CONGRESSMAN ROBERTS' DEFENSE.

(Concluded.)

Mr. McPherson. Does this Enabling allow the President to determine whether a proper constitution was adopted or not? Mr. Roberts. He had to pass upon

the Constitution, as I understand it. Mr. McPherson. I don't know whethwas Congress or the President that had to pass upon it.

Mr. Roberts. If it was not satisfac-tory, I understand the President had the power to reject it. Utah was ad-mitted by the proclamation of the

Mr. Morris. And not passed upon by Congress, then?

Mr. Roberts. No. sir. The Chairman. It was his duty to determine if the Constitution complied with the terms of the Enabling Act. He did so on the 4th of January, 1896. Mr. Morris. It was approved by proclamation of the President, and not

by act of Congress? Mr. Roberts, To continue-

Now, sir, I scorn all such proceedings as that. I believe that what we do here we do with real intent of heart and without nonsense, and for that reason and in this spirit we should this amendment, and then have it carried out just as it is intended to be carried out. I hope, sir, that these remarks, and the remarks that other gentlemen have made and doubtless will make upon this provision of the Constitution will have the effect of removing from the proceedings of this convention this seeming insincerity, which ought not to exist in a conven-tion of this character. Why, sir, we would give little credit to the intelligence of the man who is to pass upon Justrument before our labors flanlly completed in bringing Utah into the Union, if we suppose that he could not see through this flimsy screen that it is proposed to cast over our conduct here, if we let this provision go in under the spirit of that dinscussion; and, sir, I hold that we ought to adopt it in a spirit of earnestness and with honest intention to make it effectual.

It was after this speech of Judge Goodwin and my reply to it that I have just read to you that Mr. Varian said in his remarks, when he referred to it and said that he had no use for a sneak, referring to Judge Goodwin.

The Chairman. That was as to the polygamy section of your statute of 1892?

Mr. Roberts. Yes, sir; the Territorial

statute of 1892. Now, sir, I think it is decidedly clear that so far as the Constitutional Convention of Utah is concerned, they took the view of the Enabling Act, the requirements of the Enabling, Act that I have presented here, namely, that they were required to stop "polygamous of plural marriages" for the future, and that they were not called upon to de turb the relations that had existed did then exist by reason of marriages

had come down to us from the This discussion, as I say, was open. It was officially reported and officially printed. It was practically published in the daily papers in the proceedings of the Convention. These religious people who are now at

bottom of this agitation, or many of them, were present, and were watchof them, were present, and were watching the proceedings of this Convention. Finally, after the Convention completed its work, and the Constitution was referred to the President of the United States at Washington, all those who were opposed to the Constitution had ample opportunity, of course, to make their objections, and there were several thousand votes, as I remember it, that housend votes, as I remember it, that so far as I know, or have information, there was no complaint made against this Constitution on the ground that it failed to meet the requirements of the through the action of the Congress of the United States. That was not a fea-ture of objection that was urged against it at all. And the idea that with this public discussion the State of Utah nevertheless succeeded, to use vul gar parlance, in working a sort of "bunco game" upon the President and the people of the United States is so ridiculous that to my mind it is at least something more than absurd.

The Chairman. Your State Legisla-

ture, however, did go on and pass a clause against the practice of polygamous living didn't it? Mr. Roberts. Not immediately, sir. I shall come to the consideration of that

presently.

Mr. Littlefield. Not until the revised

statutes of 1898, I think.

Mr. Landis. I would like to call at-

tention to the discussion in Congress before the passage of that enabling act. If you will, remember that provision as incorporated in the Enabling Act in response to a speech made by Representative Powers, of Vermont, who later resented this provision. Mr. Powers

Mr. Chairman, I suppose there is no question that every member on the floor of this House desires sincerely and honestly to put an end to polygamous mar-riages in the Territory of Utah, and such being the case it seems to me that there ought to be incorporated in the organic act by which the Territory is brought into the Union as a State some provision which shall assure the public mind that this institution, which entlemen tell us has already seen its best days, shall never again raise its head in Utah. I think a misapprehension exists in the minds of some of the members as to the scope of the amendment which I offer. If the House will indulge me for a moment, I desire to point out how the language I propose to put in harmonizes with the language

And then the provision. And then he

Mr. Chairman, if we are to admit the Territory of Utah as a State at all into this Union let us admit her just as we admitted the other States. Let us prepractice of polygamous marriage, but do it in an orderly way, and not undertake to incorporate a legislative provision into the body of the Enabling Act. Let us prescribe, as well as we may, against the practice of polygamous marriages, not the performance of polygamous ceremonies, but against the practice of polygamous marriages. And after that, Mr. Dolliver makes a

sepech, and he said: If there has been any objection to the dmission of Utah that has had force with public men, it has been the existence of the anomalous institution of polygamy in that Territory. I say candidly to the House that I would not vote for the admission of the Territory ex-

cept upon the assurance that the insti-And thus in their entire discussion. from one end to the other, no man at any time has attempted to draw a line between the marriage already solem-nized and marriages that might be sol-

empized in the future, not a line.

Mr. Littlefield. What you have quoted is the most specific language that can be found in the debate, is it not?

Mr. Landis. Yes; that is specific.
Mr. Roberts. And yet the amendment of Mr. Powers was the one adopted, and forms the only requirement of the people of Utah, namely, that while there shall be perfect tolerance of replural marriages" shall be forever pro-hibited.

Mr. Landis. And he speaks later of the abolition of polygamous marriages.

Mr. Roberts-Which was understood by all of us, as I have demonstrated by the discussion in the convention protracting plural marriages for the fu-

understood by those who participated in the constitutional convention in Utah, but evidently not so understood by the gentlemen on the floor of the House who entered into the discussion there.

who entered into the discussion there.

Mr. Roberts—Doubtless different views on that will be entertained, and I don't know that there will be any harmony between other gentlemen and myself with reference to it. But I believe the language used by Mr. Powers, the gentleman from the State of Ver-mont, is susceptible of an understanding that it went to the practice of plural marriages only and had reference to the contracting of marriages for the future only. I wish to say that

believe that. Mr. Littlefield—That is, marriage as n act and not as an institution. That the distinction. Mr. Roberts—If the marriages were

prohibited the institution of polygamy doomed, of course. Mr. Landis-Doomed, but not dead,

Mr. Littlefield-The distinction in your mind is between the act and the

institution Landis-Yes; my contention is that Congress, when it passed this en-abling act, by that provision meant to cover the entire question of polygamy, to cover the entire system, and it strikes me that is brought out by the subsequent legislation in the State of Utah on the question of polygamy and on the question of unlawful cohabita-

Mr. Merris-And Mr. Roberts' position was that it was intended to cover the future celebration of ceremonies of that kind, and thereby the institution of the relation in the future, and not to cover the practice of the condition

already existing—
Mr. Roberts—From marriages that had been performed in the past. Quite

Mr. Littlefield-In other words, it was section 1 of the Edmunds Act, and not section 3. That is about it, is it

Mr. Roberts-Yes, sir. My point is That this question being before Congress and that system practically having been abandoned from 1890—that in, the practice of plural marriages hav-ing been abandoned from 1890, and the clearest evidence existing that it had been so abandoned—the object really was to provide against its revival in the future by bringing in this provision that would forever prohibit such marriages in the future. And that so far as the conditions that existed in Utah, coming down to us from the past, were concerned, that was a matter that the State of Utah itself would be able to contend with. And, of course, as I said yesterday, the fountain of evil being dried up. Congress was willing to let the streams take their course under the direction of the local effect of such

laws as might be operative upon them.
I now desire to briefly call to the attention of the committee the conditions that existed in Utah after the formulation and adoption of the constitution and the existence of statehood, To show that this settlement of the polygamy question in Utah was acceptable, it was of course in order, immediately after the adoption of the Constitution, that the people should prepare for statehood. Officers were to be elected for national positions and for State positions, and men who were in the status of polygamy, or at least who had been con-nected with that institution in the past, were among those who were freely nominated by the conventions of the two political parties in the State. The Democrats of Utah were quite generally in favor of electing senators by vote of the people, and the Democratic convention thought to approach that condiing men for the Senate in their party

The two men who were nominated in 1895 in the Democratic convention were Hon, Joseph L. Rawlins, now senator from the State of Utah, and Moses Thatcher, Mr. Thatcher was a "Mor-Thatcher, Mr. Thatcher was a "Mor-mon" and had been an advocate of this marriage system, and it was generally known that he had held polygamous relations and had polygamous wives then living. He was nominated in the convention for the Senate, and would have been elected had the Democratic party been successful. I myself was nominated for Congress in 1895, and certainly all the objections that people have against me now existed then.

nomination came to me, and also to Mr. Thatcher, without protest from any quarter whatsoever. We went through a rather stormy campaign, and at no undesignable candidate on account of my connection with this plural marriage

ystem in the past.
Mr. Morris-Who was elected at that

time? Mr. Roberts—Mr. Allen. Mr. Morris—Was he admitted to Con-

Mr. Roberts-Yes, sir. Mr. Allen was Gentile and a Republican. I think, nowever, he served only for one session of Congress then. Our election came in 895. It was an odd-year election, and I think his term was merely the last session of that particular Congress.

Not only was this the case in regard to these national positions, but it was to these national positions, but it was true in regard to our local officers. Men were nominated by both political parties for office in the Territory—members of the legislature and for other State posi-tions—who were well known to be connected with the polygamous marriage system of the Mormon Church, and all this without any protest on the part of the gentiles of the State of Utah, or any complaint that there was any breaking of faith, or any violation of the agreement or compact with the

It was during this time, too, that Federal appointments were made—that is, succeeding statehood—without any objection with reference to their connection with polygamy, except from very obscure and narrow-minded sectarian persons; and that, by the way-that is, best objections-did not come up until ome time later. That did not imme liately transpire after the admission of the State, but a year or two afterwords. And these appointments were made-and it is useless to attempt any enial of it-they were made in the face of the fact that protests were made, as was supposed, before the proper au-therities, and those protests were based upon affidavits that were made concerning the polygamous practices of the positions; and these same protests were ignored and these men were appointed

o those positions. Mr. Landis. At what particular time did this occur-to what time are you re-

Mr. Roberts. I think, sir, it must have been at least in 1897 when Mr. Smith, of Logan, the Presidential postoffice appointee, and also Mr. Graham, another Presidential appointee, received

The chairman. Where were those affi-

iavits ledged?
Mr. Reberts. The gentleman who collected them sent them to the President of the United States; and he received assurances that they had been received

Mr. McPherson, From whom; from his private secretary?
Mr. Röberts, I do not know. I take t, from the private secretary. He would hardly receive the assurance from the President himself. At the proper time, Mr. Chairman, that man can be placed on the witness stand, the man who collected those affidavits. He received from Washington the assurance of their hav-ng been received at the Capitol. Moreover, I have the written statement of Senator Rawlins that that question was referred to him by his colleague in the

The Chairman. The provisions you had taken under the Edmunds act and enate, and he was asked if he had any objection to the appointment of these continued in the laws of 1892, operated in the State from the birth of the State, were before the committee on postoffices and railroads affidaylts that these men

unlawful cohabitation-and Mr. is, unlawful cohabitation—and Rawlins said he had no objections on that ground whatever against them. Of course, Mr. Rawlins being a Demosenator, I take it that it was a matter of formality, only a matter or courtesy to him, to call his attention to

the Utah appointments.

Mr. McPherson. I do not understand your argument. If I have understood you correctly, for the last five or ten minutes you have been arguing that there was no objection made out in that country at all to men who were living in polygamous relations with wives married theretofore. Now you are making an argument that the people were aroused and protests lodged with Presi-

dent McKinley, perhaps.
Mr. Roberts. I made the exception to
the general statement that there were a few obscure parties and narrow relig-ous people who had made these protests gathered affidavits, but that the situation was accepted generally by the people of the State of Utah as a settled and closed incident and that such relations with reference to polygamous living that grew out of past conditions occasioned no animosities in the comnunity, and the settlement fixed by the onstitutional convention was accepted by the people; and further that tions made to the candidates for ap-pointments on these grounds were walved here at Washington. I myself congratulated Mr. Smith upon the fact that the efforts of those few parties had not succeeded in preventing his appoint ment to the postoffice at Logan, o place he was in every way worthy

The Chairman. Was he a polygamist? Mr. Roberts. I don't know; these protests were mane on that ground. The Chairman. The charges might have been investigated, for all you

These men were not proven guilty any more than I have been proven Mr. Littlefield. That is, there had been

Mr. Roberts. I can not answer as to

no indictment and trial? Mr. Roberts. No indictment, no accusation before the court, and I take it that it was the personal enemies of Mr. Smith, especially there at Logan-some of his compelitors for the office of postmaster at Logan-that undertook this currilous piece of work. It was brushed aside, and, as I be leve, properly brushed aside, especially in view of the settle-ment of this question in Utah, as it was understood. But it would be useless to say that those protests were not made and that these charges were not made against these candidates for Federal ap-pointments. They were made, and at the proper time the fact that they were made can be sustained by evidence that s not to be controverted. Mr. McPherson. What is your opin

on of those two men? Were they poly. gamists or not, or were they living in olygamous relations?

Mr. Roberts, All I can say is that it was generally understood that they and my recollection is that-I d not wish to do them an injustice-that Mr. Graham, in the controversy of th past, had been convicted of unlawful cehabitation, although I am not sure with reference to that matter. I think t was the case, and of course if it is he case it would be established by the records of the court there. Chairman. Are they still in office,

Mr. Roberts?
Mr. Roberts. Yes, sir; they are still

Mr. Schroeder, Mr. Smith is not, is

Mr. Roberts, I think so. Mr. Schroeder, My impression is that his bondsmen are in charge of the office Mr. Roberts, That, however, was no on account of polygamy. Mr. Smith got into some financial distress, and 1 understood went to Alaska and left his postoffice, and he has since, I understand, returned from Alaska

committee to the fact that after the settlement of the question of the adoption of the constitution and the existence of Statehood, there were no prosecutions for unlawful cohabitation from the time of Statehood until recently some four or five months ago; and now call attention to the question of these laws. There was introduced into the first legislature following Statehood bill upon this subject and the legislature refused to pass it, some of the legislators holding that the old Territorial law of 1892 was operative that no legislation was necessary. But it was generally believed, in consequence of the argument and contention of Mr. Varian in the constitutional convention, that if the law were valid— that is the law of 1892—then the rejecthe part of it that related to unlawful cohabitation was in effect repealed, in line with the question that had been submitted to him by Mr Evans upon that point.

That, of course, might be a legal fact but it was a general understanding; and that Mr. Varian persuaded the convention that the law was invalid is ev-idenced by the fact that the convention thought it necessary, in order to meet the requirements of the country on the subject of polygamy, to adopt in the constitution the section on the subject of palygamy, that the point might safeguarded; that if that law was invalid we might go into Statehood with something more than a vague provision relating to polygamous or plural mar-

Mr. Morris. I understood you a moment ago that the supreme court of the State of Utah had held the whoje law of 1892 valid.

Mr. Roberts. I am coming to that. Mr. Morris. And therefore that Mr. Varian's position was not sound.

The Chairman. And that all the pro visions of that law continued in force? Mr. Roberts. I have already stated what the general understanding of that matter was. The State legislature appointed a code commission to codify the laws of the State, and of course it devolved upon them to codify those Territorial laws which had been made operative in the State by the constitu-And in the code which the commission subsequently submitted to State legislature they included this whole law of 1892, both the polygamy provision and also the provisions relat-

Mr. Roberts. The code was adopted in January, 1898, by the State legisla-

ng to unlawful cohabitation.
The Chairman. When was it that

Mr. Morris. Right there, if you will pardon me. Was that law of the Ter-ritory of Utah? I understood you to say they adopted the words of some previous law. Did it adopt the words the Edmunds law or the Edmunds

Tucker law? Mr. Roberts. The law of 1882, the Edmunds law, omitting, however, the po-litical disqualifications.

Mr. Morris. The disqualifying clause? Mr. Roberts. Yes: for voting and holding office. With the exception of that the Edmunds law was practically duplicated by the law of 1892. Mr. Morris. Then section 8 was not

Mr. Roberts. No sir; it was not resnacted. The same definition, howver, was given; the same penalties were incorporated, so we had a period from the adoption of Statehood, from the exstence of Statehood in January-

Mr. Morris. Excuse me, I am not inerrupting for the purpose of confusing you; on the contary, I am deing it for my own information as I go along. The effect of the Utah Supreme court was then, that the action of the Constitu-Territorial act, and that the Edmunds act had ceased to be of any effect. Is

that right? Mr. Roberts. Yes, sir. The United States laws, would, of course, cease to operate in the State on account of the fact of statehood.

Mr. Landis-Undoubtedly it was so were in the practice of polygamy-that Mr. Roberts. Yes, sir.

The Charlman. the view you have stated was taken in the Constitutional Convention?
Mr. Roberts-Yes, sir; that is right.

The Chairman-When did the Su-preme court of Utah have occasion to pass upon that question?

Mr. Roberts—On the 4th of April, 1898.

The code had been adopted in January

previous.

The Chairman-And the codifying condition had also included those pro-visions of the act of 1892 in the Utah

Mr. Roberts—Yes, sir; and I was merely calling attention to the fact that the general opinion prevailed that there was no law in the State of Utah with reference to the subject of unlawful conabitation, while as a legal proposition, of course, the law existed.

Chairman-One question further information. You said that the general impression was that all of those provisions that were in your law of 1892 were not continued in force by the constitution. How did it come that prior to any determination of that fact by the Supreme court your codifying commission also incorporated them; because they held the same view?

Mr. Roberts—Yes, sir. Evidently they held the view that the law was

Mr. Morris-Do I understand, then, that this Supreme court decision was after the codification of the law? Mr. Roberts—Certainly.
Mr. Morris—And were those codified laws enacted by the legislature? Was that in their code that was adopted?

Mr. Roberts-Yes, sir. Mr. Morris-Might not, then, the de cision have been that that was the law of Utah without reference—oh, it was a prosecution begun prior to the codification of the law, and therefore the decision related to the existing law

prior to the codification?

Mr. Roberts-Yes, sir; but I call attention again to the general view that prevailed of there being no law against unlawful cohabitation, and under those circumstances and ever since the "Morpeople and Gentile people lived in the most friendly relations. Gentile neighbors, so far as it appears anywhere, took no exception to the con-tinuance of those relations where they were continued. There were no prosecutions entered under complaints by the residents of the State of Utah in its various parts. The Gentiles were not hauling "Mormons" before courts and making accusations against them this subject, and I have observed to some extent that the ladies that were involved in this system of marriage were quite generally received among their Gentile neighbors and friends without protest, and the whole question was accepted as a settled fact that there was no occasion for disturbing those relations. Everybody was vinced that public policy and that jus-tice to these people who had become involved in these relationships did not call for any severe execution of that

So that from the adoption of statehood until now, notwithstanding the little flurry of this past summer, there has been no disposition on the part of Gentile neighbors to complain against their "Mormon" neighbors on that sub-There were no accusations made; there were no prosecutions begun any-where, until at last a gutter-snipe paper in New York, sensational in its character and having a policy for the whole universe-running, if you could believe its statements, State governments and general governments, conducting foreign wars, and doubtless projecting a future government for the planet Mars-unearthed a mat, in Utah, its own worthy agent, sneading enough scribed by the act respecting admission raises a presumption that the court was in his disposition, little enough in his soul, to stand in the position of a "common informer," the most despicable of wretches, to run from one end of the Territory to the other as the agent of this paper referred to, and the instrument also of the Utah sectarian missionary bigots, to spy out the re-lationships of men and women and enter complaints from one end of the State to the other.

And those are the only prosecutions that have taken place in reference to that subject. There have been other prosecutions under this law, but they were not cases of unlawful cohabitation, but of adultery, or of fornication. Owen has been the one who has haled men before courts for this offense. It has not been done by the people of the vicinage where these parties reside against whom accusation was made. He came into my county, Davis, and made an accusation for adultery against me. I called attention yesterlay to the fact that when I heard of that procedure I expressed my willingness to return from the East to Utah if such a charge should be made against me, but the officers of the law if such ignored the charge. The Governor and all the Apostles of the "Mormon" hurch were summoned as witnesses. the people who were summoned were unacquainted with any of the cirsymstances and could give no evidence, and consequently the charge was not entertained; and there has been no

action with reference to it up to the present time, and what the present status of it is I do not know. But those were the conditions that existed, and the settlement of this question seemed to be quite generally proved. There has been a good deal talk before this committee, and a good deal more of it in the literature that has been circulated throughout the country in regard to the "Mormon Church having acted in bad faitht, and it is a part of the accusation; a part of the reason offered for my exclusion from my seat, or expulsion if I should be seated, that the "Mormon" Church has been all along acting in bad faith. Mr. Morris. I do not think this com-

mittee has gone into any action of the Mr. Roberts. Perhaps not, but I call attention to this fact, that there is piled up here in the halls of this Congress petition some seven millions strong, am given to understand, and I take It tout that petition has had its influence upon the House, and that it has its influence here in this committee, and, therefore, the publiv accusations that have been made in the literature sirculated that resulted in producing that petition is a legitimate subject for discussion on my part, not that it has ben directly in issue here in the testininny before the committee, but that it is a question that overshadows it, and we can not get rid of it, and I think in justice to my cause I ought to make reference to it, or reference to those things that bear upon it, and show how

t has been secured. These accusations against the "Mormon" Church were made for the pur-pose of aiding the agitation that has resulted in the gathering of these petitions. These petitions have been gathered from women's clubs, from Sunday schools—I don't know whether the nurseries escaped or not, but we had a statement made here by a lady (Mrs. Foster) apparently interested in the discussion of these questions that the Sunday schools had contributed their mite to the petition-and the so-licitation of and securing of children's names to that document was justified on the wonderfully logical ground that perhaps some day they might go out to Utah and herd sheep. Ever and anon as these agents were moving about collecting these petitions, one bomb after another was fired by the sensational press of the country in aid of it. The literature contains the charge that the member from Utah had contracted a marriage since statehood. It was also reported—and I have the newspaper fer to if deemed necessary to prove itsaving time-it was also charged of saving time—it was also charged that an alleged polygamous wife of the member from Utah had recently given birth to a child, the very day being named. The circumstance was denied by the neighbors of the lady in question and by the lady herself, who was waited upon by a reporter of another paper, and every evidence was given that such an occurrence had not taken

place. The fact that the story was fake was telegraphed to some of the newspapers in New York and they were asked if they wanted the contradiction of the story. They did not want it. And a few days later they published anothing report that the child whose birth had been reported had been secreted away. The country was then flooded with these false statements surrounding the conditions in Utah surrounding the conditions in Utah generally, and concerning the member from Utah particularly. So this storm was created until it burst upon Congress with what violence you gentlemen are already aware of. And it is quite generally supposed that as a result of the existence of this decadent in the course of the still institution in Utah, because of the still lingering heat of the embers of that old fire, now rapidly dring out, that the American home is absolutely endan-gered! And American womanhood is in danger of being bereft of its dignity!
And woman of her sanctity.
Congress is appealed to in the most

pathetic tones and in the most passion-ate language to rise equal to the occasion, even if you have to disregard the circle that bounds your rights and operate within another circle that is sup-posed to be larger, that indicates your power, altogether ignoring the fact that the circle that circumscribes your rights to act also limits your power to act. But you are called upon to seriously think that the conditions that exist in Utab by reason of the remnant of polygamy there that there is a won-derful menace to the American home. The people here in the East-many of them good and honest and sincere peopie, altogether worthy of your most profound respect and attention, having been misled by these faise reports con-cerning Utah affairs—stand here and undertake to look over the mighty range of the Rocky Mountains to find an institution that threatens the Ameri-

If it were necessary I could call the attention of this committee and of these good people to ten thousand evils that threaten the American home bethat threaten the American home be-fore you would have need to look in the direction of such polygamous relations as still exist in the State of Utah as such a menace. I think, however, Mr. Chairman, that I have substantially covered in this statement the particular features that I desired to consider, and shall simply offer a few remarks in review of the argument I have sought to present to this committee.

In the matter of the prima face right of the member from Utah to his seat in the House of Representatives, I have, already called attention to of course. of course, already called attention the fact that he presents his certificate of election. The question of citizenship having been raised, he presents that certificate; and right on that head, by the way, I have used the interval afforded me in looking into some author-ities that I desire to cite and submit in opposition to the authorities submitted Judge Carlisle.

Mr. Littleffeld. On what subject? Mr. Roberts. On the subject of natu-alization. The meaning of the word ralization. "citizen" in the United States Consti-tution conveys the idea of membership of a nation and nothing more, and women are citizens within its provi-sions. (Minor vs Happersett, 21 Wallace, p. 162.)

It need not appear by the record of the court of naturalization that all requisites prescribed by law favoring the admission of aliens to the rights of citizenship have been compiled with. (Stark vs Chesapeake Insurance Co., Cranch, p. 420.) A certificate by a competent court that an alien has taken the oath pre-

satisfied as to the moral character of the alien. (Campbell vs Gordon, 6th Cranch, 176.) In 5th Lee (Virginia case), page 743,

the fact of an alien applying to a United States court and doing all that the court required of him makes his citizenship unimpeachable. If the court has failed to note some of the details on the record, that is no fault of the appli-cant. He has done all that the law and the court required.

Mr. McPherson. I understand that there is a recent Virginia case on that

same line.

Mr. Roberts. I am not acquainted with that. Of course my research has been limited. Here is another author-

When he has done what the certificate says he has done, when he leaves with the clerk of the court such papers as he has signed, and when the court tells him, as it does by the certificate, that he, having done all that the cour thereupon ordered, that he be admitted be a citizen, and had submitted him to be a citizen, and when the court gives the certificate into his keeping he has done all that he can to comply with the statute.

That was in the matter of Peter Coleman, 15 Blatchford, United States Cir-

cuit Court Reports, page 421.

Mr. Morris—The order of the court cannot be collaterally attacked. It can only be attacked directly in the pro-ceeding itself. If the order of the court recites that he has come before court and complied with all the require-ments of the law, and therefore it is ordered that he is a citizen, then that order is conclusive, except in a direct impeachment to set it aside—an impeachment in the proceedings there.

The Chairman—In 7 Cranch, the Su-

preme Court case, that point seems to be substantially decided the other way. I say that because I see nothing, so far as my judgment is concerned, to conzen. I think that the question of citi-zenship cannot properly be attacked. Mr. Littlefield-Some of the committee might want to go into this.

Mr. De Armond-Or some members on Mr. Roberts-I wanted to remark further on that so far I take it the com-mittee has not before it the transcript from the court upon which Judge lisle has made his argument, and I don't know whether the judge had before him a certified copy of the court proceedings upon which he based his letter to the

committee.
The Chairman—The criticism upon that was this: It was the naturalizing of Mr. Roberts, together with many others. It simply declared in a general way that having made such proofs, and having made such renunciations and having disclosed such facts, covering by general language all the statutory re-quirements, he was therefore admitted to full citizenship. The criticism made of it was that it did not undertake to specifically determine certain jurisdic-tional matters, but it did say, having made such proofs, having made renunciations as the law required, from which I would infer that the court must e presumed to have acted upon such nformation as would justify it in so

acting. Mr. Roberts-I call attention to the fact that it was a United States court also, and had full jurisdiction. With the question of citizenship admitted, and of course I take it that if there is any further discussion on that head that I would be informed in relation to t, no further question arising about it— Mr. Littlefield—I think Mr. Roberts ought to have a chance now to say all he wants on that subject.

The Chairman-Yes. Of course the ommittee have merely expressed what their notions are. They might change their minds, perhaps, and what you want to say you ought to conclude now. Mr. Roberts-I have concluded; and I think my evidence will be sufficient, with the certificate I will leave with you and with these authorities that have been cited. But, as I understand it, it was quite probable that Judge Carlisle might be present, and if he should be present and should refer to that question again—

Mr. McPherson—He is not invited to discuss that any further?

The Chairman-No; he was invited to discuss the other propositions.

Mr. Roberts—I think I understand the committee on that subject, and I am quite content to leave that matter with the authorities cited and the certificate of citizenship. But the contention I make is that there can be no question in regard to my citizenship, and fore I take it my prima facie right has been fully established before this com-mittee in the argument which has been presented and the facts that have been Possessing all the qualifications pre-

scribed by the Constitution of my country, and being legally and unquestionably elected to this position, I take it that the House and this committee can only become the "judge" of my election and my qualifications, those qualifications being confined to the qualifica-tions prescribed in the Constitution, and that neither this committee nor the House can add to nor take from those qualifications; that if it should be held, in view of the old iron-clad oath, that dditional qualifications might be made I call attention to the fact that the qualifications in that particular oath resulted from the act of the entire Concress and not from any one branch of

It was a law passed by the United States Senate and by the House, signed by the President of the United States, and of course was justified wholly upon the ground of being a war measure, instituted to assist in pre erving the life of the nation; and with the temporary danger that brought it forth it, too, passed away, and it is no longer a part of the requirements of a Congressman to take such an oath as

I have tried to make it clear to this committee, too, that this committee, deriving its power, of course, from the House, a branch of the legislative department of the government, has had no right to invade the sphere of the judicial branch of the government and undertake the establishment of the guilt or innocence of this member of the House as to the commission of a misdemeanor in the State of Utah, and that the only evidence that would be admissible for the consideration of this committee would be such as is established by a court record where a con-viction has been had after due process of law and where the one charged with the offense had the protection of the forms that are afforded by due process

The demurrer on that head at the time it was offered was set aside by the committee, and the members from Utah was investigated as to the offense charged; but if this committee shall follow the rules of evidence that ob-tain in the courts of law, I hold that the offense of unlawful cohabitation has not been proven against the mem-ber from Utah beyond what is established by the court record of 1889 in the Territory of Utah. But if, contrary to my contention, the committee should hold that the evidence before it is sufficient to establish the misdemeanor charged, then I hold that the misde meanor does not constitute a disquali-fication for the office of Congressman. The contention that the disqualifications for voting and holding office cra-ated by the Edmunds law and once operative upon the member from Utah. and that it now operates upon him, is untenable, in my judgment, for the rea-son that it was a measure intended to operate strictly and alone in the Terri-treles of the United States and other places over which the Congress has exclusive jurisdiction; that it was not any part of the intention of the lawmaking power to make it operate as a disqualification for a member of Congress. However it might operate upon a delegate from a Territory, a creature of the law of the United States, is not pertinent to the question.

It was not intended at the time of its passage to constitute a new fication for membership in the House of Representatives, and therefore ought not to be considered with reference to the present member from the State Utah. And then, again, I further call attention to the fact that the disabilities that once operated upon the member from Utah have been removed by the effect of amnesty, by the effect of the Enabling Act, and by the act of the State of Utah when It declared what the qualifications of its electorate should be. Any one of those acts is sufficient to remove those disabilities, and certainly all three of them, operating together, would place the ques-tion beyond all possible doubt,

III.

Such are the circumstances surrounding this case, such the circumstances surrounding the settlement of the polygamy question in Utah, and such the peculiar conditions that obtain ow-ing to the beliefs of that people, that broad-minded statesmanship and every consideration of good policy require that the settlement of this vexed ques-tion of polygamy in Utah shall remain under the terms fixed by the Consti-tution of the State of Utah and the acceptance of the State by her admis-sion to the Union. The State of Utah has been making great progress in th matter of coming into harmony with her sister States. We have had our difficulties and conflicts in the past. I am not here to claim that my own people-the "Mormon" people-have been free from blame entirely and have not offended against the canons, perhaps, of good taste and sound reason in their contentions for what they regarded as

their religious rights. I am not here to ask that it be considered that they have been perfectly blameless in the spirit in which they have waged their warfare against what they have regarded as an infringement of their religious rights; but I call at-tention to the fact that while at times they may have been overzealous in these things, they and their religion have been beset by a class of men, not of the first order intellectually or of sound judgment, in a manner that was irritating and not Christian. I think, gentlemen, that I ought to explain to you, in view of at least some expressions that I may have used when re-ferring to the sectarian priests in Utah. I have in my heart a profound respect for men who consecrate their lives to the good of their fellow-men. It mat-ters little to me whether the person who has so consecrated his life comes clothed in the splendid robes of a cardinal of the Church of Rome or ap-pears in the plain garb of the Quaker, or in the dress of a Salvation Ar., by captain, if his heart is true and his consecration to the work genuine. I say that there is no man who has a

profounder regard for such a character than I have. But, on the ene hand, to the extent that I honor such characters as these, so on the other do I despise those who make merchandise of such a profession and who make vicious warfare upon people who chance to differ the attention you have accorded me.



from them in religious Now, the situation in Utah has pr ed a tempting field for peculia ous people whose zeal is not balanced with justice or with ju and from your midst sectarian ters have been sent out among spired with religious fervor. have made war upon our system, have already stated.

But when this question of polyraty was regarded as settled and everyone seemed satisfied with the terms of a settlement, and gentile and i cial distinctions that had exist past were breaking down, and were visiting Mormons and M were visiting gentile homes, and marriages between the classes we quite frequent, all at once it was had hitherto supported missions a mission schools of a sectarian charter in Utah were falling off, and he these parties raised the cry that po amy was being revived in Utsh. made no distinction in those the between which there was a distinction in Utah-namely the cases of cohabitation which came do from marriages previous to the settlement of the question, and polygamy a new plural marriages. The country was fired with a belief that the Mormat Church had recurred to the practice of performing new plural marriage cer-monies, and that the old polygamy et

was again revived.

That was the condition that the perple of the United States were made a believe existed in Utah; and to a East these agents came to gather in the shekels, to continue what was made appear as a necessary warfare on old evil of polygamy. Now, that is her the agitation on that question same be revived, and it hindered the progra But notwithstanding the undertake to say that Utah has mai wonderful progress toward being assix. llated with her sister States comp the American Union. As an indi of that, and I offer it as a reason str this agitation ought not to have to much influence with either the House

or the committee—
Soon after the disaster overtook the Maine in Havana harbor, there was n agitation set on foot in the East the ooked to the commemoration of brave men whose lives were lost by the sad event by the erection of a mor ment in their honor. gentlemen was formed in the city New York to take charge of the ent prise, and they sent out literature the churches, asking that they sh set apart, I think it was one Sunday May, when all the contributions of people for that day should be set spa for the erection of a monument to ha dead heroes. The Mormn Church w omitted in that invitation, whereuper fell to my good fortune to call attest to that omission and to resent it some public remarks that I made a

Salt Lake City. Those remarks reached the chairms of the committee in New York, and b made an explanation of how the sion took place and stated he would be glad if I would point out to him it way in which the apparent neglectual be remedied. I did that He is owed the suggestions and the Morn Church was invited to participate the erection of that monument. T Church called upon its branches to apart a day to consecrate offerings th might be made, with the result that the little Mormon Church, whose patriolist is supposde not to be at par, and posed of less than 200,000 people, of tributed one-fifth of all that the church es in this country of 70,000,000 es in this country of 70,000,000 popula-tion have contributed to this fund, and we received the thanks of the com tee for the response that indicated a formon people,
When President McKinley sent of

his call to arms in the recent war with Spain, Utah responded by offering the called for. Her batteries were sent distant Manila, and the dark night when the battle of Malate was fought and the success or failure of the batt bung in the balance, it was Utab guns, manned by Utah men, who guns, manned by Utah men, who flashes mimicked the lightning flashes the fierce simoon that was raging, and covered the infantry that was mare ing to the attack. In more than score of battles in those distant island Utah's sons did honor to the State of Utah and honor to our country. The sorrows of this nation are the sort of Utah; its battles are her battles. thatitutions are her institutions and therefore she asks for fair and proper treatment before the Congress of the United States when she sends here in mail. Representative possessed of all qual possesses, and who is not disqualfe by any provision of the Constitution the United States, by any United States law or law or his own State, and when he has been honestly and fairly elected as in the Roberts case, by the people of his State.

Gentlemen, with confidence in your impartiality,and in your fair treatme of me, and thanking you for the con sles that you have extended to me. the patience you have manifested the perhaps unskillful presentation this side of what I regard as a gre controversy, and believing that in you hands it will be safe, I thank you it

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