DESERET EVENING NEWS: THURSDAY, JANUARY 18, 1900.

tub.

Cerritory.

1895,

AN OBJECT LESSON. In a Restaurant.

A physician puts the queery; Have you never noticed in any large restaur-ant at lunch or dinner time the large

CONGRESSMAN ROBERTS' DEFENSE.

We will suppose a man coming from the State of Ohio. That is, of course, just by chance. We could not conceive it possible for any such thing to happen

fication sought to be shown as operating

we upon a polygamist if he should come from the State of Ohio?

here is any force in the position I took

f he as a polygamist, the Edmunds

law would operate upon him when he

came upon the soll over which the United States had exclusive jurisdic-

Mr. Roberts. Now, upon that matter

wish to offer such exposition of this

I contend, first, that this Edmunds aw was made for and is operated only

which the United States has exclusive

jurisdiction, not elsewhere-not in a State. In Territories officers are of two

kinds, first, Territorial officers, such as

stices of the peace, members of the

ates officers, such as district judges,

The meaning of the eighth section of

the Edmunds law is that persons gull-ty of polygamy or unlawful cohabita-

on are ineligible-First to hold office under the Terri-

And second, to hold offices under the United States in Territories; that is,

to be United States officers in the Ter-

The Edmunds law and its disqualifi-

other places over which the United

States has exclusive jurisdiction.

chairman here. If it is held that

nited States," and that therefore the

where he comes from, the answer to

that contention would be that a repre-sentative is not an officer under the

United States within the meaning eith

er of the Edmunds law or of the Con-

nies; that is, Territorial officers.

Territories and other places

egislature, etc., and second,

Inited States marshals, etc.

Edmunds law as I am able to present

the

ritories.

stitution.

stitution.)

onstitution

appointed an elector.

States

committee.

Tr

United

The Chirman, Undoubtedly,

upon the member from Utah be operat.

from the State of Ohio; but we suppose that a polygamist came from the State of Ohio. Would the disguall-

with

(Continued.)

Congressman?

ds as follows:

take up next, then, the proposition

Would the misdemeano.

e is the member from Utah

re this committee), even if

stitute a disqualification for

his leads us to the considera.

the effect of having pleaded to the misdemeanor of unlaw-bitation in 1889. The Edmunds

The 8th section of the Edmunds

habiting with more than one and no woman cohabiting with

this section, in any Territory place over which the United

e exclusive jurisdiction, shall

to vote in any election held

Territory or other place, or

titled to hold any office or

public trust, honor, or emol-under, or for any such Ter-

lisqualifying features of this law now disqualify the mem-

here that since 1889 he has

I am able to judge of the

presented, it seems to be

that since the offense has

(making that statement

sake of argument only) that

the disqualifying clauses of

torial law apply now to the lect from the State of Utah-

of the disqualifying clauses Edmunds law. I call the at-

the wall of statehood, in other is, acts as no barrier to the con-

on of the committee to the fact this whole law was made only for

ritories of the United States and

er places over which the United

Territory or other place over

first section provides that "every a who has a husband or wife liv-

the United States have exclusive

in who hereafter marries

the clauses creating and de-

hall be guilty of polygamy. And

the offense of unlawful cohabi-

, and so with this 8th section, that

the political disqualifications

dant upon violation of that law.

peration of the whole law is lim

f course, to the Territories of the

States and other places over

jurisdiction. I scarcely know proceed with an argument to

the United States may have ex-

lish the fact that laws of the d States-laws made for and oper-

in a Territory only-when that

ery becomes a State cease to op-

within the boundaries of that

seems to me that you might just as

undertake to argue that the sun

t is sustained by the whole history

s sometimes. It is a proposition

e admission of the Territories of hited States as States. Whenever

rritory becomes a State every

States law enacted for the

tary, and which previously oper-

ed in that Territory, ceases with atchood; and only such United States

es operate in the new State as oper-

n every other State. The new --every State--ls admitted upon

al footing with all the rest of

has exclusive jurisdiction.

hed in the offense of this mis-nor of unlawful cohabitation, and,

In other words, it is

er place, or under the United

the question to be considered is whe

ction or appointment

persons described as afore-

pat no polygamist, bigamist, or per-

the misdemeanor of unlaw-tation a disqualification for

cohabitation (for

ment that was followed here yesterday number of hearty, vigorous old men at afternoon-an attempt to so construe the old Territorial law as to make it the tables; men whose ages run from 60 to 80 years; many of them bald and all operative now upon a member of the House from a State. It seems to me perhaps gray, but none of them feeble senil that the test of that matter would be:

Perhaps the spectacle is so common as to have escaped your observation or comment, but nevertheless it is an object lesson which means something. If you will notice what these heariy old fellows are eating you will observe that they are not munching bran crackers nor gingerly picking their way through a menu card of new fangled health foods; on the contrary they seem to prefer a julcy roast of beef, a prop-erly turned loin of mutton, and even

the deadly broiled lobster is not altogether ignored. The point of all this is that a vigorous old age depends upon good digestion and plenty of wholesome food and not upon dicting and an endeavor to live pon bran crackers.

There is a certain class of food cranks who seem to believe that meat, coffee and many other good things are rank poisons, but these cadaverous, sickly ooking individuals are a walking condemnation of their own theories. The matter in a nutshell is that if the

mach secrets the natural digestive juices in sufficient quantity any whole ome food will be promptly digested if the stomach does not do so and cer tain foods cause distress, one or two of Stuart's Dyspepsia Tablets after each meal will remove all difficulty be-cause they supply just what every weak stomach lacks, pepsin, hydro-chloric acid, disastase and nux.

Stuart's Dyspepsia Tablets do not act upon the bowels and in fact are not strictly a medicine, as they act almost entirely upon the food, digesting it thoroughly and thus gives a much needed rest and giving an appetite for the next meal.

Of people who travel, nine out of ten use Stuart's Dyspepsia Tablets, know-ing them to be perfectly safe to use a cations do not apply to United States officials outside of the Territories or ny time and also having found out by experience that they are a safeguard against indigestion in any form, and eating as they have to, at all hours and all kinds of food, the traveling

Sut now we come to the point that is directly raised by the remarks of the public for years have pinned their faith o Stuart's Tablets. epresentative is an officer "under the All druggists sell them at 50 cents for full sized packages and any druggist from Maine to California, if his opinion Edmunds law applies to him, no matter

were asked, will say that Stuart's Dyspepsia Tablets is the most popular and successful remedy for any stomach rouble A little booklet on stomach diseases

I call attention to the lan mailed free by addressing F. A. Stuart Co., Marshall, Mich. guage of the Constitution with refer-ence to a representative to the United

tates Congress. Paragraph 2 says: No Senator or representative shall furing the time for which he was Was rightfully refuse to consider a United States senator an officer under the United States within the meaning of lected, be appointed to any civil office under the authority of the United the Constitution, then with more em-phasis could the contention be made States which shall have been created or the emoluments whereof shall have been increased, during such term, and no person holding any office under the that a member of the House of Rep-resentatives, both from the nature of States shall be a member his election and of the part he takes in the government, is not an officer under the United States; because a seneither house during his continuance in office. (Article I, section 6, of the Conator may take part in the ratification I call attention to the fact that the of treaties, which a member may not. language is not, " and no person hold-ing any 'other' office under the United and a Senator joins with the executive in the approval of certain officers that are to be appointed by the executive word "other" at this point proves that

of the nation, whereas a member of the House is much further removed from association with dutles of that character. I call the attention of the committee

to the fact, too, that in the case of resignation the representative does not resign to the President of the United States, nor to any United States au-thority. He tenders his resignation to in January, 1888, and the annesty proc-lamation of Grover Cleveland was is-sued in September, 1894. I call the the governor of the State and the people attention of the committee from which he comes, from whence he derived all his authority. It was conthat there is nothing in these proclamations that required a person to make tended here by counsel yesterday that any formal renunciation of the relamember of the House must be a United States officer, within the meaning of the Constitution, because he receives tionship that he had been living in dur-

provided for by the Constitution and the other provided for by law. Mr. Roberts-Yes, sir; that is right. Mr. Morris-As I understood you

you argued that the eighth see tion of the Edmunds law did not apply to your case, because as a member o the House of Representatives you would

not he an officer under the United States. Roberts. That is right.

Mr. Roberts. That is right. Mr. Morris. Now, is it your idea (and I am asking simply for information, and for your own view of the matter) that a delegate from the Territory of

Utah would have been an officer under the United States?

Mr. Roberts, No. slr. Mr. Morris, Within the meaning of

that statute? Mr. Roberts. No, sir; but he might have been disqualified by the operation of this law providing a conviction had

been secured against him. Mr. McPherson, I do not want to annoy you with questions, but in that connection my mind is running to two propositions: First, as an officer of the inited States, what you are discussing: econd to the language of the Edmunds aw, section 8, which reads: "Or be entitled to hold any office or place of abile trust." Would a representative Congress be a place of public trust? The Edmunds law says, "any office. You say a representative in Congress is

not that' Mr. Roberts. "Or place of public trust." My point is that the law has reference to United States officers actor within Territories and places over hich the United States have exclusive jurisdiction, and that the representative -whatever becomes of the delegate it is not a matter before us to be con-sidered-that it does not operate on the

representative from the State of Utab of any member from any State. Mr. McPherson. But what I was try-ing to get at is this: Is a representa-tive in Congress a place of public trust

nder the United States. Mr. Roberts. Not within the meaning of the section of the Constitution. The Chairman. But under the sec-

tion of the Edmunds law-Mr. McPherson. That is what I am alking about.

Mr. Roberts. If he is not an officer under the United States under the Constitution, certainly he is not under the section of the Edmunds law.

The Chairman. Don't you think the statute to have a different meaning from the Constitution? Roberts-I think if it has any Mr. weight it derives it from the definition that clings about the phraseology in the

lause of the Constitution I was proceeding to state that even f it were contended that disabilities once existed against the member from

Utah under Territorial conditions they were liable to removal: First, by the amnesties of the Presi-

dents of the United States. Second, by the act of Congress and the President, whose law created the disabilities, and afterwards by the En-

abling Act; and, Third, by the action of the State of Utah when she established the qualifications of her electors. That leads me to the consideration of the question whether the disabilities which were once in force upon the member from Utah have been removed. These disabilities, if they were not removed, operated, of course-at least as long as Utah was a Territory-from 1889 to January

6 1896. The Chairman-That is assuming that there was no violation under the last amnesty.

Mr. Roberts-I will come to the consideration of the effect of those am-nestles in a moment, and I think the statement I now make will be covered by the subsequent argument upon that question. The first amnesty proclamaion was issued by President Harrison

All persons who are qualified by laws of the said Territory to vote time of statehood, in 1896-there appears representatives to the legislative sembly are hereby authorized to to accusation against him before any the courts with reference to his havfor and choose delegates to for r violated the Elmunds law; and convention in said Territory, and qualifications for such delegates to ere is no conviction between those tes when the law was operative in convention shall be such as by laws of said Territory persons are quired to possess to be eligible to e now State of Utah. It is a matter ' evidence here, too, that the member om Utah, while Utah was a Territory. gislative assembly thereof. njoyed the benefits of the amnest) lamation, in this:

Now, of course, had that amende In the autumn of 1894 he voted, and cas elected a member of the Constituprevailed, the result would have that all people that were disqual by the Edmunds law would not be onal Convention of the Territory of thorized to take part in the election members to the Constitutional Con-That was in the fall of 1894 on after the proclamation was issued tion, nor would they have been to be members of that convention: the amendment of Mr. Wheeler was by President Grover Cleveland. He relped to form the Constitution of the tate while Utah was still a Territory. Again, in the fall of 1895, ho voted for adopted; and the section which I Constitution and the first set of read, which required such modifien in testing the electors that were e officers, while Utah was still a ltory. He also ran for Congress thorized to constitute this conver-and adopt the Constitution-such m while Utah was a Territory, ut with his party was defeated. And Il this without complaint from any iffeations as I have read were m and the Utah Commission according quarter whatsoever that he had been a violator of the Eedmunds law. The changed the oath that was present those who desired to take part in gitators on this subject have even election of members to the Constitu een at the pains to dlg up the oathal Convention so as to test them me id, as I remember, presented it here evidence-to the effect that in the as to whether they were male cit of the United States, 21 years of a t of 1895 he took the oath prescribed one year a resident of the prop nd voted for State officers. Well, under all these acts, and from State, four months in the county. sixty days in the precinct. I think fact that there was no accusation

have the modified oath here. made against him before the courts it Mr. Littlefield-That is, change i from the oath required by the all these years, and that he engaged in all these public duties of voting and office holding in the Territory of Utah and assisted in framing the fundamenmunds-Tucker act? Mr. Roberts-Entirely changed

tal law of the State, and also being the eath The Chairman-Was that the nominee of a party for election to Con

you took-the oath made by virtu-that provision that is in the record gress, without complaint about his marital relations, I take it you have in those circumstances very substantial

this case? Mr. Roberts-No, sir. The Chairman-Under a late one, evidence that the amnestles of the Presidents of the United States opert; under the provisions of what act ated upon this man; because he had not violated the law, and I ask you to take you take the oath? Mr. Roberts-I took the oath un nto account the further fact that he

the effect of amnesty; I took the of that tested the qualifications for elewas a man very much opposed; that he had his enemies in the State: that he was engaged in religious controversies ng all the officers. and political controversies and had

Mr. McPherson-Did your oath follow the language of the Edmunds-Tucker enemies on every hand who would have statute

been only too willing to have taken ad-vantage of any slip of his that might have appeared that would have ren-dered him an object of prosecution be-Mr. Roberts-Yes, sir. Mr. Littlefield-It was taken unde that and not under this modificat re the courts of the Territory of you are speaking of?

Mr. Roberts-Yes, sir; but I am spe I call attention further to the fact ing of the change that was made in the oath that tested the qualifications of that during the continution of the Ter-ritory every federal official was a nonthese who wished to vote for the m urts bers to the Constitutional Conven were non-"Mormons;" the United States district attorneys in the State the United This was the oath generally required voters for Territorial officers.

were non-"Mormons," and there was also an active crowd of sectarian bigots who were ever anxious to make other people be good. The heel of the mem-ber from Utah would only too gladly -----, being duly sworn

affirm), depose and say that I am of 21 years of age; that I have resided the Territory of Utah for six mon have been caught by the many who were watching him for many years. So last past, and in this precinct for a month immediately preceding the di hereof; and that I am a native-born that it comes a little too late for the men who follow me to the threshold of naturalized, as the case may be) cit of the United States, and that my name is _____; that I am years of age; that my place of busit s -----; that I am a (single or) marr man; that the name of my lawful is _____, and that I will supp the Constitution of the United Sta and will faithfully obey the laws the of, and especially will obey the act Congress approved March 22, 1882, o titled "An Act to amend section 530 the Revised Statutes of the Uni States in reference to bigamy, and other purposes," and that I will all obey the act of Congress of March 1887, entitled "An act to amend an entitled 'An act to amend section 5 without any question from anybody or from any source. And there is an enof the Revised Statutes of the United absence of even accusation, to say States in reference to bigamy, and for other purposes,' approved March 22, nothing of conviction, with regard to hese offenses I think that that oper-If this committee shall take the view, will not, directly or indirectly, aid or



Territorial elections polygamists were so disqualified; but Congress purposey and knowingly wiped away all such

amely, the election of delgates to the constitutional Convention. Then again, in addition to that, came the act of the State of Utah, which prescribed the qualifications of her own lectorate, under the limitations, ourse, fixed by the Constitution-those mitations that secure an equality of the right of citizens in all the States and that prohibit their rights being abridged by reason of previous ser tude, etc. (Constitution, fifteenth amendment). But the sovereign State of Utah, acting in her sovereign capac ity in determining who should constitute the electorate of the new State followed substantially the course that had been outlined in the Enabling Athat is, that citizens of the United States of a given age and residence should be electors, and that only perorganized what was called the provis-1882," in respect to the crimes in said sons guilty of treason and of crimes act defined and forbidden, and that I against the franchise should be disonal State government for the State of Deseret and sent delegates to Washqualified either to vote or to hold office. Mr. Morris. Was there anything in ington to ask admission into the Union.

constitution adopted and which

but it has no bearing upon the qualifluctions of the electorate.

1 was remarking, when interrupted to make this explanation for Judge Morris, that a historical statement was made here yesterday with reference to the subject of polygamy, and just for a moment I desire to call the attention of the committee to that matter, as it eads up to and is pertinent to the consideration of its settlement in the State of Utah. It is generally believed that the practice of polygamy by the "Mor-mon" Church, within a very limited circle, began in Nauvoo, in the Siate of Illinois, about 1840. In 1846 the Mormons were expelled from the State of Illinois, or at least were compelled to remove from that State by mon vio-lence; and they put 1,000 miles of wil-decness between them and the them frontiers of the United States. On ar-riving in Utah, which was then Mexican territory, they did not seek to es-tablish an independent government by any manner of means, but in 1848 they

I call attention to this fact because

it is very frequently stated that the

object of the Mormon people in leaving

the confines of the Unled States was to

they had no attachment for the institu-clons of the United States; but have been

nimicable to them; and have sought

to avoid contact with them and the

lvilization they represent. In 1852 pub-

lle announcement was made of the doc.

trine of plurality of wives as a part of the revealed law of God to that peo-

ple. For ten year the rightfulness of

the practice went unchallenged so far

as any legislation against it was con-

cerned by Congress but in 1862 the first

aw of Congress was enacted against the

Mormon morriage system. Of course it

is well known, 1 presume, that the Mor-

non people took the position that the

law was a direct infringement of

their religions liberty. They regarded

themselves as entirely protected in the

practice of that, to them, religious doc-

to the Constitution, which provides that Congress shall make no law concerning

an establishment of religion, or prohibit

quently, since they regarded that law as

an infringement of their religious lib-

and.

conae.

trin, by virtue of the first amendr

the free excess thereof;"

set up a separate government, and that

lisqualification as to the very first elec-ion to be held under the Enabling Act.

Conversion and a second

the House of Representatives from the State of Utah, to say that the disqualiications of the Edmunds-Tucker law are still clinging to me. I understood the gentleman who offered the argument for the opposition yesterday to say that the test of this matter-that is, as to whether the once impaired cit-izenship of the member from Utah was ver mended or not-would be to ertain if he could go to any other ferritory or State and exercise the ective franchise and the privilege of the holding. Why, he need not sub-it it to any such test as that. I exrcised these rights in the Territory of 'tah where I was known, and that

Territory of Utah, County of ____, s

the States. and is free from previous United States laws able only to the Territories ther place over which the United

tes has exclusive jurisdiction. The Chirman. Before you leave that cular phase-I don't want to in-it here necessarily, but I want to tention to a point that has been in that connection that was not ed to by Mr. Schroeder, chought to be called to your atten efore you leave it, so you will I mean as to the effect of section the Edmunds act. I do not want nterrupt you, however, if you have gotten to a point where you can be interrupted

Mr. Roberts. I wish you would state

Chairman. It is this: Section the Edmunds act makes ineligible election or appointment to, or to entitled to hold, any office or place suble trust under the United States. Supreme Court of the United ts has defined, if you will remem that is meant by a polygamist is who has more than one wife, and utains the status of husband and irrespective of the matter of sex-intercourse, and that a polygamist perefore one who has that status. It condition that inheres in him. He polygamiat who has more than one e. Now, if the committee should d for instance-and I use this mereo illustrate the point that was me at you have two or more wives, and sense in which the Supreme has defined the word "polygathat you are a polygamist in the of Utah, or would be if Utah still a Territory-and section 8 unquestionably apply in that d you would be a polygamist in critory-and that you come to lict of Columbia, which is a Ty over which the United States clusive jurisdiction, and in which the Congress of the United States alone the Congress of the Unittes can slt and have its being, it is the place that you have o or more wives or not, whethin a State or in a Terriask you whether when you put on that soil over which d States has exclusive jurisdiction take with you, and there here with you on that soil, status of a polygamist, and are you a palygamist. And therefore if the ald be passed at all, if Conuthority to pass any such would not a person in such a sitome ineligible either for elecor to hold office?

Mr. Roberts. But could he be a canin the District of Columbia for

The Chairman. But the peculiarity the Edmunds law, which was plied to Mr. Cannon's case in 1882, was ect. that he could not hold office. And oint made in this case would be ber you would be eligible to hold within the District of Columbia.

district over which the United States s exclusive jurisdiction. Now, I exass no opinion upon that at all, but called it to your attention now, as

uld not be called to your attention e you concluded your argument if not do so. Roberts. I think I have anticipat,

ed some such an argument as that. I Was about to refer to the fact that, notanding the new condition for Territory of Utah, Statehood had, ny judgment, materially changed the tion of a representative coming from I former Territory. The chairman his committee, who drew the indict-it Doon the floor of the House that the member form the House ast the member from Utah, seemed old at that fime, as he apparently holds, that the disqualifying clause of the Edmunds law, now ineffective, operates upon the member from Utah: and that statement is to be found in the Congressional Record, No. 1, page 5.

The gentleman from Ohio said: If this transcript and these affidavits papers tell the truth, the memberelectron fluch is in my judgment, in-electron fluch is in my judgment, in-electron to be a member of this House of Representatives, both because of the ry disqualifications created by the Edmunds law, and for higher and Traver and guite as sound reasons. And that was the main line of argu-

ment, or one of the main lines of argu-

You will notice again that the senators and representatives are by that language'excluded as being among the the United States. officers

and by the omission of

the meaning of that clause of the

neither at representative nor a senator

is an officer of the United States with-

And again, in Article II, section 1:

But no senator or representative or person holding any office of trust or profit under the United States shall be

I call attention next to the Blount case, in which it was held that a United States senator was not an offi-cer of the United States. It will be his remuneration from the remembored, of course, that about one States. hundred years ago how the Blount case came up before the Senate on a matter of impeachment, Mr. Blount Was brought to trial in December, 1798, on impeachment before the Senate for high crimes and misdemeanors. In refhigh crimes and misuemeans a story, in ernce to that case Justice Story, in reference:

The question arose upon an impeach ment before the Senate in 1799, whether a senator was a civil officer of the United States within the purview of the Constitution, and it was decided by the Senate that he was not. (Senate Jour-

nal, 10th January, 1799.) And [Mr. Justice Story continues] the the United States. like principle must apply to the mem-bers of the House of Representatives. This decision, upon which the Senate itself was greatly divided, seems not to have been quite satisfactory, as it may be gathered, to the minds of some learned commentators. The reason by which it was sustained in the Senate does not appear, their deliberations having been private, but it was prob ably held that civil officers of the Uni ted States are such as derive their appointment from and under the natio government, and not from the States or the people of the States.

In this view the enumeration of the President and the Vice President of the United States as impeachable officers was indispensable. They derive their disqualifying clauses of the authority from a source paramount to the national government, and the clause now under consideration does not even consider them officers of the United States. It says: "The President and Vice President and all civil officers shall be," etc., not "all other" civil officers. The language of the clause, therefore, would rather lead to the conclusion would indicate, that they were enumerated as contradistinguished from, ra-ther than included in, the description of the civil officers of the United States. Other clauses of the Constitution would seem to favor the same result, particularly the clause respecting the appointment of officers of the United from Utah. States by the executive, who has commission "all the officers of the Uni-ted States," and the sixth section of Article I, which declares that "no per son holding office under the United States shall be a member of either sentatives, even then might have been House during his continuance in office and the first section of Article II, which

removed, in my judgment, by several processes, and I merely mention them now, as I shall discuss them more in detail later on. declares that "no senator or represen-tative, or other person holding an office of trust or profit under the United States, shall be appointed an elector," Mr. Morris-Do you think that would have applied to a Delegate from Utah? Mr. Roberts-If he had been convicted The passage is from Story on the before a court? Yes. Mr. Morris-Do you think he would have been an officer under the United Constitution, fifth edition, pages 577 and

578, section 793. If Judge Story is right-and I take it he is-in concluding that the Senate Stotes Mr. Roberts-He would at least have been an officer by United States law, and hence an officer of the United

States.

Mr. Morris-Would he have come un

der that eighth section of the Edmunds

law? In other words, under the eighth section of the Edmunds law could a

man who was a polygamist or living in unlawful cohabitation have been quali-

Mr. Roberts-You ask if he could be? Mr. Morris-What your idea is about

Mr. Morris-Would the fact of his

Mr. Roberts-If a conviction against him was had I think it would.

Mr. Roberts-He is a Territorial offi

Mr. Landis-I understood you to say a United States officer. Mr. Littlefield-I suppose the distinc-tion he has in his mind is that one is

Mr. Morris-And otherwise not?

created by a United States law?

Mr. Roberts-Let me get your que tion first. You asked if he could be?

fied to be a Delegate in Congress?

is what I asked.

eing elected a Delegate?

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ing the past. Of course, it is stated in the amnesty United But in that case I take it that proclamations that a person can only take advantage of that amnesty by havthe United States is but acting as the agent of the people in the matter of pay-fog these men, who are the representaing observed the law; but he is not required, for instance, to set the town crier at work and assemble the people and make proclamation that the potives of the people from the various States: and I can see no special weight in that connection. I think that if lygamous relations that he has hitherto you try to find whose agent a person sustained with this one or that one, are from henceforth discontinued. He is is, it is proper to go to the parties who commissioned him, who elect him, and not required to go before any court who confer upon him the sign of his and make any affirmative or negative movement in regard to releasing himoffice and of his authority, and to whom, in the event of the necessity arising, he tenders his resignation-all self from that relationship, that status, He could not go before the courts and do that because the women in question have no legal status before the courie. of which occurs, of course, within the State from which he comes, and not to There is no way by which a divorce

With this explanation of the operacould be obtained from a polygamous wife in the Territorial court, or in the tion of the eighth section of the Ed-munds law it seems clear, to my mind State courts of Utah, or elsewhere, so at least, that the disqualifying clauses far as I know. The contract having been void when contracted, there simply of that section do not operate upon a person who is a member of the House is no legal contract existing, and conof Representatives, for the reason that sequently there was no means existing he is not an officer under the United by which a person could, or was requir. States within the meaning of the Ed-munds law; and I come to that coned to, publicly renounce those relations, and no one in the Territory or State clusion for the reason that I think it is established that he is not an officer unof Utah ever did, and if the benefit of these amnesty proclamations is dependent upon some public action severing those relations, then they have never der the meaning of that term as it appears in the Constitution, and hence, also, not an officer under the United applied to any single individual in the States within the meaning of the phraseology of this Edmunds law, State of Utah at any time.

So the question arises, How are you I next call attention to the fact that to judge of a person having complied the State of Utah did not continue the with the terms of these amnestles? I know of no other way than to assume that if there has been no accusations Edmunde law; that while into the State there has been brought a law which defines and made before the courts, or prosecution instituted before the courts against a person for violation of the law; and punishes the crime of polygamy and which also defines and punishes the the crime of unlawful cohabitation, it has nowhere continued the disqualifications there are no convictions on record of violation of the law, the fair presumpprescribed in the Edmunds law; and I tion is that the law has been observed; think that is admitted here and does and hence the amnesty provisions of not require the reading of the State taw these proclamations would rest upon upon that head. So if these disquali-fying clauses of the Edmunds law do the man who had hitherto been dis-qualified by the operations of that law. And there is no other way of arriving not operate upon the Congreesman from Utah, and if the State of Utah has not continued these disqualifications, then at that fact. Another thing would demonstrate it, and that is, has the init follows that there are no disqualifidividual in question enjoyed the ad-vantages that would come from a recations which operate upon the member lease from the previously existing dis-qualifications? If he has, and it has been public and notorious, then I take The disabilities, moreover, of this Ed. munds law, which would have operated upon the member from Utah, provided Utah had continued a Territory and he was a Delegate to this House of Repreit you have evidence that he has compiled with the requirements of the

amnesty proclamations. Now, in that status how stands the Representative from Utah? It is a fact that there exists from 1889, the time he pleaded guilty to the misde-meanor of unlawful cohabitation, to the

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being a polygamist or living in unlaw-ful cohabitation disqualify him from Try putting some of your urine in a glass tumbler, let it stand twenty-four hours. If there is a sediment, or cloudy, miky appearance, your Kidneys are Mr. Roberts-Yes, sir: otherwise not. Mr. Landis-You say the Delegate would be a United States officer because

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opposition to the contention that I ave made, that a representative is a inited States officer, and that in leavto the fact ng his resident State, the State which represents, and stops here temporrily, on the soil over which the United States has exclusive jurisdiction, that therefore a member of Congress comes inder the disqualifying clauses of the dmunds bill-then I insist, gentlemen, that these disqualifications do not ap-ply to the representative from Utah for reason that those disqualifications that once did apply to him under Terriorial conditions in Utah, were re-noved by these amnesties, and there s no evidence, there is no court record, reference to these particular offense as to omit reference to them. This was the form of oath that was known there is no accusation even, except that made by religious fanatics since election of the member from Utah, that he ever violated the law against un-

ates to this day.

"Mormon;" all the judges of the co

awful polygamous living, i. e., unlawful cohabitation. I call your attention to the class of people who are, I will not say perse-cuting, because I have a sort of contempt for that word, and do not propose to plead persecution, but those who have hounded me to the threshold of the House of Representatives. Who are they? Are they the bankers, the merchants, the miners, the lawyers, the representative people of the State of or are they confined exclusively, with the single exception of a tenthrate lawyer who is without standing in his own State, to missionaries sent from the Eastern States to convert the "heathen 'Mormons,'" and having been opposed by one native to the faith of the "Mormon" religion now pursue him to the doors of the House of Representatives? Is not the class entire-ly confined to them? Where are the from the petitions representative

lasses of the State of Utah? Another thing that I wish to call ttention of the committee to is this: President Harrison, in his proclama-tion, savs: "Those who shall fail to avail then selves of the ciemency hereby offered will be vigorously proseuted." and yet there were no prosecution instituted against the member Utah after that.

I hold, further, that the disabilities that impaired the citizenship of the member from Utah were removed by the action of Congress and the President, the whole lawmaking power of the government, by the passage of the The Enabling Act, sec-Enabling Act. tion 2 provided: Section 2. That all citizens of the

United States over the age of 21 years who have resided in said Territory for one year next prior to such election are hereby authorized to vote for and choose delegates to form a convention in said Territory. Such delegates shall possess the qualifications of such elec-

That is, as to their being citizens of the United States and 21 years of age. Mr. Morris-What were the qualifica-The board of commissioners, known as the Utah commission, is hereby authorized and required to cause a new and complete registration of voters of tions? said Territory to be made under the provisions of the laws of the United States and said Territory, except that Mr. Roberts. "That all male citizens of the United States over the age of a years who have resided in said Tern tory for one year next prior to su the oath required for registration under election are hereby authorized to vol-for and choose delegates to form i convention in said Territory." said laws shall be so modified as to test the qualifications of the electors, as prescribed in this act; such new registration to be made as nearly confications. formable with the provisions of such aws as may be, and such elections for sole qualifications required under it Enabling Act. I call attention to delegates shall be conducted, the re-turns made, the results ascertained, and the certificates of persons elected to such convention issued in the same manner as is prescribed by the laws of lifeations making a person eligible vote for members of the State legisaid Territory regulating elections therein as members of the legislature thereof.

And section 20 of the same act provided as follows:

Section 20. That all acts or parts of acts in conflict with the provisions of this act, whether passed by the legislature of said Territory or by Congress, are hereby repealed.

Those are the provisions of the Enabling Act, and that it was the intent of Congress to remove the disabilities that had been created by this Edmunds law is quite evident from the attempts that were made to do otherwise in the course of the legislation of the House with reference to this particular bill, At one stage of its discussion Mr. Wheeler, of Alabama, who was the chairman of the committee on the Territories, proposed the following as a substitute for section 2:

to commit any of said crimes.

mmissioners prescribed?

that I am about to read:

Territory of Utah,

sixty days.

Mr. Roberts-Yes; this is the oath

County of --- and --- Precinct

that at the next election he will be

years of age and upward and will hav

been a citizen of the United States f

And then it is signed, and the orr-

the intent in the enabling act-

onal oath.

Mr. Morris-Yes.

the convention?

Mr. Roberts (reading):

and complete registration of voters

provisions of the laws of the United

the oath required for registration unde

said laws shall be so modified as t

said Territory to be made under

-on oath swears (or affirms)

was approved by Congress, on that Subscribed and sworn to before me subject Mr. Roberts. Yes, sir; the Constithis --- day of ----, 18-. tution was adopted by the State and pproved by Congress. Mr. Morris. I say was there anything

Deputy Registration Officer for Precinct. that Constitution on that subject? Mr. Morris-That is the oath you

Mr. Roberts. Of declaring the qualifications of its electorate Mr. Roberts-Yes, sir: in 1894. Now, Mr. Chairman, under the Mr. Morris. Yes. Roberts. Yes, sir. Mr. tion of the enabling act the Utah com-mission so modified that oath with

Mr. Morris. Will you be kind enough Mr. Littlefield. You stated that in

our opening remarks before the com-We have it in the record some-Mr. Morris. This was drawing my at-

ention more peculiarly and particular-Mr. Roberts-This is a copy of the oath prescribed for voting for members Mr. Roberts. I do not seem to have o the constitutional convention, Mr. Littlefield-Of the oath that the

the Constitution at hand to refer to. Mr. Morris. Well, we will look that

Mr. Roberts. But I think I can get t for you in a moment. Mr. Morris. I can look that up after-

Mr. Roberts. I next come to the settlement of this polygamous question be-tween the State of Utah and the United States and the consideration of erty, they went on in the practice of it the terms of compact to which refer-ence has been made. It was rehearsed many years there was no attempt worninety days and have resided in the Territory for one year and in the county four months and in the precinct for here yesterday---

(After examination of a book then handed to him.) Responding to Judge Morris's request, I now read from arti-cle 4 of the Utah Constitution:

tlfication of the registration officer follows. I call attention to the change these two forms of oath to show that The rights of citizens of the State of Utah to yote and held office shall not Mr. Morris-That was all the oaths e denied or abridged on account Mr. Roberts-Yes, sir; all of the consex. Both male and female citizens this State shall enjoy equally all civi Mr. McPherson-I do not quite unolitical, and religious rights derstand that. That oath was pre-scribed by the Utah commissioners rivileges. Every citizen of the United States of twenty-one years of age and upward who shall have been a citiwhere and by virtue of the authority of the enabling act? Mr. Roberts-Yes, sir: that is right. Mr. Morris-Will you be kind enough to read that part of the enabling act that you read just now to show whether ten for ninety days, shall have resided the State or Territory for one d in the county for four months and n the precinct for sixty days preceding ny election, shall be entitled to vote that you read just now to show what the enabling act was? Mr. Littlefield-Authorizing the oath? t such election, except as herein oth-rwise provided.

And then follows:

ctive franchise?

Granchise.

tive

No person shall be deemed to be a The board of commissioners, known as the Utah Commissioners, is hereby unlified elector of this State unles such person be a citizen of the United States. No idiot,insane person, or person authorized and required to cause a new onvicted of treason or

elective franchise, unless restor civil rights, shall be permitted States and said Territory, except that te at any election or be eligible to office in this State. test the qualifications of the electors as

Mr. Motris, Nothing about polygamy r unlawful complitation in the Consti-

Mr. Rawlins. All the way through for the act.

> t begin before about 1876, as I now recollect it.

Mr. Roberts. In reference to the elec-There is, of course

Mr. Morris. Are those the sole quali Mr. Roberts. Yes, sir: those are GOLD distinction between the qualifications prescribed under the act and those qual-Mr. Littlefield. Did that go so far to also make them eligible to office | DUST The Best Mr. Roberts. Yes, sir; they could al-so be members of the convention under that. Mr. McPherson. Any man who was an elector could be a delegate? Mr. Roberts. Yes, sir. In the interview that was published in the Washington Post of November 29, 1899, Senator Rawlins, who intro-duced this Enabling Act and engi-neered it through the House, in a prepared statement made in the Post, not Washing Powder. casual interview with a reporter, but in a prepared statement that he him self submitted, made these remarks: That polygamists should be disqui-ified to vote or to hold office was part of the compact between the Su of Utah and the United States. Cleans Everything from Cellar to Garret

thy the name to enforce that law in the Cerritory of Utah. Not until about the year 1876 was there a case brought up which afforded the opportunity of ringing it before the courts to test the onstitutionality of the law. Mr. Morris. What case was that? Mr. Roberts. That was the Reynolds

case, and it was the Mormon people who voluntarily supplied that case. Mr. Reynolds was chosen by the Mormon leaders to stand, as they had hoped, for the vindication of that principle of religlous freedom. They were, perhaps, overconfident of the rightfulness of their contention that the Constitution shield. ed them in the practice of plural marriage as part of their religion; and in order to get a decision of the courts with reference to that law Mr. Reynolds was alled upon to submit his case to the ourts. He was selected in preference to another gentleman, who had offered himself, because. Mr. Reynolds's case seemed to touch all the points directly at issue; and the testimony was voluntarily supplied, as was also the whole case, and it went to trial. My recollection is that it reached the Supremo court of the United States and a decis-

ion was rendered in the year 1873 Mr. Morris. It is in 98 United States,

if you have that here. Mr. Chairman. What was the conclusion of the lower court-for or against

Mr. Roberts. But the prosecution did

The Chairman, I understand,

(To be Continued.) something on the subject of polygamy,

ha act Roberts. None whatever, sir, is, not with reference to the sub-of voting or helding office. McPerson. In reference to the



