity of the nation so vitally depends, must also be intrusted with amole means for their execution," can have little, if any, application. Now, the gentleman in effect says, that the opinion of Chief Justice Marshall in McCulloch against Maryland is to be used in construing every provision of the Constitution. If this be true, the annotator of the Constitution should have repeated that citation under every section; instead of placing it only under those which related to the powers conferred on Congress by section 8, ar-ticle 1. If the gentleman from Ohio could see the awful shade of Chief Jus. ice Marshall, when he first learned that the language he had used, a dic tum, by way of illustration, in respect to the construction of section 8, was to be applied to this section of the Constitution under discussion, the gentleman from Ohio would shudder before he had time to think. (Laughter.) (To be Continued.)

berley.

**CLEVERNESS OF THE BOERS** 

Julian Ralph Testifies to Their Military Ability and Courage.

#### Would Take Ten to One to Drive Them Back in a Frontal Attack on Their Trenches.

New York, Feb. 13 .- A dispatch to the Herald from London says:

Mr. Julian Ralph, in a letter to the Daily Mail from Modder river, says: "British defeats at the hands of the Boers are due to the fact that the methods of modern warfare have been brought to a pause by the demonstrated power of the weapons of today.

"The essential qualities of the army of twenty years ago are no longer the supreme necessities for success. The man behind the gun stands more supreme than ever.

appointments were made on the pre-vious Saturday." "Dig a trench and line it with good shots, supported by modern artillery,



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Any one who needs glasses ought to be glad to hear that a thoroughly reliable firm has a glass fitting room in charge of a skilled optician, who makes no charge for examinations of the eyes, and who sells the most modern glasses at lowest possible prices.

This is what we have and are not surprised to find

The qualifications of the elected being is arefully and properly defined by the State constitutions, and being at a same time more susceptible of unifemily, have been very properly con-siend and regulated by the conven-tim. A representative of the United Rates must be of the age of 25 years; but have been seven years a citizen. of the United States; must at the time this election be an inhabitant of the Sale he is to represent, and during the time of his service must be in no office inder the United States. Under these remetable limitations, the door of this inti of the federal government is open merit of every description, whether mine or adoptive, whether young or ad, and without regard to poverty or with or to any particular profession of religious faith.

If the learned author had supposed mainly limitations in addition that might appeal to the caprice of a legis-ature could be added, he would hardly have used the term "these reasonable limitations," as he evidently did, as desciptive of all of the limitations to be imposed. In No. 57 a general reference to this clause is made, which evidently proceeds upon the idea that the qualifitations to be required, are stated in the Constitution. It reads:

Who are to be the objects of popular thoke? Every citizen whose merit may mmend him to the esteem and con-Mence of the country. No qualificaten of wealth, of birth, of religious, faith or of civil professions is permitted to fetter the judgment or disappoint the inclination of the people.

How could he know that, unless the institution settled the qualifications? The authorship of these two numbers is in doubt between Madison and Hamilton. Hamilton is conceded to be the author of No, 60, and with many no auherity is greater than his; and this, so far as his authority goes, settles it be yond cavil. He says;

The truth is that there is no method the cruin is that there is no include isorehanded but by prescribing quali-factions of property, either for those who may elect or be elected. But this tins no part of the power to be conerred upon the national government. Is authority would be expressly re-Efficient to the regulation of the times, he places, the manner of elections. The fications of the persons who may boose or be chosen, as has been remarked upon other occasions, are de-fixed and fixed in the Constitution and an unalterable by the legislature.

This unequivocal declaration was hade after the negative form was used. as a determining factor in securing ntification of the Constitution, ough it was undoubtedly published that purpose. So far, however, as a clause weighed in the public mind. is this is the only construction that appars to have been placed upon it, it may be inferred that this construction varias ratified. Here is the crucible out of which the

distinution came; here the history shich it was made, and the declara-

In the light of these facts it is to be splored that exigencies arise which the supposed to justify a construction a direct conflict with the intention and terpetation of those who framed and usined in ratifying the Constitution. apression has no interpretive sigthe the proposition which involves the first to add qualifications, that proposi-tion must fail with the erroneous con-muction upon which it is based. The gentleman from Ohio admitted

Was it necessary to adopt that amendment to the Constitution? If it was not necessary, why was it done I say if this great power existed, could not this House invoke it in the case of the application of a traitor to be admitted within the walls, as my friend here suggests, without a Constitutional

idment? The House and Senate had both exercised the power to exclude traitors without an amendment to the Constitution in great emergencies. Does not the fact that this amendment grew out of that crisis, demonstrate that both the House and Senate knew that their action in thus excluding, was unauthor-ized by the Constitution?

Let me suggest another consideration to my friends. Here is this fourteenth amendment, that limits the disqualification to persons who have taken an oath, only those. There were a great many traitors at one time in this coun-

**SPECIALISTS** FAILED.



Mrs. C. A. Merrill, of Chetopa, Kans., suffered from a peculiar nervous trouble which baffled the skill of leading specialists. She says: "I cannot say enough in praise of Dr. Miles' Nervine. I suffered agonizing pain in left side of my head and 1 thought it would drive me insane. Specialists in Cincinnati and Kansas City treated me without benefit. Then I began taking Dr. Miles' Nervine and obtained prompt relief, and finally a permanent cure."

## Dr. Miles' Nervine

is sold by all druggists on guarantee, first bottle benefits or money back. Book on heart and nerves sent free. Dr. Miles Medical Company, Elkhart, Ind

#### An Editor's Life Saved by Chamberlain's Cough Remedy.

During the early part of October, 1896. I contracted a bad cold which settled on my lungs and was neglected until I feared that consumption had appeared in an incipient state. I was constantly coughing and trying to expell some-thing which I could not. I became thing which I could not. I became alarmed, and after giving the local doc-tor a trial bought a bottle of Chamberlain's Cough Remedy and the result was immediate improvement, and after I had used three bottles my lungs were restored to their healthy state.-B. S. Edwards, Publisher of the Review, Wyant, Ill.

Don't irritate your lungs with a stub born cough when a pleasant and effec-tive remedy may be found in BAL-LARD'S HOREHOUND SYRUP. Price 25 cents and 50 cents. Z. C. M. I. Drug Dept.

and no enemy can advance in the face of them." They may be outflanked or starved, but, while their ammunition holds out, none can oust them, for they can fill the whole plain over a radius of at least four thousand yards with

such a withering blast of shrapnel and riffe bullets that no troops can stand in the open before it."

Speaking of Magersfontein, he says: "The Boers there demonstrated the fact that, given a plain, field glass, modern magazine rifles and quick-firing small guns, and the whole German army itself could not dislodge the sixty-five thousand men of the two Boer republics by a frontal attack on those grass-edged trenches. Not 50,-000 British could have beaten those 15 .-000 Boers, except at such a sacrifice of life as no commander would require or could be pardoned for occasioning.

"For a frontal attack the old military manuals declared that the attacking force must be three times that of the defending force, but today, with the new weapons, it is said that ten men must attack one. 'One of the most formidable new con-

ditions of war which we are experiencing is one that we have never, or next never, seen before, for there are men in our army who have never seen a Boer in battle. I know of officers who have seen only one or two in one battle and five or six in another. "Our men have thrown themselves

upon the yeldt and have fired for hours at a time at the noise or flame at the trenches of the enemy whom they could not see. "At Modder river there were whole

battalions of ours that did not know at the end of the day whether the ene-my was north or south of the river.

"A European army fighting under European rules is a clumsy weapon against the Boer, who opposes us with weapons which render one man as good as ten, and all ten invisible. "We remember the old saying that

an army moves upon its belly, and we paraphrase it to make it read 'a modern army must fight upon its belly. "If Germany got in a trench that could not be turned, all the world could

advance and be slaughtered, but not all the world could oust the Germans from that trench."

### WHY NOT BUILD THE CANAL?

There is one more chimera deserving of special attack, and that is the idea. that the Isthmus is remarkably unhealthy. The great preparations made by the old canal company indicate that it was expected to be so; perhaps the care taken by that company in the drainage of the sites chosen for its buildings and the concentration of the flow into the large streams, have rendered the country more wholesome: certain it is that there is no more sickness among the very considerable population now on the Isthmus than there is among any other equal number in the tropics. The railroad and canal employes now living there are perfectly free from any unusual diseases.

I may point out that there are good harbors at each end of the Panama route which are in dally use by several lines of steamships, and also that these harbors are provided with the usual adjuncts, such as wharves, warehouses, coaling and watering facilities, and machine shops, where ordinary repairs can be made. Also that the value to commerce of any ship-canal will be about inversely as the square of its length when compared with that of another. Now, if we are really interested in hav ing a canal between the oceans, here is one much shorter than any other possible line, aiready half built, if the extent of preparedness is taken into account; why not take hold and build

It seems to me that no engineer can cross the Isthmus without being convinced, as I am, that this is a perfectly practicable route and the most desirable one for a canal. —Charles Paine, in the Engineering Magazine for February.

oted to the government's army plans The writer declares: "The ministerial cheme developed last night in both couses is in the main a colossal, costimposture, designed at once to hoax the country into the idea that some satisfactory reform of our military sysem is at length to be accomplished, and to throw dust in the eyes of foreign na-

guns being mounted in almost impos-

sible places, Charles Williams, the military critic of the Morning Leader, who is under-

stood to have close relations with Lord

Wolseley, the commander-in-chief of the British army, writes as follows:

"The government last night refused to say whether Lords Roberts and

Kitchener were sent to the front with-

out consultation with Lord Wolseley or not. It has already been so stated

in this place, and it is again asserted. Lord Wolseley learned the news from

the Monday morning papers, and the

The remainder of the criticism is de-

### Panama Canal Meeting.

New York, Feb. 13 .- A dispatch to the Herald from Paris says: A general meeting of the Compagnie Neuvelle du Canal de Panama was held a the Rue d'Athenes. Among those esent were M. Lamper, who representd the interests of the republic of columbia and also MM. Gauton and Rlegges-Ferrett, shareholders appointed o act as scrutiners should a formal bal of be necessary. In the hall were about 200 sharehold.

representing upwards of 400,000 hares

The following board was elected, with

M. Mariusbo, administrator of the credit Lyonaisse; M. Louis Chorun, di-recteur des etudes; M. Ettravaux, of the ompany Abel Couvrent, M. Maurice Hutin, Baron Pierre de Lassus, M. Saint Genies, of the administration of societe general: M. Gegorges Martin, of the ommission de controle of the Compton National d'Escompte; M. Fernand Monvoisin, administrator of the credit industrial et commercial, M. Charles Rouget, administrator of the Compagnie Francaise des Cables Telegraphiques, and M. Paul Terrier, director of the Compagnie General des Travaux Pubiques. Secretary Lamper said in an inter-

"The new board will now proceed to elect a president. Nothing definite will be known as to any future movement on the part of the company for about a week, and it goes without saying that up to that time any question affecting the proposed purchase by an American syndicate or of any considerable amount of shares cannot be discussed and certainly no one could yet say what the attitude of the company will be until he new board has begun work."

A Sure Sign of Kidney Trouble

Pain in the Back

A Trial Bottle Sent Free of a Med. Icine That Will Stop It.

Let us give you a piece of advice: Pain in the back is an almost infailible sign of Kidney disease; a surer sign is the condition of your urine: if you have a pain in the back then look to the condition of your urine. It is easily done. Take a glass tumbler and fill it with urine; after it has stood 24 hours, if it has a sediment, if it is milky or cloudy, if it is pale or discolored, stringy or ropy, your Kidneys and Bladder are in a dangerous condition and need imme diate attention, or the consequences may prove fatal. Dr. David Kennedy's Favorite Rem-

edy is the one medicine that really curce all diseases of the Kidneys, Liver, Bladder and Blood, Rheumatism, Dyspepsia and Chronic Constipation and corrects the bad effects of whiskey and beer on the system. It is wonderful how it makes that pain in the back disappear, how it relieves the desire to urinate often, especially at night, and drives away that scalding pain in passing water and in a remarkably short time makes you well and strong. Dr. David Kennedy's Faverite Remedy, is sold at all drug stores for \$1.00 a bottle, or six bottles for \$5.00.

If you would like to try this wonderful medicine you can do so, absolutely free, Send your full name and address to the Dr. David Kennedy Corporation. to the Dr. David Kennedy Corporation, Rondout, N. Y., when a free bottle, to-gether with a pamphlet of valuable medical advice, will be sent you by mail postpaid, providing you mention this paper when you write. The pub-lishers of this paper guarantee the gravineness of this offer.





