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 Represent stives of the United States, Washington. D. C., 1874.) (CONTINUED.)

"There are the cases of Brooks and Keitt, of South Carolina. What were these case? Mr. Brooks was censured. He was not expelled. A vote was taken to expel him, and there were 121 votes to binety odd, and not being two-thirds, he was not expelled. The House then censured him, and he resigned, was re-elected and took his seat. Mr. Keilt's case was the same. His conduct was censured by the House, and he also resigned, was re-elected and took his seat. But mark you, neither one of these men was charged with a penitentiary offense, or any in-famous crime. There is a wide difference. They were charged with an improper act, with im-proper conduct in violation of the rules of the House, but not with

will perhaps be cited as a precedent, but it is not one. He resigned be-fore the House expelled him, just as Whittemore did, and he was censured. What did he do? He was censured by the 34th Congress, and he returned to the 35th Congress. He did not return to the same Congress that censured him, nor was he elected to the succeeding Congress after the censure. He had been elected to the 35th Congress before he was censured in the 34th Congress, and hence he took his seat in the 35th Congress. Why? Because the 34th Congress had expired. The body of which he was a member when he was censured had expired, and had no further jurisdiction over the case, and the jurisdiction over the case, and the 35th Congress had no jurisdiction over him. Mr. Harris, of Illinois, in the 35th Congress, introduced a resolution of expulsion against Matteson, but it was decided that that Congress had no jurisdiction, and hence he was permitted to retain his seat in the 35th Congress. That is a very different case from this. This man comes here to this this. This man comes here to this Congress, of which we have said he is unfit to be a member. He returns to us now; and I tell you, gentlemen, you cannot find a soli-tary precedent in the whole history of legislation that authorizes this Congress to receive him or re-

Mr. Logan took the ground that an expulsion for an infamous crime was valid for an entire Congress, that, although a subsequent House could not refuse to admit a Representative elect on account of an expulsion by the 'House of Representatives of the 41st Congress, yet that House itself, during its existence, could constitutionally refuse to readmit a man whom, for an infamous crime, it had or, but for his resignation, would have, expelled. The case of Mr. Whittemore, after his expulsion and reelection, was driven by a strong will through an uneasy House. To many honest minds the knowledge or even apprehension that they are suspected, is as galling as punish-ment itself to the guilty. The re-presentative who questioned the friend of Mr. Whittemore." A vote in the negative was to signify that the voter himself had sole The case of John Wilkes, in the

House of Commons of England was cited — evidently misunder-stood—in the brief discussion in the qualities of the stateswho took part in them, doubtless continue to be the great leading cases on the question now under consideration amongst all English-speaking races maintaining parliamentary governments for centuries to come. I beg that you will consider the several stages of this case of John Wilkes from its commencement in 1769 to its termination in 1782. The constitutional principle of the case was, after 13 years of struggle, settled on the day it terminated. The principle is, that a member of the House of Commons cannot, on the House of Commons cannot, on re-election, be rejected on the ground of previous expulsion, even from the same Parliament. And it is to be remembered that the powers of the House of Commons under the unwritten British constitution are even broader than the powers of the American House of Representatives. Mr. Wilkes was first expelled from the House of first expelled from the House o Commons of England on the 19th day of January, 1764, by the adop-tion of the following resolution:

"Resolved, That it appears to this House that the said John Wilkes, Esq., is guilty of writing and publishing the paper intituled The North Briton, No. 45, which this House has voted to be a false, scandalous, and seditious libel, containing expressions of the most unexampled insolence and contumely towards his majesty, the grossest aspersions upon both Houses of Parliament, and the most audactious defiance of the authority of the whole legislature; and most manifestly tending to alienate the affections of the people from his majesty, to withdraw them from their obedience to the laws of the patton, and to insite them to nation, and to incite them to traitorous insurrections against his majesty's government.

"Resolved, That the said John
Wilkes, Esq., be for his said offence
expelled this House."

Mr. Wilkes was elected March 23, 1783, a member of the 13th Parliament of England, which met at Westminster, on the 10th day of May, 1788. The session was a short one. At the second session, which commenced on the 5th day of November, 1768, a motion was made for the expulsion of Mr. Wilkes. The motion was made by Lord Barring-ton on the 3d day of February, 1769, and carried en the same day. It was predicated in part on the grounds of his former expulsion, but mainly on new facts. It was in these words:

"That John Wilkes, Esq., a member of this House, who hath, at the bar of this House, confessed himself to be the author and publisher of what this House has resolved to be an insolent, scandalous, and seditious libel, and who has been convicted in the Court of King's Bench of having printed and published a seditious libel, and three obscene and implous libel, and three obscene and implous libels, and by the judgment of the said court has been sentenced to undergo twenty-two months' imprisonment, and is now in execution under the said judgment, be expelled from this Heuse."

[TO BE CONTINUED.]



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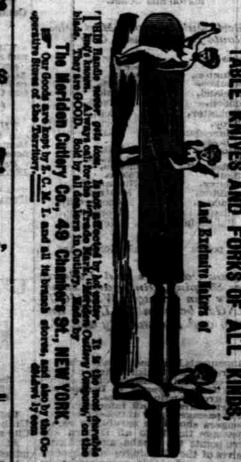
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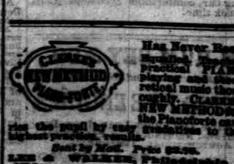
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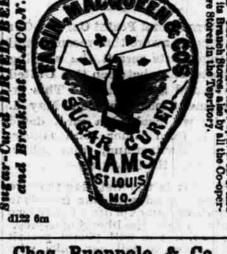
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