# DESERET EVENING NEWS.

TRUTH AND LIBERTY.

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## UTAH CONTESTED ELECTION CASE.

(*Continued.*)

Mr. Cassidy. Mr. Speaker, the American Congress has been an accessory to the crime of polygamy quite long enough. I am in favor of the suppression of polygamy in Utah, and to that end I am in favor of suppressing polygamists whenever and wherever one dares to raise his head. Especially am I in favor of placing a quietus upon the chief of all the polygamists in Utah, George Q. Cannon.

Every argument that has ever been urged by anybody anywhere against polygamy in Utah will apply with equal force to the case now under consideration in this House. The seating or non-seating of George Q. Cannon has a direct and important bearing on the true solution of the question of polygamy as it exists to-day in the Territory of Utah Cannon is the representative man of the lecherous, law-defying element of that Territory; he is the representative head of all that is bad and debasing in the damnable system of polygamy. His mission here is well understood. First, he has been returned as the Delegate from Utah, Congress after Congress for ten years, to make polygamy respectable in the eyes of the civilized world.

Brigham Young declared that polygamy was a God-given revelation through him to the Mormon Church, and when his own people and the great body of the American people all over the land began to murmur about it, he publicly proclaimed that he would cram the vile doctrine down the throats of the American people and of the American Congress. That is why Cannon is here to-day; that is why he was sent here in the first place. Brigham Young knew of the liberality of our Constitution and laws with reference to the subject of religious liberty and toleration, and he also knew that if he could succeed in installing a leading polygamist in one of the highest official stations in the Government, that act in and of itself would go further towards popularizing polygamy with the Mormon people than any number of sermons from the most gifted of his apostles and pulpit orators. Subsequent events demonstrate clearly that he reasoned well. Cannon was accorded a seat in this body and polygamy at once boomed all along the line.

The rank and file of the Mormon Church saw that the government of the United States recognized and respected, or at least tolerated the new doctrine; that it was no bar to the attainment of the most commanding positions of official trust and honor and emolument under the government; and hence they embraced it with great zeal and enthusiasm. The history and statistics of the Mormon Church show a marvellous increase in polygamous marriages in Utah immediately following the admission of Cannon to a seat in this body for the first time. The ratio of increase was unparalleled. The number of such marriages sprang from less than fifty for the year preceding his first admission, to more than four hundred for the succeeding year, and the unlawful system has continued to grow vigorously and steadily year by year since that time; and all because, as I believe, this House gave countenance and dignity to polygamy and popularized it with the Mormon people, by according to George Q. Cannon a seat upon this floor almost without a word of protest from any source whatever. Every succeeding triumph in Congress adds to the strength and vitality of the monster in the West. The best end to kill of a snake is its head.

There has not been a lawful election in Utah for 25 years. The ballot is tainted, yea polluted, with illegality from one end of the Territory to the other. Under Mormon law, girls under age and alien women of all ages are permitted to vote at all elections. An election in Utah is simply the recorded will of the Mormon Church as directed by the leaders of that organization.

But I have a stronger objection to the admission of Cannon. He is not a citizen. He is an alien. True, he holds an alleged certificate of naturalization, but there is no record of a court of competent jurisdiction behind it. He was not qualified to become a citizen of the United States at the time this certificate purports to have been issued. Contemporaneous facts and circumstances are conclusive to my mind that he had not resided in the country over two years prior to its issuance. Governor Murray was cognizant of these facts. He went into an exhaustive examination of all the circumstances, arriving at the conclusion that Cannon was not a citizen. I believe that that decision was correct.

But gentlemen on this side say the Governor usurped powers that did not belong to him. They talk of the sacredness and binding effect of precedents. The nearest parallel that I have been able to find to the course of Gove nor Murray was that raised in the celebrated Cronin case in Oregon in the Presidential year of 1876. Governor Grover, of Oregon, held that Watts was ineligible to the office of Presidential elector because he held a federal post-office. Governor Grover's position was sustained by some of the ablest democratic lawyers in the United States, and there was barely a democratic politician anywhere who was not willing and anxious to accept the Presidential election by the aid of Cronin's vote. Governor Murray Has said that Cannon was not elected because ineligible. The parallel in the Oregon case is complete to this extent, and the democratic portion of the electoral commission also concurred in the opinion of Governor Grover, holding, every man of them, that Watts was not eligible, and therefore not elected. But it is true that they did not claim that Cronin was elected. They simply held that there was no election at all, which our committee now says, by the report of its majority, was the case in Utah. The pending resolution goes no further.

Then we have the Mountain Meadows massacre and the terrible work of vengeance of the destroying angels in Utah, all directly traceable, as I hold, to the Mormon system. Cannon was always high in the councils of the Mormon Church. He was second in command to Brigham Young. The leaders condoned and concealed the bloody work of the numerous members of their church for more than twenty years, thereby becoming accessories after the fact to all of these terrible crimes. I hold George Q. Cannon morally responsible for his share of these offenses against mankind and civilization. Morally he comes here red handed from the Mountain Meadows massacre and the hundreds of assassinations perpetrated by the destroying angels of the Mormon leaders. He also comes as a self confessed bigamist, and therefore a self-confessed felon under the law. I am against him and the whole foul and disgraceful system which he represents. [Applause on the Republican side.]

Mr. Calkins said:

Mr. Speaker: In presenting this question to the House I had intended to submit a purely legal argument, and not extend my remarks to any phase of the case not strictly within the record; but the remarks made by the contestant in this case I must not allow to pass without challenge. I do not wish to be considered as having struck an unnecessary blow at a man or a people who now seem at least not to be in the ascendency; but I deem it just to history, just to the people of the United States, and just to the people whom the gentleman says he represents, to say that all is not so fair in the history of that people as would appear by his remarks; for I remember that as early as 1855 a speck of war appeared in the Territory of Utah, growing out of the defiance of the Mormon people to the authority of the Government, and to suppress that insurrection the Government was compelled to and did send there its army, headed by the brave and gallant man who afterward fell fighting on the other side at the battle of Shiloh.

I am also reminded that coming up out of the past is a tale of blood, the equal of which is scarcely found in any of the annals of bloody crime that history records, and using language that my distinguished friend sitting in front of me [Mr. Burrows] once used, "so horrible and atrocious that a savage might have sat at their feet and learned deeds of cruelty."

I remember that a peaceable Arkansas colony on its way to the land of the setting sun, fell victims, after having surrendered under a truce, to a horrible butchery. I remember that one of the leading members of this Mormon colony many years afterwards was convicted and punished for having been a *particeps criminis* to that horrible massacre. So with the fair scenes and pictures that have been presented in this House to-day these of darkness and bloodshed should not be forgotten, as well as the fact that, with all the virtues which have been referred to as belonging to them, there they stand to-day confessing as a part and parcel of the religious tenets of their creed a crime against our civilization so heinous that no man upon this floor save the contestant himself has dared to apologize for it. These are some of the historical facts allied to and connected with the contest now presented.

I shall spend no further time upon this part of the subject, Mr. Speaker; I think it is unnecessary. Allow me to pass now to the consideration for a few moments of the merits of this contest, as well as to answer some of the objections which have been urged against the majority report, and first let me say in answer to so much of the contestant's remarks wherein he says that he had no fear of the majority report before the passage of the recent Mormon law, because the best lawyers on both sides of the House had condemned it, that if the statement be true, and if the best lawyers on both sides of the House did condemn it, and thereby find a way by which they could stultify the sentiment of this country, and vote to seat him on this floor, I am content to take my seat upon the back row, and find my vindication in the familiar quotation, "Where ignorance is bliss 'tis folly to be wise."

I admit that there is room for argument and for disagreement, not only between good lawyers, but between all lawyers, upon the constitutional question; but I claim for the report that no Congress nor any tribunal has sat upon it, or has ever passed judgment upon the question involved. Now, what is the question presented by the report? When you reach it it is well and sharply defined. It is said by those who criticise the report that Delegates in Congress are within the terms of the Constitution so far as membership is concerned, and that the Constitution applies in terms to Delegates.

Now, what are the constitutional provisions? What are the provisions relied upon and quoted in support of the questions presented here? The first one is the first clause of section two of article one, which defines what the membership of the House shall be, or what shall constitute the House of Representatives. The clause in question is as follows:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

It is here clearly expressed in words unmistakable, and in precise and unequivocal language, who and what members of Congress are. They shall be "chosen every second year by the people of the several States;" not by Territories, but by the people of the several States. Let us pass to the next step. For some purpose this is a separate and distinct legislative body. This House is separate and individual in reference to all powers of its own organization, with reference to the election, organization, and the returns of its own members, with reference to the expenditure of its contingent fund, with reference to the punishment of infractions of its dignity, and with reference to its power and right to expel a member. For these purposes the House is separate and distinct as much as if it relied on no other branch of the Government for legislative purposes. So when you apply the constitutional provisions to the power of the House over the election returns and qualifications of its own members, it stands, as the text of the Constitution shows, as a judge to pass upon these qualifications and elections.

Take the next step. What are the qualifications of a member of the House? They are defined in the Constitution; and here comes the first point of divergence between myself and those who disagree with me. The framers of the Constitution being familiar with the history of parliamentary bodies knew, as everybody knows who has studied it, that every parliamentary body ought to be and is the sole judge of the qualifications of its own members; so they defined what the qualifications of a member of Congress should be, but did not define what his qualifications might be. They separate the positive qualifications which must attach to him from the disqualifications which may attach to him. What did they do? They provided that a member at the time of his election should have three requisites, namely, citizenship, age, (twenty-five years,) and inhabitancy, and reserved to the House itself the right to say by a two third vote what should be ground for expulsion from the body for any misconduct, for any misbehavior, for any crime involving moral turpidity; in short, what might be or become a disqualification; and the provisions of the Constitution in this regard were made to apply to the members elected from the States. That is all. Then it is provided that for any disqualification which may be found attached to any member which in the judgment of the House is sufficient by a two-thirds vote of the members he may be expelled.

I repeat that if it were not for the constitutional restriction upon this body for any cause which it might see fit or deem proper, it could expel or exclude a member from a seat on the floor by a majority vote. Upon that point, Mr. Speaker, I desire to call the attention of the House to the history of the House of Commons and its rules respecting the power of that body over its own members. I call attention to section 58 of Cushing's Parliamentary Law, wherein the author says that it never was pretended that there was any power restraining that body from exercising this authority over its own members, and in its exercise of that right so capricious was it that it allowed men to take their seats upon the floor who were under twenty-one years of age, and then in other parliaments it would expel them and refuse to allow them to take their seats, and in other parliaments it would again allow them to sit.

The position of the majority of the committee in this case, in a few words, was this: That a Delegate not being within the constitutional provisions is remitted in his standing before this body to the general power of this House to judge of the qualifications of its members, which power resides exclusively in this House. It obtains that power in two ways: first, as to its members, by a direct provision of the Constitution; second, it resides in this House by common parliamentary law which has existed ever since parliamentary bodies were established. Hence, as regards any person attached to this House not a member in a constitutional sense, his qualifications are remitted to this House as a parliamentary body to say what his qualifications should be, as well after he is sworn as before. Not being within the provision of the Constitution, he is not subject to the two-thirds clause relating to expulsion; and a majority at any time may expel him. That is the proposition and there is where we divide, and, so far as I am able to discern, the only real difference between us.

Now, what do those who oppose this view say? They all admit that delegates are not within the constitutional provision and are not members in the constitutional sense. What do they say? That by the act of September, 1850, Congress extended the Constitution and laws of the United States over the Territories, and thereby the Constitution became by positive law a part of the law of Congress, as applied to Territories, and being applicable in cases of delegates, the same rule should apply to delegates as applies to members. That is their argument—that Congress having extended the Constitution and laws of the country over the Territories, therefore, as a matter of statute law, the Constitution should be applicable. I deny it. I deny that the constitutional provision is applicable, or can be applicable so far as it relates to the election, qualifications, and returns of a delegate. It cannot be applicable by any rule of construction with which I am familiar. I never heard of a respectable text writer who said you could carve out a part of a section and make it applicable and controlling to a given subject, and disregard the residue. The whole must be applicable or none. And if you make it applicable to the case of delegates, you must extend to them the right to vote. You cannot step half way; so your position proves too much and is wholly illogical and cannot stand.

Apply another familiar maxim, namely, "Where the reason is the same, then the rule is the same." Is the reason the same as applied to Members and Delegates? My friend from Texas, [Mr. Jones,] in an able and earnest speech to-day, said that the reason was precisely the same. I beg his pardon. What is the potent power of a member of this House? Is it simply the indulgence and right to talk and introduce bills and exercise the franking privilege? Is that it? Oh, no, the potent power of a member of Congress is his vote. It is his voice that renders him powerful and potent on this floor. For all other purposes he might as well stay in his district if he could by staying there reach this House just as well by telegraph, and through the public press get his speeches and his bills before Congress. It is his vote that levies the taxes and distributes the money, and gives direction to general legislation affecting fifty million people. That makes the member potent on the floor. This essential feature every Delegate lacks. He lacks it by law. And I doubt whether Congress in exercising any constitutional power could extend it to him. At least it has not been so claimed by any gentleman on the other side. And I most positively deny the right of Congress to do it. The potency, I say, of a member is the right to vote.

Very many times, Mr. Speaker, I have heard the vote of a member lightly spoken of, but I hold in my hand a volume, part of the records of this body when there were troublesome times in the country; and I recall now the value of one vote in this House. It was the time Kansas was applying to be made a State in this Union. You will remember it was the policy of a large part of the democratic party whose representatives were then in Congress to fasten upon Kansas, when admitted as a State, a slave constitution. You will remember that the Lecompton constitution—an instrument conceived in sin and brought forth in iniquity—was before the House, and when the scales were finally held up at the Speaker's desk, and freedom was on one side and the slave and the shackle on the other, the question was put whether the Lecompton constitution should be saddled upon that free territory in the West. The roll of members was called, down to the last name, and, trembling even in the balance, the last vote recorded settled the question in favor of freedom, and Kansas was free. That illustrates the power and potency of the vote of the member; and that is what the Constitution designed to protect when it defined the rights of members of this House.

(*To be continued.*)


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

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