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A Historical Study of the Congressional Career, John T. Caine

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A HISTORICAL STUDY OF
THE CONGRESSIONAL CAREER
JOHN T. CAINÉ

A Thesis Submitted to the
Department of History
Brigham Young University
Provo, Utah

In Partial Fulfillment
of the Requirements for the Degree of
Master of Science

by
Judith Ann Roderick
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JOHN T. CAIN. (1866.)
INTRODUCTION

John T. Caine, an adept leader in the national and local political arena, was one of the best known and most highly respected men in Utah during the territorial era. Very early in his life he assumed an active role in politics and became one of the early leaders of the Democratic Party in Utah. From the time of his initial election in 1882 as the territorial delegate until his retirement in 1893, he labored in behalf of his constituents. No task proved to be too tiresome or laborious; industry, honesty, and sober self-reliance were personal characteristics of the man and his actions.

It is the purpose of this historical study to present a factual account of the congressional career of John T. Caine. In a sense, this is a pioneer work since it represents the first detailed study of the influence of Caine upon the interactions between Congress and the Territory of Utah in this decade. The present study has certain limitations. The author was handicapped by the lack of important documents. Neither the minutes of the 1887 Constitutional Convention nor the complete records of the House committee sessions were available for research. The official letterbooks of John T. Caine are likewise incomplete, covering only the 1887-1893 period of his career.
For this reason the role of Caine in the earlier period is not adequately defined.

No attempt was made to present a thorough biography of his life. Furthermore, no attempt was made to present an exhaustive analysis of the conflict between the federal government and the inhabitants of Utah concerning the practice of polygamy by certain members of the Church of Jesus Christ of Latter-day Saints.

Throughout this thesis, a topical arrangement of the facts, rather than the usual chronological arrangement, has been followed. However, within a specific topic the facts have been presented chronologically. The chapters of this study are as follows: (1) a brief biographical sketch of the life of John T. Caine; (2) an account of the federal anti-polygamy legislation from 1882 to 1887 which resulted in the Edmunds-Tucker Act, with emphasis upon the activities of Caine; (3) an account of the role of Caine in protecting the people of Utah from the loss of their political rights in the face of threatened disfranchisement; (4) a narrative of the statehood movement from 1887 to 1893 with special emphasis upon the work accomplished by Caine; (5) a narrative of the activities of Caine in Congress to prevent the removal of the Southern Ute Indians from Colorado to Utah and to provide for the support of the Shebit tribe; (6) an analysis of the relationship between the church and state in the Utah Territory in
1882-1893; and (7) a conclusion specifying the historical significance of John T. Caine.

Much has been written concerning the federal anti-Mormon crusade. Richard Poll in his master's thesis, "The Twin Relic: A Study of Mormon Polygamy and the Campaign of the Government of the United States for its Abolition, 1852-1890," presents an exhaustive survey of the federal legislation to abolish polygamy. Joseph Robert Meservy discussed the same issue in his thesis, "A History of Federal Legislation Against Mormon Polygamy and Certain United States Supreme Court Decisions Supporting Such Legislation." The history of the Utah Commission is presented by Stewart Grow in his Doctor's dissertation, "A Study of the Utah Commission." However, none of these studies emphasize the work of John T. Caine. Therefore, this present study, besides being justified by defining the role of Caine, makes a contribution by bringing to light new primary source material on this general topic. The only detailed study of the statehood movement is the one made by Ferdinand E. Peterson in his master's thesis, "Utah's Struggle for Statehood." Since the writing of this work in 1929, the discovery of new source material has caused his work to be an inadequate treatment of the subject. Therefore, Chapter IV of the present study is of value because of the additional information presented on the 1887 statehood movement. The entire subject of
Indian affairs in the Utah Territory is one which has not been thoroughly investigated.

The great majority of the sources used in the preparation of this study were primary sources. The official letterbooks of John T. Caine, which cover the period of 1887-1893, constituted the major source of information. The location of the letterbooks for the part of his career before 1887 is unknown. Second only to the correspondence of Caine in importance were the numerous public documents of the 1882-1893 period. The Journal History of the Church of Jesus Christ of Latter-day Saints proved to be another valuable source of information for research.
CHAPTER I

A BRIEF BIOGRAPHICAL SKETCH OF THE LIFE
OF JOHN T. CAINE

The enforced retirement from the United States Congress of George Q. Cannon ushered in a new era in Utah's congressional history and brought to the front a man well qualified to assume the vacant congressional seat. 1 John T. Caine, the man chosen to succeed Cannon as the Utah Territorial Delegate, was born on the Isle of Man in the parish of Kirk Patrick on January 8, 1829, to Thomas Caine and Elinor Cubborn Caine. 2 As a child Caine was denied most of the joys which come with a normal family situation. Before he reached the age of six his mother had died and his father had emigrated to America. 3

1George Q. Cannon had been elected to Congress in 1880 when he defeated his opponent Allan G. Campbell by an overwhelming majority. But he was denied his seat by the House of Representatives due to the fact that he was a polygamist. The Edmunds law of 1882 declared that a polygamist was not eligible to hold a public office. Therefore, John T. Caine was elected to fill the vacant seat. (Journal History, October 27, 1883, pp. 3-4. This is a scrapbook day by day history of the Church of Jesus Christ of Latter-day Saints located at the Church Historian's Office in Salt Lake City. This reference shall hereafter be cited as Journal History.)

2"Old Favorites: John T. Caine," The Juvenile Instructor, XXXIX, No. 4 (February 15, 1904), p.142.

In 1841 an event which changed the entire course of Caine's life occurred. At this time Caine was exposed to the doctrines of the Church of Jesus Christ of Latter-day Saints when by chance he heard John Taylor, a missionary elder of the Church, preaching in one of the local school houses in Peal, England. Although he was interested and impressed by the basic tenets of the new faith, he did not have an immediate desire to affiliate himself with the Church. About this same time Caine decided to leave his native land and migrate to America. His contact with the Latter-day Saint elders probably strengthened this idea of establishing a new home in a new land. But, whatever his compelling motives might have been, Caine left Liverpool, England, on March 17, 1846, and arrived in New York City on the twentieth of April. 1 Evidently Caine had been seriously contemplating his religious attitudes because the following year he committed himself to the Church and was baptized in the East River by Elder William H. Milch. He became an active worker in the New York Branch after his conversion. This devotion to his religious views was maintained by Caine throughout his later life. 2

In 1848 he moved to St. Louis, Missouri, where he continued his work in the Church by serving as clerk of the conference. Shortly

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1 Orson F. Whitney, History of Utah, IV (Salt Lake City, Utah: George Q. Cannon and Sons Co., 1893), p. 672.

2 Interview with Charles A. Caine, a son of John T. Caine, August 6, 1959.
after his arrival in St. Louis, an epidemic of cholera broke out. Caine proved himself to be a man of courage and sympathy by administering to the sick. In spite of the vast inroads made by the disease among the people, he was not stricken.\footnote{Deseret Evening News, September 20, 1911, p. 1.} While Caine was living in St. Louis, he met Margaret Nightingale and began a companionship which resulted in their marriage on October 22, 1850.\footnote{Interview with Charles A. Caine, August 6, 1959.} Caine supported his wife through his position as agent for the "Frontier Guardian," a newspaper published by Orson Hyde at Kanesville, Iowa.\footnote{Deseret Evening News, September 20, 1911, p. 1.}

Desiring to settle permanently in the Utah Territory with other members of the Latter-day Saint faith, the Caine family, which at this time consisted of John, Margaret, and a baby daughter, left St. Louis in the summer of 1852 and arrived in the Salt Lake Valley in September of that year in the company of Captain James McGraw. Upon arriving in Utah, Caine performed a variety of jobs ranging from digging carrots to teaching school to provide for his family.\footnote{Ibid.} Caine took part in the various civic activities in Salt Lake City where he established a home.
Within a year after his arrival in Salt Lake City, he became a talented member of the Deseret Dramatic Association. He appeared frequently upon the stage during the following years, but his interest in the theater went much deeper than the glory and fame which a person achieves in front of the footlights. In the late 1850's Caine succeeded David Candland as stage manager of the Social Hall. This was the inauguration of an extended managerial career. Warmly seconding President Brigham Young's idea that the people must have amusements of the most wholesome type, Caine urged President Young to erect a larger theater to replace the small and inadequately equipped Social Hall so that legitimate drama might be promoted for the entertainment of the public. This led to the building of the Salt Lake Theater, a very famous landmark in Utah history, which was dedicated on March 6, 1862. Until the introduction of outside talent, Caine played leading roles in the productions and was associated with Hiram B. Clawson in the management of the theater. Even after retiring as an actor he continued to be the stage manager being in one way or another connected with the theater for a period of over twenty years.\(^1\) His numerous successes on the stage contributed immeasurably to his popularity with the people—a condition which was to be of the utmost importance to him when he embarked on his political career.

\(^{1}\)Ibid.
Caine's dramatic activities were interrupted in April, 1854, when he answered the call of the Church to serve as a Latter-day Saint missionary to the Hawaiian Islands. When his missionary work was completed in 1856, he returned to Salt Lake City and resumed his civic activities. 1 The election of Caine as the assistant secretary to the Legislative Council in 1856 2 marked the beginning of his long career in public service. He filled this position until December 12, 1859, when he was elected secretary of the council. 3 His first exposure to national politics occurred in 1870 when he was appointed by the People's Party 4 to go to Washington to carry the protest of the people of Utah against the Cullom bill, which had just passed the House of Representatives and was then pending in the Senate. While in Washington he aided Delegate William H. Hooper. 5 In these experiences he was preparing himself for his own future career in Congress. E. L. Sloan and W. C. Dunbar established the Salt Lake Herald during Caine's absence in


2 Journal History, December 8, 1856, p. 1. (Deseret Evening News, December 8, 1956. Hence this will be abbreviated DEN.)

3 Ibid., December 12, 1859, p. 1.

4 In the territorial period there were two major political parties: the People's Party which was mainly composed of Latter-day Saints and the Liberal Party which was primarily composed of people who did not belong to the Church.

5 "Report of the Stakes of Zion" (MS undated and located at the Utah State Historical Society).
Washington and offered him a partnership in the newspaper with them. Upon his return to Salt Lake City, he bought an interest in the newspaper and became the managing editor.\(^1\)

Due to the arduous duties he faced as manager of the theater, as managing editor of the Salt Lake Herald, and as a local public official, Caine's health began to fail and in 1875 he went to Europe seeking rest and recuperation.\(^2\) Returning to Utah in a much healthier condition, he was nominated in 1876 to be the city recorder for Salt Lake City and elected to the office by a large vote. During this same year he was appointed one of the twelve regents of the Deseret University, a position which he held for ten years.\(^3\)

In 1882 he was a representative of Salt Lake County in the constitutional convention which framed a state constitution and petitioned Congress for the admission of Utah into the union. He was one of seven delegates appointed to journey to Washington to present the petition to Congress.\(^4\) Here again was another milestone in his long preparation for a congressional career, which at this time was just around the corner.

\(^{1}\)Interview with Charles A. Caine, August 6, 1959.

\(^{2}\)Deseret Evening News, September 20, 1911, p. 2.

\(^{3}\)Ibid.

\(^{4}\)Whitney, op. cit., p. 674.
Caine was nominated by the People's Party in convention to represent Utah in the 48th Congress as the territorial delegate on October 13, 1882. ¹ His rival candidate for the position was Philip T. Van Zile, who represented the Liberal Party. Van Zile challenged Caine to a public debate in which the two candidates would air their political views for the benefit of the voters. Caine declined the invitation contending he did not believe any value would be gained by a public debate of this type. A fear that the discussion would only be a pretense for the Liberal Party to attack the religious principles of his political backers was his primary reason for refusing to meet Van Zile in open debate.² The delegateship was won by Caine, who received 23,039 votes. Van Zile received only 4,884 of the 27,923 votes cast. Only eighty-four per cent of the total number of citizens registered cast their ballots.³ These results serve as a suitable indication of the political alignment of the territory in the 1880's. Accordingly, on January 17, 1883, Caine was seated by the House of Representatives.⁴

It is as Utah's territorial delegate during the most stormy period of her past that John T. Caine is best remembered and most

fully appreciated since it was in this capacity that his most arduous work was accomplished. He devoted all his energies and intellect in a supreme effort to protect Utah and her people from an avalanche of anti-Mormon legislation in the halls of Congress during the next eleven years. He took a prominent part in advancing legislation which promised benefits to Utah and fought with great ability those acts which threatened the contrary. During his service in Congress he served as a member of the House committee on post offices and post roads and the committee on the coinage, weights and measures. His labors in Congress ended with the adjournment of the second session of the Fifty-second Congress.

When the People's Party and the Liberal Party disbanded in 1891, the citizens of Utah became members of the two national political parties—the Democrat and the Republican Parties. Caine had been

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Caine was elected for five successive terms to the delegateship. In 1884 he defeated his Liberal opponent Ransford Smith by receiving 21,130 votes out of the 23,361 votes cast. (Deseret Evening News, November 14, 1884, p. 2). In 1886 he defeated his Liberal opponent William M. Ferry by receiving 19,605 votes out of 22,483 votes cast. (Journal History, November 12, 1886, p. 2). In 1888 he defeated his Liberal opponent Robert Newton Baskin again receiving a large majority of the votes cast. (Whitney, op. cit., p. 663). In 1890 Caine was elected to his fifth and last term in the House of Representatives.

politically bound to the Democratic Party since his entrance into politics despite the fact that he held office due to his affiliation with the People's Party. After 1891 he identified himself solely with the Democratic Party and was recognized as one of the leaders of that party in Utah. In fact, he sacrificed a renomination to Congress in 1892 in order to secure the election of Joseph L. Rawlins, a man advanced by the democrats of Utah.¹ Caine's strong attachment to the Democratic Party can be seen in a statement he made to the editor of the Provo Dispatch in response to the appearance of an article in that paper which had proclaimed the Republican Party to be the friend of the Mormons. Caine said:

... I am surprised that a paper published in Utah should claim that the Republican Party has been the friend of the Mormon Church, when its editors know that from its inception that party in its National Conventions had denounced the doctrines and practices of the Mormon Church. Who does not remember the celebrated denunciation in the Republican platforms, 'Those twin relics of barbarism, Slavery and Polygamy.' Can any one of the old citizens of Utah forget that, and other profitable anti-Mormon denunciations put forth at different times by the G. O. P. ...?²

¹Letter from John T. Caine to R. W. Young, May 29, 1892, Letterbook VII, p. 453. Charles A. Caine maintains that John T. Caine lost the 1892 nomination for delegate because the leaders of the Latter-day Saint Church desired to have a non-Mormon elected in hopes it would aid the territory in achieving statehood. (Interview with Charles A. Caine, August 6, 1959).

Prominent democrats in the territory sought to secure a federal appointment for Caine in recognition of his valuable political service to Utah. Charles C. Richards wrote to President Grover Cleveland in March, 1893, and suggested the name of Caine for a position on the Utah Commission. He said:

... As you are aware, Mr. Caine is among our foremost citizens. His long session in Congress is a certificate that he enjoys the confidence and highest respect of the community, whilst it is well known not only by our own people, but by the leading men of the nation that his efforts have contributed largely to the adjustment of the long time unsatisfactory condition of things in the Territory, and to the bringing about the happier state of affairs now prevailing in Utah. He possesses in an unusual degree, the ability necessary to the intelligent, equitable and just administration of the office, and his high standing as a citizen will be a guarantee to the people that right will be done. Furthermore, Mr. Caine's wide acquaintance in the community will enable him to select with wise care the numerous men who will directly execute the registration and election laws. In my opinion, Mr. President, the appointment of Mr. Caine, as here suggested would be entirely satisfactory to the great majority of the people of Utah and would bring credit to your administration.¹

But the president had a higher office in mind for Caine. In May, 1893 Caine learned that Cleveland was considering appointing him to be the Secretary of Utah. Caine immediately wrote to the President asking him to remove his name from consideration because he had previously

¹Letter from Charles C. Richards to President Grover Cleveland, March 11, 1893, Letterbook IV, p. 253.
agreed to support Charles C. Richards for the position. He expressed his thanks for the consideration shown him and assured Cleveland that

... but for the fact that I was committed to Mr. Richards, a personal and political friend, I should have been only too happy to accept any position with which you might have seen fit to honor me, for to me it would be a great honor to serve under your administration...1

During the interlude of his retirement from Congress in 1893 and the advent of statehood in 1896, Caine held the office of auditor of public accounts for the territory. He had been appointed to this position by Governor Caleb West upon his return to Salt Lake City in 1893.2 Caine was nominated to be the democratic candidate for the first governor of the new state of Utah at the democratic convention held in Salt Lake City on September 6, 1895.3 Opposing Caine in the campaign and the election was Heber M. Wells, the republican candidate. Wells was elected governor on November 5, 1895, when he received 18,883 votes to the 16,610 votes received by Caine.4 Caine was

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1Letter from John T. Caine to President Grover Cleveland, May 15, 1893, Letterbook IV, p. 325. Charles A. Caine maintains that his father asked Charles C. Richards to release him from his commitment to support Richards and that Richards refused to honor the request. (Interview with Charles A. Caine, August 6, 1959).


3Ibid., September 6, 1895, p. 3.

nominated and elected as a state senator representing Salt Lake County in the first session of the new State Legislature. ¹

In short, John T. Caine, a veteran in the business and political world, was one of the best known and most highly respected men in Utah during the territorial period. He represented the Territory of Utah in Congress for five successive terms in addition to performing various political tasks of a purely local nature. Furthermore, he was honored by being the democratic choice for the first governor of the new state after having been looked upon for many years as the leader of the Democratic Party in Utah. "A Christian gentleman in the full meaning of the term, he had the respect and love of all who knew him."²

¹Ibid., September 20, 1911, p. 2.
²Ibid., p. 1.
CHAPTER II

C A I N E FOUGHT AGAINST THE EMERGENCE OF THE EDMUNDS-TUCKER ACT, 1882-1887

The territorial period of Utah, embracing a span of years from 1850-1896, was marked by severe misunderstanding and strife between the original settlers who were members of the Church of Jesus Christ of Latter-day Saints and the federal government. The most persistent grievance against the Mormons\(^1\) during these years was focused upon their practice of plural marriage which was believed to have been the result of a direct revelation from God to Joseph Smith, the founder of the Church, who recorded it in 1843.\(^2\)

Plural marriage is said to have been advocated by Joseph Smith prior to his death and to have been practiced by some of the Mormon leaders while the group resided in Illinois. Nevertheless, it was not

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\(^1\) The use of the term Mormon is an accepted colloquialism referring to members of the Church of Jesus Christ of Latter-day Saints, which likewise is in common usage referred to as the Mormon Church.

\(^2\) For a complete text of the reported revelation see The Doctrine and Covenants (Salt Lake City, Utah: The Church of Jesus Christ of Latter-day Saints, 1951), section 132.

See also B. H. Roberts, A Comprehensive History of the Church of Jesus Christ of Latter-day Saints (Salt Lake City, Utah: Deseret News Press, 1930) II, 93-110.
until 1852 after the Mormons had settled in Utah that the doctrine was publicly proclaimed and practiced. It must be emphasized that only a small proportion of the Mormons practiced polygamy and that adherence to the doctrine did not have a denotation of promiscuity in the Mormon culture.

Nevertheless, the doctrine of polygamy, because it was a deviation from the social values of the nineteenth century and was looked upon as an anachronism, furnished the basis for expression of prejudice and antipathy toward members of the Mormon faith, monogamous as well as polygamous members. Condemned by other Christian denominations, polygamy very early became the most widely known feature of Mormonism. A wave of popular antagonism moved the federal government to enter into the dispute to force the abandonment of the practice. Being thus influenced by the tide of public opinion, congressmen introduced bill after bill in the halls of Congress in an effort to destroy all adherence to the doctrine.

It was this particular situation which engulfed the attentions and efforts of John T. Caine as the elected delegate of the people of Utah. His years of service witnessed the introduction and passage by Congress of drastic anti-Mormon measures, such as the disfranchisement of polygamous Mormons and the disincorporation of the Latter-day Saint Church, which were later upheld as being constitutional by the nation's
highest court. The federal government committed itself to a definite stand to abolish polygamy.

**Anti-Polygamy Legislation, 1882-1884**

Previous to the time when John T. Caine took his seat in Congress, a stringent anti-polygamy act espoused by Senator George F. Edmunds of Vermont became law.¹ The main provisions of this law enacted on March 22, 1882, defined polygamy as a crime punishable by law. It amended the former law of 1862 by providing a penalty for unlawful cohabitation, which was intended to meet the case of a continuance of the polygamous relationship. If a person was convicted of practicing unlawful cohabitation, he could be fined a maximum of three-hundred dollars; or imprisoned for a maximum of six months; or both fined and imprisoned. Furthermore, all persons found guilty of polygamy, bigamy, or unlawful cohabitation were disfranchised and prohibited from holding any office of public trust. Section nine of the law declared all registration and election offices in the territory vacant. The duties of these offices were to be performed by a board of five commissioners appointed by the President. The only clause in the law

beneficial to the Mormons was the sixth section which authorized the
President to grant political amnesty to persons guilty of polygamy
according to his own judgment. 1

In commenting upon the probable reasons for the enactment of
the law the members of the Utah Commission said in part,

. . . The theory of the act of March 22, 1882, appears
to be this: That a discrimination between those Mormons
who practice polygamy and those who do not, placing a
stigma upon the former and depriving them of the right
of suffrage as well as the right to hold office, while, on
the other hand, an inducement is held out to the latter
class, that by abstaining from the polygamic relation
they will enjoy all the political rights of American
citizens, would in time have the effect of inducing great
numbers of Mormon people to refrain from plural
marriage. 2

Such a situation would appeal particularly to the young Mormons.

When John T. Caine was granted his seat in the House of
Representatives on January 17, 1883, 3 the situation with respect to
Utah was tense. The Edmunds Law (1882) had hardly had time to go
into effect when its author Senator Edmunds introduced a harsher bill
in the Senate on December 12, 1882. 4 This new measure was the

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1 U. S., Report of the Utah Commission to the Secretary of the
Interior, 1883, pp. 3-5. See Appendix A for the complete text of the bill.

2 Ibid., pp. 112-13.

3 U. S., Congressional Record, 47th Cong., 2d Sess., 1883,
XIV, p. 1298.

4 Ibid., 1882, p. 240.
original of what five years later became the Edmunds-Tucker Act.

The bill was referred to the Senate Committee on Judiciary, of which Edmunds was the chairman, and was reported back to the Senate favorably with a recommendation for its passage on January 10, 1883.\(^1\)

The bill with amendments contained these significant provisions:

1. In any proceeding or examination before a grand jury, a judge, or a United States commissioner, in any prosecution for bigamy, polygamy, or unlawful cohabitation under any statute of the United States, the lawful husband or wife of the person accused shall be a competent witness and may be called and may be compelled to testify in such proceeding, examination, or prosecution, without the consent of the husband or wife, as the case may be.

7. It shall not be lawful for any female to vote at any election hereafter held in the Territory of Utah for any public purpose whatever, and no such vote shall be received or counted or given effect in any manner whatever; and any and every act of the governor and Legislative Assembly of the Territory of Utah providing for or allowing the registration of voting of females is hereby annulled.\(^2\)

The debate on the bill in the Senate Committee of the Whole on February 21, 1883, found Senator Edmunds leading the fight for its passage with Senator Wilkinson Call of Florida opposing.\(^3\) The

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\(^{1}\)Ibid., 1883, p. 1089.

\(^{2}\)Ibid., pp. 3056-3057.

\(^{3}\)A bill of the same substance was introduced in the House of Representatives by Edwin Willets of Michigan. Action upon this bill was very limited as it did not go any farther than the House Committee on Judiciary, to which it had been referred (Ibid., p. 145).
discussion pertained almost entirely to the section repealing woman suffrage. The bill's supporters argued that the ballot should be taken from the women of Utah because they were coerced by the Mormon priesthood into voting for the very institutions which were oppressing them. In spite of efforts by Edmunds to hurry the bill through before it could be thoroughly investigated, action upon it was deferred.  

However, the bill was brought up again. When the vote on the bill was taken it was discovered that there was not a quorum present; so, the Senate adjourned with nothing more being heard of that particular bill. 

Caine expressed his relief at the failure of this bill to become law in the following words:

... Myself and my brethren who were with me offered up fervent prayers that the bill might fail, and when I returned home I learned that we were not the only ones who were offering prayers to God upon this subject at that critical hour, for President Taylor and some of the Apostles had besought the power of God in behalf of His people. Here is a great lesson for the Saints. Our enemies have not been successful in their vile schemes for our over-thrown, but God has shown forth His power and wisdom in our behalf. It is my belief that the Latter-day Saints are more united today in their political affairs than they were before the passage of the Edmunds Law. Heretofore, we have been negligent and careless concerning our rights and liberties, but when our young people have seen their

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1Ibid., pp. 3170-72.

2Ibid., p. 3187.
parents disfranchised they have been aroused to the attempt to make good the votes thus lost. The Latter-day Saints should teach and instruct their children in relation to the principles of freedom established at the cost of the lives and blood of the fathers of our country, that a nation may be reared in these mountains who (which) will know the value of liberty and ever maintain it.  

The Cullom and Cassidy Bills

During the month of December, 1883, the Cullom and Cassidy bills having as their purpose the abolition of the territorial legislature and the establishment of a governing commission of thirteen members were introduced in the Senate and House of Representatives respectively. Caine expressed his opinion of the bills saying,

The Legislative Commission scheme proposes to make the Territory of Utah a province, and provides for the establishment of a form of government not essentially different from the pro-consular rule which Imperial Rome inflicted upon the people who were so unfortunate as to become subject to her galling yoke. . . . There are such strong and high constitutional and legal objections to this class of legislation that to my mind its bare suggestion is fraught with danger. From the establishment of our government there have been certain inherent powers in the people never ceded to the nation, which have been exercised locally. Of these reserved rights, the right of local self government, the local law

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1 Journal History, November 18, 1883, p. 4. (The Utah Journal, November 21, 1883).

2 Governor Eli Murray had recommended the passage of similar legislation in his last report to the Secretary of the Interior.
making power, has ever been and is today a most
pre-eminent one, and to the extent of these inherent
privileges, the citizens of a Territory do not essentially
differ from those of a state. 1

Caine recalled that on September 9, 1850, Congress passed the Organic
Act of the Territory of Utah. By the tenor of that act Congress
recognized the inherent power of the people to become their own
legislators and in time to achieve the sovereignty of statehood. 2
Caine maintained that the legislative commission scheme would
abrogate the Organic Act in its abolishment of the present government
by giving control over the affairs in Utah to a Governor and a board of
commissioners appointed by the President. 3 He foresaw that the
legislative acts of this commission, when approved by the Governor and
not forbidden or annulled by congressional prohibition, would become
the laws of the territory; that the whole people of Utah would be
disfranchised; and that their property and liberty would be at the mercy
of the federal officials.

In arguing against the constitutionality of these two measures,
Caine said,

It is an extraordinary thing to propose the total
disfranchisement of a whole people. It is foreign to

1Journal History, December 11, 1883, p. 3. (DEN, Dec. 11, 1883).

2For the complete text of the Organic Act of the Territory of
Utah refer to U. S., Statutes at Large, IX, pp. 453-58.

3Journal History, November 4, 1884, pp. 8-10. (Salt Lake
Herald, Nov. 4, 1884).
American institutions; it is so entirely at variance with anglo-saxon principles of government; it is so antagonistic to the truths which the sages of the Revolution held to be self evident; it is so manifestly without warrant in either the letter or the spirit of the Constitution of the United States, that I am amazed that any man claiming to be an American citizen, that any man claiming to be a democrat, that any party claiming to be liberals, could be found to advocate such a monstrous proposition. Congress has the undoubted right to provide a form of government for the people of a territory. It is its duty to do it. But in so doing it must not violate a fundamental principle of English and American free government. It has been asserted that the Supreme Court of the United States has decided that whatever the constitution has not absolutely prohibited Congress from doing, it has the right to do. But this is not true. The Supreme Court has held that Congress must abide by the spirit of the Constitution. The right to acquire territory necessarily implies the right to govern it. But it is an unquestionable fact that the Constitution did not specifically provide for the acquisition of territory. . . . Grant as I do, the power of Congress to prescribe a government for territory acquired as being, the inevitable consequence of the right to acquire it, still it does not follow that Congress can make any law it pleases for that purpose. 1

Caine believed that Congress should have stopped to consider the question of the constitutionality of these bills and to consider the question of which was the greater crime, the practice of plural marriage by approximately ten thousand persons, or the enslavement of an entire territory wherein nine-tenths of the inhabitants were not even charged with offenses against the laws. "To punish polygamy can

1Ibid., p. 9.
Congress afford to violate the Constitution?" he asked. Fortunately, opposition within Congress was too great for these two bills to become law.

The Hoar-Edmunds Bill, 1884

Meanwhile the Edmunds bill of 1883 had been resurrected by Senator Edmunds with notable additions and was reported from the Judiciary Committee of the Senate on January 28, 1884. Senator George F. Hoar of Massachusetts had replaced Edmunds as Chairman of the committee. The twenty-four sections of the bill included all the provisions of the earlier measure plus new provisions which were as follows:

5. In polygamy trials the judge may issue a writ authorizing the marshal to search for records or other evidence of plural marriage if he has reason to suspect the existence of such evidence. No particular place or object need be specified in the warrant.

8. The practice of numbering and identifying ballots in Utah is made illegal.

11. Illegitimate children shall not have the right to inherit or share in the father's estate.

12. - 16. The charters of the Church of Jesus Christ of Latter-day Saints and the Perpetual Emigrating Fund

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1Ibid., March 31, 1884, p. 4.

Company\textsuperscript{1} are revoked, and the attorney-general is instructed to institute proceedings to dissolve the corporations and escheat to the United States all property held by those corporations in excess of the amount provided by the Morrill Act of 1862 (fifty thousand dollars). . . .

18. The Utah Commission is continued in office until Congress shall approve the acts of the territorial legislature called for by the Edmunds Law. . . .

19. - 20. Adultery and fornication are declared to be misdemeanors, punishable by fine and/or imprisonment. . . .

21. - 23. The territorial supreme court may appoint commissioners to exercise the powers of justices of the peace; United States marshals shall have all the powers of sheriffs in the territory; the superintendent of schools shall be appointed by the supreme court rather than the legislature. . . .\textsuperscript{2}

The Hoar-Edmunds bill stirred up negative reactions throughout Utah. Some of the citizens felt that if it were passed by Congress they would be morally compelled to rebel against it with the use of force.\textsuperscript{3}

When questioned concerning the probability of this bill becoming law, Delegate Caine said he did not believe it would pass Congress since he still had faith that the lawmakers respected the Constitution. Caine

\begin{flushleft}
\textsuperscript{1}The Perpetual Emigrating Fund Company was organized in Salt Lake City on October 6, 1849, to aid converts to migrate from Europe and the eastern states to Utah. Before being dissolved in 1887, it aided 50,000 emigrants to Utah. (Hubert H. Bancroft, History of Utah, 1540-1886 [San Francisco: The History Co., 1889], pp. 415-16).

\textsuperscript{2}U. S., Congressional Record, 48th Cong., 1st Sess., 1884, XV, pp. 4564-65.

\textsuperscript{3}Journal History, March 31, 1884, p. 3. (DEN, Mar. 31, 1884).
\end{flushleft}
thought the measure would be defeated if the misconceptions about the political, religious, and social life of the people in Utah could be corrected. 1

Prior to the time when the bill came up for consideration in the Senate, Caine had contacted senators on both sides of the chamber in an effort to bring them to an understanding of the disagreeable features of the bill. Senator George C. Vest of Missouri had promised Caine he would support the people of Utah when the measure came up for debate. 2 Vest made a stirring speech on the Senate floor against the measure saying in part,

. . . This is not a question affecting Utah alone. I know how useless it is to talk to Senators who have made up their minds to vote for this bill, no matter what provision it contains, and I know how useless it is to appeal to any Senator who has determined to follow the report of the committee, whether it is right or wrong, without examination. I say this is a blow at the personal liberty of every citizen of the United States. It is an invention that will return to plague us. I do not care what these people do; I do not care how abominable their religious faith with which I have no sympathy; I do not care how atrocious their tenets, they are citizens of the United States, and are entitled to the protection of the Constitution. If you can do this thing in Utah you can do it in Missouri, and it is simply a question of time before it will be done at the behests of any party that is strong enough to call for the exercise of such a power. There never was any precedent for it in the United States. It never has been

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1 Ibid.

2 Letter from John T. Caine to George C. Lambert, June 20, 1884. (MS in the Church Historian's Office, Salt Lake City, Utah).
attempted since Otis denounced it in Boston, Mass. Since that time such a thing would be looked upon as simply atrocious, and our fathers would have appealed to arms to resist it . . . Mr. President, I have nothing to say as to my personal feelings . . . I do not propose to break my oath to support the Constitution . . .

The Republicans refused to discuss the constitutionality of the bill\(^2\) and voted solidly for its passage. The bill passed the chamber on June 18, 1884, with a final vote for passage of thirty-three to fifteen with twenty-eight not voting and was referred to the House for consideration.\(^3\)

There, due to an early adjournment of Congress, the bill did not receive any consideration. It was not heard of again until 1885 when Edmunds reintroduced the measure once more.

The rash of anti-Mormon legislation convinced Caine that a full and complete investigation of the Utah problem by Congress was needed.

In speaking of the situation in the territory, he said,

\[\ldots\text{A social revolution cannot be consummated and all trace of it obliterated in one year or two years. I consider that before piling up cumulative statutes against a long suffering people Congress should learn by direct investigation whether the allegations made against us do not largely arise from unscrupulous and selfish enmity than from any actual evil which we commit.}^4\]

\(^1\)Journal History, June 28, 1884, p. 7. (The Utah Jour., June 28, 1884.)


\(^3\)Ibid., p. 5298.

\(^4\)Journal History, March 31, 1884, p. 4. (DEN., Mar. 31, 1884).
The people in Utah, also aware of the necessity for an understanding by the federal officials of the local situation, assembled in a General Conference at Logan, Utah, on April 6, 1885, and appointed a committee to draft a specific statement of the grievances held by the Mormons. The committee formulated a "Declaration of Grievances and Protest," which was submitted for ratification to the entire Mormon populace gathered together in mass meetings throughout the territory on May 2, 1885. The people unanimously ratified the Declaration. John T. Caine, John W. Taylor, and John Q. Cannon were delegated to deliver the Declaration to President Cleveland. The Declaration contained the following protests:

We protest against unfair treatment on the part of the general government.
We protest against a continuance of territorial bondage, subversion of the rights of free men, and contrary to the spirit of American institutions.
We protest against the conscience of one class of citizens being made the criterion by which to judge another.
We protest against the tyranny of Federal officials and continuance in office of men who disgrace their positions and use their official powers as a means of oppression.
We protest against the partial administration of the Edmunds law—the punishing of one class for practicing their religion and exempting from prosecution the votaries of lust and crime.
We protest against the breaking up of family relations formed previous to the passage of the Edmunds law, and the depriving of women and children of the support and protection of their husbands and fathers.
We protest against the prosecution of persons, many of whom are infirm and aged, who entered into plural marriage before it was declared a crime and have never violated any law.
We respectfully ask for the appointment by the President of a commission to fairly and thoroughly investigate the Utah situation and pending report we solemnly protest against the continuance of this merciless crusade. ¹

Caine, Taylor, and Cannon had an interview with President Cleveland on May 12, 1885. In response to the Declaration the President said that as far as the Edmunds law was concerned he had nothing to do with it except to see that it was enforced. He assured them that the people of Utah would receive fair consideration and that he would endeavor to appoint men who would see that the law was impartially administered to the territorial offices. ²

**The Emergence of the Edmunds-Tucker Act**

On December 8, 1885, Senator Edmunds reintroduced his bill in the Senate under the heading of Senate Bill 10. ³ A month later on January 5, 1886, the bill was called up and considered by the Senate in the Committee of the Whole. ⁴ Three days later it was voted upon

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¹*Declaration of Grievances and Protest.* (MS found at the Church Historian's Office, Salt Lake City, Utah).


⁴Ibid., 1886, pp. 345, 405-408, 457-62, 503, 520, 549-65 for debates.
and passed by a vote of thirty-eight to seven with thirty-one abstentions. 1

The bill was then forwarded to the House where it was referred to the Committee on Judiciary, of which J. Randolph Tucker was the chairman. 2 The bill was amended by the House in such a manner that the Senate could not concur without first having a joint conference committee debate the differences and formulate a bill which would be agreeable to both houses. This joint committee framed a new piece of legislation. 3

During the discussion in the House on the bill Gaine made a dramatic plea in behalf of the Mormons emphasizing their loyalty and devotion to the Union. In his opening remarks he said,

. . . It is a work of supererogation to point out the enormities of this proposed legislation, which, while professing to be for the suppression of polygamy in the Territory of Utah is actually a measure intended to suppress the Mormon Church and place its property in the hands of a receiver. Under ordinary circumstances I would content myself with entering a formal protest, serenely confident that enlightened mankind throughout the world will in due time condemn such legislation as wrong in theory, violative of fundamental constitutional provisions, undemocratic and un-American, and wantonly destructive of the dearest, most sacred rights of humanity. There has never yet been a wanton

1 Ibid., p. 565.

2 Ibid., p. 611.

3 Ibid., pp. 5437, 5516, 8032; 49th Cong., 2d Sess., 1887, XVIII, pp. 1785-87.
exercise of arbitrary power, whether by unrestrained executive authority or by prejudice impelled legislative enactment, which did not, as time rolled on, bring its own revenges. This bill rudely overrides and sets at naught the eternal, the immutable principles upon which the common rights of men are bottomed. Do you flatter yourselves that you can in impunity trifle with the rights of your fellow men? Do you sacrifice your own sense of right and justice and bend your better judgment to the demands of a false public sentiment, which owes its existence to two unworthy sources--religious intolerance and bigotry--and the arts of unscrupulous, designing, self-seeking men whose only object is the plundering of my people, and hope that you and your posterity will escape the penalty that heretofore has, sooner or later, been visited upon those willfully breaking the unchangeable laws governing the destinies of nations? . . . 1

Caine compared the persecutions of the Mormons with those of the French Huguenots, the English Puritans, and the Catholic Irishmen.

In an effort to illustrate the unfair persecutions suffered by the Mormons, he briefly outlined the history of the Church from its conception to the arrival of the Mormon pioneers in the Salt Lake Valley in 1847. 2 In conclusion, he pled,

. . . Gentlemen, you who have freed from bondage the negro slave, you who love liberty and cherish the institutions of our country, who would bequeath them fair and unsullied to your children, let me plead with you, not to consign my people to such inhuman slavery. 3

1Ibid., 49th Cong., 2d Sess., 1887, XVIII, p. 585. For the complete text of Caine's speech refer to Appendix C.

2Ibid., pp. 585-91.

3Ibid., p. 591.
When the bill was reported to the Senate once more, it was opposed by Senator Call of Florida who objected to the disinheri tance of the children of plural marriages\(^1\) and by Senator Vest of Missouri who objected to the general unconstitutionality of the measure.\(^2\) In spite of numerous protests, the Edmunds-Tucker bill passed the second session of the Forty-ninth Congress and became a law without the signature of President Grover Cleveland on March 3, 1887.\(^3\)

The important provisions of this bill were:

1. That in any proceeding or examination before a grand jury, a judge, justice, or a United States commissioner, or a court, in any prosecution for bigamy, polygamy, or unlawful cohabitation, under any statute of the United States, the lawful husband or wife of the person accused shall be a competent witness and may be called, but shall not be compelled to testify in such proceeding, examination, or prosecution without the consent of the husband or wife.

2. That in any prosecution for bigamy, polygamy, or unlawful cohabitation, under any statute of the United States, whether before a United States commissioner, justice, judge, a grand jury, or any court, an attachment for any witness may be issued by the court, judge, or commissioner, without a previous subpoena, compelling the immediate attendance of such witness.

11. That the laws enacted by the legislative assembly of the Territory of Utah which provide for or recognize the capacity of illegitimate children to inherit or to be

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\(^1\)Ibid., pp. 1900-1903.

\(^2\)Ibid., pp. 1897-98.

\(^3\)Ibid., p. 2667.
entitled to any distributive share in the estate of the father of any such illegitimate child are hereby disapproved and annulled . . .

13. That it shall be the duty of the Attorney-General of the United States to institute and prosecute proceedings to forfeit and escheat to the United States the property of corporations obtained or held in violation of section three of the act of Congress approved the first day of July, eighteen hundred and sixty-two . . . and all such property so forfeited and escheated to the United States shall be disposed of by the Secretary of the Interior, and the proceeds thereof applied to the use and benefit of the common schools in the Territory in which such property may be . . .

20. That it shall not be lawful for any female to vote at any election hereafter held in the Territory of Utah for any public purposes whatever, and no such vote shall be received or counted or given effect in any manner whatever . . .

24. That every male person twenty-one years of age resident in the Territory of Utah shall, as a condition precedent to his right to register or vote at any election in said Territory, take and subscribe an oath or affirmation, before the registration officer of his voting precinct, that he is over twenty-one years of age, and has resided in the Territory of Utah for six months then last passed and in the precinct for one month immediately preceding the date thereof, and that he is a native-born (or naturalized, as the case may be) citizen of the United States, . . . and that he will support the Constitution of the United States and will faithfully obey the laws thereof, and especially will obey the act of Congress approved March twenty-second, eighteen hundred and eighty-two . . . and will obey this act in respect of the crimes in said act defined and forbidden . . .

1 Corporations which were declared dissolved were the Perpetual Emigrating Fund Company and the Latter-day Saint Church.

2 U. S., Statutes at Large, XXIV, pp. 635-41.
For the complete text of the Edmunds-Tucker Law refer to Appendix B.
Moved by the forces of the anti-Mormon crusade, Congress in 1887 passed its last act of anti-Mormon legislation--the Edmunds-Tucker Act. From the time of the passage of the Edmunds law in 1862 antagonists had been busy agitating the country for the passage of more stringent legislation. But, even the 1887 act fell short of satisfying them. It became apparent in the years following 1887 that the anti-Mormon crusaders in Congress and in the Utah Territory had as their primary goal the crushing of the political power of the Mormons and not the destruction of polygamy. To what lengths had the exigencies of the anti-polygamy crusade driven the national government?  

CHAPTER III

CAINE CONTINUED THE FIGHT AGAINST THE ANTI-MORMON CRUSADE

The passage of the Edmunds-Tucker Act failed to satisfy the anti-Mormon group in Congress; consequently, the crusade against the Mormons intensified with each new session. The years 1887-1893 were crucial ones for Utah's delegate John T. Caine as he fought with all the energy he possessed to protect his people from the loss of their political rights. The fact that it was the political power of the Mormons and not polygamy which was being attacked became increasingly clear. Substantiation for this viewpoint can be found in a three-fold program advanced by Congress in 1887-1893. The first component in the congressional strategy concerned the reduction of the territorial elected offices and the corresponding increasement of the appointive power of the territorial governor. The second component grew out of the Edmunds-Tucker Act and was concerned with the escheatment of the Church property to the federal government. Finally, the third component of this plan proposed the disfranchisement of the total Mormon population. Each of these three components will be considered separately to illustrate the congressional effort to crush
the political power of the Mormons and to demonstrate the activities of Caine in his effort to protect the political rights of the Utah citizens.

Component One: Attempts to Limit the Slate of Territorial Elected Officials

The Paddock Bills

Two bills having as their primary substance the appointment by the Governor of Utah of certain county officers previously elective and the reapportionment of the aldermen and councilors of Salt Lake City were introduced in the Senate by Senator Algernon S. Paddock of Nebraska during the first session of the Fiftieth Congress.¹ Both bills were referred to a sub-committee composed of Senators William M. Stewart of Nevada, Charles F. Manderson of Nebraska, and Henry B. Payne of Ohio.² Caine did not make an effort to speak before the sub-committee or to make any public statement concerning these bills for fear such a move on his part would merely add fuel to the already blazing conflagration of anti-Mormon sentiments. He believed that he would stand a better chance of fighting the measures before a house committee if they were passed by the Senate. Caine informed President Wilford Woodruff, of the First Presidency of the Latter-day Saint

¹U. S., Congressional Record, 50th Cong., 1st Sess., 1887, XIX, p. 25.

²Ibid.
Church, that he preferred to work against the bills in private with individual members of the Senate committee and would follow that course unless advised otherwise by President Woodruff.  

The bills failed to garner the necessary support for passage within the committee that session; so, Paddock re-introduced the substance of the bills in the Senate during the first session of the Fifty-first Congress under a new title. The new bill was referred to the Senate Committee on Judiciary, of which Senator George F. Edmunds was the chairman.  

On December 20, 1889, Caine wrote to Edmunds asking him for permission to appear before the committee to present his objections to the bill. When on March 17, 1890, Caine had not yet been invited to speak, he again wrote to Edmunds restating his desire in this issue. Edmunds subsequently relented and allowed Caine to speak before the committee in opposition to the bill.

In his remarks Caine denounced the bill as being un-American and subversive of the traditional ideals of local self-government. Since

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4 Letter from John T. Caine to George F. Edmunds, March 17, 1890, Letterbook V, p. 196.
the early days of the Territory the people of Utah had enjoyed the privileges of self-government in their local affairs. This measure, if passed, would have deprived the people of their control over the assessment and disbursement of taxes, the erection of public buildings, and the construction of roads and bridges. Caine reminded the committee that the governor in 1890 had the power of appointment over the following territorial officers: auditor, treasurer, recorder of marks and brands, librarian, dealer of weights and measures, chancellor and twelve regents of the Deseret University, treasurer of the Deseret University, president and eleven directors of the Deseret Agricultural and Manufacturing Association, seven trustees of the Agricultural College, seven directors of the insane asylum, seven trustees of the reform school, seven members of the Board of Equalization of Taxes, five loan commissioners, the Notaries Public for the entire territory, plus the numerous clerical workers throughout the territory. Therefore, the governor had a large share of the official patronage of the territory according to the existing laws.

Caine, speaking of the dangers in such a situation as the new bill proposed, said in part,

... To control, through his appointees the assessment and disbursement of the taxes, licenses, fines, and other revenues of twenty-five counties of a Territory embracing a population of over two hundred thousand people, with assessable property, based on a very low valuation, of
nearly fifty-two millions of dollars, is a power no man should possess or desire. . . . 1

Under the provisions of the bill the governor would have had the power to appoint the selectmen, probate judges, county clerks, county recorders, assessors of taxes, and the superintendents of schools. It is interesting that while the bill provided for the governor to appoint the assessor who made the assessment of the people's taxes and the selectmen who disbursed the taxes, it permitted the citizens to retain the right to elect the tax collector.

Concluding his views, Caine asked the senators what the object of the proposed legislation was. Then apparently answering his own question, he assumed the reason was to punish the Mormons, particularly the polygamists. But at the same time, the bill would punish all the people living in the territory including Gentiles 2 and monogamous Mormons. While the bill did not directly disfranchise the voters, it was a movement in that direction. Caine observed that for people who exercised the right to vote and to hold office and who had committed no crime an act of Congress depriving them of these rights would be a cruel, unjust, and unusual punishment. 3

1 Speech delivered by John T. Caine in opposition to Senate bill 356 before the Senate Committee on Judiciary (MS on file at the Utah State Historical Society).

2 The term Gentile is commonly used to denote people who are not members of the Latter-day Saint Church.

3 Speech delivered by Caine on Senate bill 356. (MS on file at the Utah State Historical Society).
The Edmunds Bill

Chairman Edmunds reported the Paddock bill adversely from his committee on June 12, 1890, and asked that the bill be indefinitely postponed, to which the Senate concurred. The logic behind such a move by Edmunds was not due to a change of opinion on his part; rather, it was due to the fact that he had introduced his own bill in the Senate upon the subject. Edmunds' bill, which was a more oppressive measure than the previous ones, in addition to authorizing the governor to appoint certain county officers also outlined a new apportionment scheme for members of the Legislative Assembly and provided new, enlarged powers for the Utah Commission. Caine was particularly worried about the provisions concerning the Utah Commission. These provisions, if enacted into law, would have granted the Commission legislative power to prescribe rules and regulations which could have disfranchised the majority of the people residing in the territory.

The first section of the bill authorized the governor, the territorial secretary, and the Utah Commissioners to reapportion the

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2 Ibid., p. 4643.
4 Ibid.
territory for the election of members of the Legislative Assembly. If the object of the first section was to gerrymander the territory in an attempt to deprive the original inhabitants of a fair representation, Caine emphasized it would be a matter of supererogation since, in his opinion, the federal officers in their previous apportionment had indulged in gerrymandering to a high degree. Caine alleged that mining camps of non-Mormons had been lifted up and tossed over the mountains from one county to another and that remote neighborhoods in different counties had been connected to form districts of grotesque and absurd shapes.

Another provision of the bill abolished the registration laws of the territory and substituted for the laws the judgment of the Utah Commission by authorizing it to make new rules and regulations for registration which were subject only to the laws of Congress. Since the only law of Congress on the subject was the form of the registration oath provided in the Edmunds-Tucker Act, the bill seemed to delegate legislative power to the Utah Commission.

Caine believed that the improved political condition in Utah negated the need for such legislation. He mentioned that in 1890 Utah had a population between 225,000 and 250,000. During the years 1885-1890, there had been a large non-Mormon movement into the territory, which had resulted in the Gentiles securing the municipal control of
Salt Lake City and Ogden. In many instances the non-Mormons were electing their candidates. Therefore, Caine maintained that if the reason for the existence of the bill was to restrain the political power of the Mormons, it was not a valid reason.¹

Proof that the non-Mormons feared the political power of the Mormons can be found in a statement by Governor Arthur L. Thomas, who in commenting upon the situation said in part,

. . . The general effect of such a law would be to place in the hands of men loyal to the Government, in every respect, the control of the twenty-five county governments . . . To persons who are acquainted with the situation it seems to be absolutely necessary, that a population be built up in the counties in sympathy with the Government. Today, in the great majority of the municipal subdivisions, the Mormon people are in undisturbed control. If the government ever expects to make a complete and thorough reform it must have here a population in sympathy with that reform . . . ²

When it became clear that the bill to authorize the governor to appoint certain county officers would experience difficulty in being passed by the Senate, Senator Edmunds managed to salvage some of the features of the bill. Through his influence the Senate Appropriation Committee added amendments which provided for the redistricting of the territory and for the reapportionment of the members of the

¹Analysis made by John T. Caine on Senate bill 3823 (handwritten MS on file at the Utah State Historical Society).

Legislature by the governor, the territorial secretary, and the Utah Commission to the Legislative Appropriation bill. ¹ By the means of private correspondence and interviews, Caine attempted to have the amendments defeated. The bill was fought in the Senate by Senator Preston B. Plumb of Kansas who secured the passage of an amendment providing that the election districts should be made as compact as possible. ²

Upon arriving in the House the bill was sent to a Conference on Appropriations composed of Representatives Benjamin Butterworth of Ohio, Joseph G. Cannon of Illinois, and William H. Forney of Alabama. ³ Caine immediately met with each of the conferees to ask their aid in defeating the amendments. Butterworth and Forney agreed to try to have the objectionable clauses stricken out, but Cannon was in favor of their remaining a part of the bill. Earlier the members of the Senate who favored the amendments had said they would not agree to the deletion of the amendments. ⁴ Sensing this, Caine tried a new plan of strategy. He submitted two amendments to the House Conference. The

¹ Telegram from John T. Caine to James Jack, Caine's clerk residing in Salt Lake City, March 1, 1891, Letterbook VI, p. 387.

² Letter from John T. Caine to George Q. Cannon, March 9, 1891, Letterbook VI, p. 401.

³ Ibid.

⁴ Ibid.
First amendment substituted the president of the Territorial Council and the speaker of the House of the last Legislative Assembly of the Territory of Utah for the governor and territorial secretary as the ruling agents in the redistricting and reapportionment of the territory. The second amendment proposed that the board when it had completed its work would file a copy of the record of the redistricting as well as a map of the same with the Secretary of the Interior, who would then submit the results to Congress.

Confronted with these two amendments the House conferees agreed to an amendment which struck out the governor and secretary from the original one and left the actual administration of the work singularly with the Utah Commission. With the Commission alone responsible for the work of redistricting and reapportioning the territory, Caine was satisfied that there would be less danger of corruption because the responsibility would be centralized rather than being divided among three individual administrative bodies. ¹

Just as the previous attempts to deprive the people of Utah of the election of certain of their officials had failed to pass Congress, the Edmunds bill and the amendments to the appropriation bill did not become law. Thus, the first component of the congressional plan failed to achieve its purpose.

¹Ibid., pp. 401-402.
Component Two: The Escheated Church Property Problem

A second serious problem which Caine had to contend with was the matter of the escheated church property. The Edmunds-Tucker Act had commissioned the Attorney-General of the United States to assume the responsibility of instituting and prosecuting proceedings to forfeit and escheat to the United States the property of the corporation of the Latter-day Saint Church. Some uncertainty existed in the minds of congressmen as to the exact method of disposing of the personal property of the Church.

During the second session of the Fifty-first Congress on June 10, 1890, Senator Edmunds introduced a bill to provide for the distribution of the personal property of the Church. His bill proposed that the Secretary of the Interior dispose of the personal property of the church for the benefit of the public schools of Utah. On June 12, 1890, the bill was reported favorably from the Committee on Judiciary, to which it had been referred.

Strongly impressed with the thought that decisive steps should be taken to defeat the escheatment bill, Caine suggested to the First

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2 Ibid.

3 Ibid., p. 5966.
Presidency of the Latter-day Saint Church that a bill might be prepared for introduction in the House as a substitute measure to the Edmunds bill. His plan was to formulate a bill in the same language as the Senate bill up to the point where that bill provided how the property was to be disposed of. At this point, Caine desired to make an alternate suggestion for the property disposal by proposing that the funds should revert to the voluntary religious organization of the Church. For this purpose the Church in its new status was to be considered the legal successor of the late corporation of the Church. The funds would then be used by the organization solely for educational purposes under the control of the Latter-day Saint General Board of Education. Caine realized that neither Congress nor the Supreme Court would be willing to restore the funds to the Church if they believed the funds might be used for propagating the Gospel of Jesus Christ according to the Mormon doctrines. Being uncertain of the best course to follow, Caine asked President Woodruff to have a bill prepared in accordance with the plan he had outlined if the idea met with his approval. ¹

As anticipated, Edmunds secured the passage of his bill through the Senate on June 21, 1890. ² Upon entrance into the House the bill


was referred to the House Committee on Judiciary and thence to a
sub-committee. Caine inquired of President Woodruff if Franklin S.
Richards or Colonel Broadhead would be able to go to Washington to
oppose the bill when it was discussed in the sub-committee. Having a
lack of legal information concerning the Edmunds-Tucker Act, Caine
preferred to have someone trained in the legal arts explain the position
of the Church in the issue.

In looking over some papers concerning the bill in the House
committee room, Caine discovered a letter from Edmunds to E. B.
Taylor, chairman of the sub-committee. The letter was evidently
intended to be a confidential communication for in it Edmunds explained
his purpose in framing the bill and urged Taylor to push it through
rapidly. Edmunds said,

. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .
It might be supposed that the necessity for this
legislation, arises from a slip of the original bill, but it
really did not. In the state of things that then existed in
the Senate and elsewhere, I did not think it wise to
undertake to make a legislative disposition of the personal
funds of the dissolved corporation after all private rights
had been attended to.
I understand from the very best of sources that the
only puzzle with the Supreme Court now is, whether it or
the Supreme Court of Utah are invested with the equity

1Ibid., p. 6464.

2Letter from John T. Caine to Wilford Woodruff, George Q.
Cannon, and Joseph F. Smith, June 28, 1890, Letterbook V, pp.
415-18.
power that the lord chancellor of England in similar cases had as representing the King, *parens patriae*, in respect of the disposition of unclaimed moneys. This bill is intended to cover that point; there being no doubt, as I understand, on the part of any of the members of the Supreme Court, of the right of Congress as a Sovereign power, to provide what the King in the English law has the power to do; that is, to name the uses thought to be most nearly allied to the honest and just intentions of the unknown donors of a fund that is thus adrift . . .

I do hope for the interests of that community and for public morals in general that your committee will early report the bill and put it through . . .

Further evidence of the personal interest expressed by certain federal officials in the bill occurred in July, 1890. Senator Vest informed Caine that one day in the room of the Senate Committee on Judiciary when Edmunds was seemingly intoxicated, he and Edmunds had discussed the church property bill. Vest quoted Edmunds as saying, "Why Brother Vest, that measure was brought to my attention by a member of the Supreme Court, Justice Bradley, who recommended that such a bill should be passed by Congress."  

In answer to the request made by Caine for someone to present the case of the Mormon Church before the House Committee, Colonel

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1 Letter from George F. Edmunds to E. B. Taylor, undated (MS on file at the Utah State Historical Society).

Broadhead appeared and made a strong argument against the bill. On December 11, 1890, the bill came up for consideration before the House. Discussion upon the bill was postponed and the measure was not called up again that session because of a lack of time.

The disposal of the personal property of the Church was not the prevailing thought in the minds of the Mormons in 1890. All attention was centered upon the crisis created by the emergence of the third main effort of Congress to crush the political power of the Mormons in the form of the Cullom and Struble bills.

Component Three: The Threatened Total Disfranchisement of the Mormons Residing in Utah

The concept of the disfranchisement of the Utah Mormons was not new in congressional thought. Its origin lay in the Idaho Test Oath which was enacted by the Legislature of the Idaho Territory in 1884-1885. The expressed purpose of the oath was to disfranchise the Mormons residing in Idaho. When the Supreme Court declared the oath constitutional in the case People v. Samuel D. Davis on February 3, 1890 Mormons everywhere were deeply shocked as they had firmly

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1 Letter from John T. Caine to Heber J. Grant, July 21, 1890, Letterbook V., p. 465.

2 Telegram from John T. Caine to James Jack, December 11, 1890, Letterbook VI, p. 243.

believed such an oppressive measure would be found unconstitutional. This one event ushered in the third part of the congressional strategy to destroy the political power of the Mormons. The Mormons were plagued for many months by the congressional activity in this one aspect of the plan alone.

An event indicative of what the following months were to hold for the Mormons occurred on March 17, 1890. On that day Delegate Marcus A. Smith of Arizona in the House Committee on Territories was making an argument in favor of an enabling act for Arizona when he was asked by the acting chairman of the committee if he would accept an amendment to his bill providing that any future constitutional convention would include a clause in the constitution embodying the test oath. Smith refused to consider such an idea and emphasized that when Arizona came into the Union, it would be on an equal basis with the older states. 1

It had begun to look as though the Idaho Test Oath would be made a prerequisite for all territories in their bids for statehood. Caine feared that the oath would be imposed upon Utah when the right opportunity for doing so came along. Believing that the Republicans for selfish gains were desirous of burdening Utah with disfranchisement he said,

The Mormons disfranchised, the Territory could very easily be secured and brought into the Union as a Republican state. The Republicans seem convinced that they cannot elect the next House and so determined to insure the Senate to be always Republican that they will resort to any means to bring new Republican States into the Union. From all I see and hear I am satisfied that as soon as opportunity presents an effort will be made to impose the Idaho Test Oath upon Utah. . . .

The application of the Idaho Test Oath to Utah was accomplished by Robert Newton Baskin—a rabid anti-Mormon. Encouraged by the sequence of events, he decided the time had arrived to create a similar situation for the Mormons living in Utah; so, he framed a bill for their disfranchisement. Then, accompanied by Governor Arthur L. Thomas and ex-Governor Caleb West, he went to Washington to secure the introduction of his bill in Congress. Caine, concerned with the presence of this cryptic party in the national capital, tried to discover the pertinent reason for their presence. He asked Baskin why he had made the trip to Washington, but Baskin would not reveal this information.


All uncertainty was removed from Caine's mind on April 11, 1890, when Senator Cullom introduced Baskin's bill in the Senate. 1

Because Cullom introduced the bill, it has become known in Utah history as the Cullom bill.

The bill provided that anyone living in a polygamous relationship teaching, advising, or encouraging the practice of polygamy, or anyone who belonged to, contributed to, or gave encouragement to any organization sponsoring polygamy was to be denied the right to vote, to serve as juror, or to hold any office in the Territory of Utah. 2

The intent of the bill was definitely to disfranchise members of the Mormon Church in Utah. A test oath was incorporated within the bill which said in part,

. . . That I am a married man and that my lawful wife is ___________________________; that I will support the Constitution of the United States, and will faithfully obey the laws thereto; that I will especially obey the acts of Congress prohibiting polygamy, bigamy, unlawful cohabitation, incest, adultery and fornication; that I will not hereafter at any time, within any territory of the United States, while said acts of Congress remain in force, in obedience to any alleged revelation or to any counsel, advice, or command from any person or source whatever, or under any circumstances enter into plural or polygamous marriage or have or take more wives than one, or cohabit with more than one woman; that I will not, at any time hereafter, in violation of said


2 Journal History, April 11, 1890, p. 7. (DEN, April 11, 1890).
acts of Congress, directly or indirectly, aid or counsel or advise any person to take or have more wives than one, or to cohabit, incest, adultery, or fornication; that I am not a bigamist or polygamist; that I do not cohabit polygannously with persons of the other sex, and that I have not been convicted of any of the offenses above mentioned; that I am not a member of and do not contribute to the support, aid or encouragement of any order, organization, association, or society, which teaches, advises, counsels, encourages, or aids any person to enter into bigamy, polygamy, or such patriarchal or plural, or celestial marriage, or which teaches or advises that any such law as aforesaid is not supreme, or that any alleged revelation on the subject of such marriage is paramount to any such law or any of the doctrines, tenets, teachings or instructions of which or any alleged revelations, which require, encourage, advise, authorize, or instruct any person under any circumstances to enter into or practice the relations of bigamy, polygamy, or plural, patriarchal, or celestial marriages; or in which the solemnization of ceremonies of bigamy, polygamous, plural, patriarchal or celestial marriage is authorized, performed or provided for; or in which any person in any way is assisted, aided or abetted in the solemnization of ceremonies of any such marriage or in which any party participating in the solemnization of ceremonies of any marriage is bound to secrecy regarding the same under any oath, obligation, covenant, penalty, or promise. 1

Upon learning of the Cullom bill Caine contacted Judge Jeremiah M. Wilson, a legal consultant, in order to determine the most beneficial course to follow. It was debatable whether Caine should exhibit active and open opposition or if he should feign indifference and work through the means of quiet opposition. The entire test oath proposition had recently been discussed before both the

1 Ibid.
Senate and the House in the debates on the admittance of Idaho into the Union. 1 Caine was of the opinion that everything with respect to its objectionable features had already been expressed in the halls of Congress. 2

On April 11, 1890, Representative Isaac S. Struble of Iowa introduced a copy of the Cullom bill into the House. It was referred to the Committee on Territories 3 of which Struble was chairman. The committee considered the bill on the sixteenth of April and amended it by strict party vote—the Democrats opposing and the Republicans favoring—to make it applicable to all the territories. During the discussion within the committee Delegate Fred T. Dubois stated that at the last conference of the Latter-day Saint Church it had been declared that there would be no further revelation received by the Mormon Church on the subject of polygamy. He thus argued that if this were true it must mean that polygamy was to be a permanent doctrine. When his statement was disputed, Dubois claimed to have official documents

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1 See the Congressional Record, 50th Cong., 1st Sess., 1888, XIX, pp. 7950-53 for Caine's August 25, 1888 speech, "Polygamy is a Dead Issue."

2 Letter from John T. Caine to Wilford Woodruff, George Q. Cannon, and Joseph F. Smith, April 12, 1890, Letterbook V, pp. 268-70.

to verify his remarks. 1 Caine was able to defer further action upon
the measure for a week so Judge Wilson and others could argue against
it. 2

The Struble bill was again discussed by the house committee on
April 23, 1890, when an adroit speech against it was delivered by
Caine. In the course of his remarks he said,

... It is a new departure in anti-Mormon legislation,
and is palpably in conflict with the avowed views of those
members of the Senate and House of Representatives who
advocated the former anti-polygamy act ... 3

Caine based his argument on the premise that Congress in the Edmunds
Act and the Edmunds-Tucker Act had been concerned with the
suppression of the practice of polygamy and not the Mormon religion. 4
Three days later Judge Wilson presented an argument against the bill
wherein he said, "stripped of its serpentine verbiage, it is simply a
bill to disfranchise all the members of the Mormon Church." 5

While the controversy over the Struble bill was occurring,
members of the Utah Commission arrived in Washington. A meeting,

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1 Journal History, April 16, 1890, p. 8. (DEN, Apr. 16, 1890). The publication of the Woodruff Manifesto would seem to dispute this remark by Dubois.


4 Ibid. See Appendix D.

5 Ibid., pp. 730-31.
attended by Governor Thomas; ex-Governor West; Commissioners Godfrey, Robertson, and Saunders; Baskin; Dubois; Struble; and other members of the House Committee on Territories, was held to discuss the disfranchisement bill. Struble pledged himself to support the measure. Caine alleged in a private letter to President Woodruff that Struble was anxious to make political capital out of his role in the movement to break the political power of the Mormons. In Caine's opinion, Struble had seen in the disfranchisement scheme an opportunity to gain a national reputation.¹ Criticising Struble and the 1890 congressmen in general, Caine said,

"... To what depths we are sinking when statesmanship can rise no higher than selfishness. A person who would sacrifice the liberties of a whole people to gain personal notoriety is unworthy the name of man; but of just such men is the Congress of The United States composed ..."²

Convinced that the cause of Utah could best be served by the pressure of the business interests, Caine wrote to President Woodruff to ask his aid in this project. He said,

"... My idea is that if some of our brethren whom this measure proposes to disfranchise could secure through business relations letters of introduction to prominent men either in the House or Senate, by making the matter a personal one they might arouse the sympathies of those...

¹Letter from John T. Caine to Wilford Woodruff, George Q. Cannon, and Joseph F. Smith, April 30, 1890, Letterbook V, pp. 299-300.

²Ibid., p. 300.
appealed to in a way which probably no other means would reach. Our businessmen should make a strong and earnest appeal to the firms of whom they purchase goods, to have them use their influence with the members of Congress from their respective districts to defeat this measure . . . 1

Therefore, Caine believed that the way to defeat the bill was to prevent its coming up in the House.

On April 28, 1890, by strict party vote with the democratic minority opposing, the house committee ordered the favorable report of the disfranchisement bill. 2 The following day it was reported and referred to the house calendar. 3

Meanwhile, the identical measure in the Senate had been referred to the Senate Committee on Territories 4 which agreed to report the bill favorably in June, 1890. 5 However, neither the Cullom nor the Struble bill was destined to become law. A series of events commencing in the summer of 1890 culminated in the dramatic issuance of the famous "Woodruff Manifesto" which officially discontinued the practice of polygamy by the Mormon Church. But the mere existence of these bills

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1 Ibid., pp. 301-302.

2 Telegram from John T. Caine to James Jack, April 28, 1890, Letterbook V, p. 292.


4 Ibid., p. 3227.

5 Ibid., p. 6654.
had served as a warning to the Church leaders. It had become evident after 1882 in the face of the crusade that the Church would have to yield its principles. The crucial question was how long the Latter-day Saints could persist in their struggle for the right to practice plural marriage. By 1890 the Church leaders realized that the Church was powerless to quell the rash of federal anti-Mormon legislation. Church members were suffering imprisonment; the Church property had been escheated to the federal government; and the Mormons were threatened with total disfranchisement.

Baskin maintained that the knowledge of a future prohibition of polygamy by the Church encouraged Cullom and Struble to delay further action upon the bills. He said,

... I was informed by Senator Cullom that he had been assured by a delegation of prominent Mormons, that if further action on the bill was delayed for a reasonable time, the practice of polygamy would be prohibited by the Mormon Church, and that the delegation had requested that further action on the bill be temporarily delayed. The same assurance was given to Mr. Struble, and the request for delay was granted, but with the express understanding that if polygamy was not prohibited within a reasonable time vigorous steps would be taken to procure the passage of the bill ...  

It is an historical fact that George Q. Cannon and Frank J. Cannon had been in Washington to plead the cause of the Mormons

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1Baskin, op. cit., p. 184.
against the disfranchisement bills. 1 Frank J. Cannon appeared before both the Senate and the House Committees on Territories. After trying unsuccessfully to secure an interview with Edmunds, Cannon called upon James G. Blaine who promised him he would see if he could aid the Mormons. Speaking of the work accomplished by Cannon without specifically defining what this work was Caine said, "His argument made a most excellent impression upon all who heard it, and did much to defeat the efforts of the friends of the bill in the Senate." 2 The question of whether or not the substance of the manifesto was revealed to congressmen prior to its official announcement in September, 1890, is still open to investigation. The role of Caine is likewise uncertain.

Nevertheless, the Manifesto issued on September 25, 1890, 3 by the President of the Latter-day Saint Church provides for the abandonment of polygamy. It read as follows:

To whom it may concern:

Press dispatches having been sent for political purposes, from Salt Lake City, which have been widely published, to the effect that the Utah Commission, in their recent report to the Secretary of the Interior, allege that

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1 Letter from John T. Caine to Wilford Woodruff, George Q. Cannon, and Joseph F. Smith, June 17, 1890. (MS on file at the Church Historian's Office).

2 Ibid.

plural marriages are still being solemnized and that forty or more such marriages have contracted in Utah since last June or during the past year, also that in public discourses the leaders of the Church have taught, encouraged and urged the continuance of the practice of polygamy—

I therefore, as President of the Church of Jesus Christ of Latter day Saints, do hereby, in the most solemn manner, declare that these charges are false. We are not teaching polygamy or plural marriage, nor permitting any person to enter into its practice, and I deny that either forty or any other number of plural marriages have during that period been solemnized in our Temples or in any other place in the Territory.

One case has been reported, in which the parties allege that the marriage was performed in the Endowment House, in Salt Lake City, in the spring of 1889, but I have not been able to learn who performed the ceremony; whatever was done in this matter was without my knowledge. In consequence of this alleged occurrence the Endowment House was, by my instructions, taken down without delay.

Inasmuch as laws have been enacted by Congress forbidding plural marriages, which laws have been pronounced constitutional by the court of last resort, I hereby declare my intention to submit to those laws, and to use my influence with the members of the Church over which I preside to have them do likewise.

There is nothing in my teachings to the Church or in those of my associates, during the time specified, which can be reasonably construed to inculcate or encourage polygamy; and when any Elder of the Church has used language which appeared to convey any such teaching, he has been promptly reproved. And I now publicly declare that my advice to the Latter-day Saints is to refrain from contracting any marriage forbidden by the law of this land.¹

Although President Woodruff sent a copy of the manifesto to Caine prior to his official pronouncement, Caine did not receive it before the declaration appeared in the Washington newspapers.

¹The Doctrine and Covenants, op. cit., pp. 256-57.
Disturbed over this unfortunate circumstance Caine wired the following message to President Woodruff:

Your manifesto published in full in papers here. Copy sent me not received at Washington Office till eleven sixteen Wednesday night, delivered to me eight thirty Thursday morning after I had read it in the Washington Post. Had I been advised of its coming would have been on look out for it and furnished copies to agents of all press associations simultaneously. They would not however send it out after it had appeared in papers of their rival, the Associated Press.¹

Thus, an opportunity to widely publicize the manifesto had been missed because Caine was not properly informed. However, the fact that Caine did not know of its forthcoming seems to dispute the comments of Baskin in his allegation that the Manifesto was in the process of formulation much earlier than September, 1890, and also to dispute the idea that Caine knew about it earlier.

On October 6, 1890, at the General Conference of the Latter-day Saint Church Lorenzo Snow voiced the following motion:

I move that, recognizing Wilford Woodruff as the President of the Church of Jesus Christ of Latter-day Saints, and the only man on the earth at the present time who holds the keys of the sealing ordinances, we consider him fully authorized by virtue of his position to issue the Manifesto which has been read in our hearing, and which is dated September 24th, 1890, and that as a Church in General

¹Telegram from John T. Caine to James Jack, September 26, 1890, Letterbook VI, p. 160.
Conference assembled, we accept his declaration concerning plural marriages as authoritative and binding. 1

The vote to sustain the motion was unanimous. Thus was issued and ratified the famous manifesto suspending the practice of polygamy by the Mormons. As would be expected, the announcement of the abandonment of polygamy was an unwelcome event for the anti-Mormons in the territory. Caine was certain they would still exert pressure for the enactment of the disfranchisement bills by using the argument that the Mormons were controlled in their political affairs by the Church authorities. 2

But, the tide in national sentiments was changing. Neither the Cullom nor the Struble bill became law; therefore, the third component of the congressional plan to destroy the political power of the Mormons failed in its intent. Although the issuance of the "Woodruff Manifesto" was the primary reason for the salvation of the Mormons from total disfranchisement, the valuable public relations work achieved by and under the guidance of Delegate Caine contributed to this outcome. 3

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1 Doctrine and Covenants, op. cit., p. 257.

2 Letter from John T. Caine to George D. Miller, October 26, 1890, Letterbook VI, p. 190.

3 In 1893 a presidential amnesty was enacted into law pardoning the Mormons for their offenses in connection with the practice of polygamy.

For the complete text of this proclamation refer to Appendix E.
CHAPTER IV

CAINE AND THE STATEHOOD MOVEMENT

The Utah question assumed a new phase in 1887 when the people of the Utah Territory attempted for the fifth time since 1849 to secure statehood. The 1887 movement has special significance for two reasons. First, the constitutional convention, which was composed entirely of Mormons, formulated an organic act providing severe penalties for the practice of bigamy and polygamy. Second, John T. Caine, the chairman of the convention, was the principle advocate of the movement.

The first attempt for statehood occurred in 1849 when the State of Deseret sought admission into the Union. But Deseret was denied admittance and organized as the Utah Territory in 1850 instead. Statehood was sought on three separate occasions from 1850 until 1887. In the intervening years Congress passed laws which disfranchised all polygamists and female voters of the territory. Therefore, it was the monogamous male Mormons who issued the call for the 1887 constitutional convention.  

1"Utah and Statehood, Objections Considered, Simple Facts Plainly Told, With a Brief Synopsis of the State Constitution," by a resident of Utah, Utah Pamphlets, LXXVII, p. 1. (Located at the University of Utah).
The 1887 Statehood Movement

On June 16, 1887, the People's Party\(^1\) issued a call which encouraged the people of Utah, irrespective of their party affiliation or creed, to assemble in mass conventions in their respective counties on June 25, 1887, to appoint delegates to attend a constitutional convention to be held in Salt Lake City on June 30, 1887.\(^2\) Special invitations were sent to the chairmen of the Democratic and Republican Territorial Committees and to the president of the Democratic Club. Joseph B. Rosborough, Chairman of the Democratic Territorial Committee, received the following invitation:

"Salt Lake City, Utah
June 17, 1887

"J. B. Rosborough, Esq.,
"Chairman Central Committee Democratic Party of Utah

"Dear Sir:

"The territorial central committee of the People's Party, considering that the time is propitious for an application for admission into the Union of the Territory of Utah has called mass conventions to be held in the several counties June 25, to nominate delegates to a constitutional convention to be held in this city June 30, 1887. It is desired that this movement be made as general as possible, and that all classes of the people of the Territory shall

\(^1\)The People's Party was the dominant political party in the Utah Territory and was composed of members of the Latter-day Saint faith.

participate in it. We therefore solicit the co-operation of the Democratic Party of Utah, and through you as its chairman we respectfully invite your committee and your party to take an active part in the mass conventions, and to assist in the nomination of delegates to the constitution convention with the understanding that if you accept this invitation your party shall be accorded a fair representation in the convention.

"By order of the People's Territorial Central Committee.

"John R. Winder, Chairman
"Junius Wells, Sec."  

Rosborough replied to the invitation by declining the proposal. He said that the committee by giving the Democratic Territorial Committee only one week in which to prepare itself for the convention made it impossible for it to unite with the People's Party in petitioning for statehood.

In addition, he outlined six reasons why he felt that the time was not right for the admission of Utah as a state. These six reasons were: (1) Utah as a theocracy could not be trusted to perpetuate the ideals of republicanism. (2) The union of the Church and state would cause the failure of the movement in Congress. (3) The admission of Utah as a state would only enlarge and increase the bitterness between the political groups in the territory. In this connection, Rosborough said,

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If clothed with the powers of a sovereign state, an organization which has defied the laws of states and waged a contest with the government of the United States in opposition to its laws, and in disregard of decisions of the Supreme Court, with the limited powers of a territory, can not be trusted to forego the use of those largely increased powers in the same direction and in such manner and spirit as must necessarily lead to collision with the Federal Government.

(4) The idea was too hasty for there had been no enabling act, no discussion, no formal election of delegates, and no popular demand for such a move. Rosborough declared,

. . . In view of the history and conditions of Utah in its political relation to the Federal Government and the spirit of opposition to its laws, if there ever was a reason for an enabling act according to the usage, in any instance, this territory presents the most conspicuous case for such a prerequisite.

(5) There was little assurance that the powers of a state government would not be perverted and abused by unfriendly legislation and administration. Rosborough feared that minority groups would be driven out of Utah if statehood was gained. (6) He felt that the entire movement was premature and doomed to failure. In summary, the chairman of the Democrats said,

. . . Considering that a compliance with your invitation to co-operate with your party in the proposed step would lend to it the specious appearance of being a spontaneous

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1 Ibid., p. 32.

2 Ibid.
movement originating with the people at large, including all classes, we prefer to leave its management and fortunes to you alone, pending the unsettled contest between your party and the Government, while we appeal to the sense and magnanimity of the nation to avert what we sincerely believe would under existing circumstances and conditions here, prove a ruinous calamity . . .

The non-Mormons responded in such a manner because they were distrustful of the entire movement and of the sincerity of the Mormons in proposing it. Certainly, some of the Gentiles disliked the mere fact that the entire proceeding had been carried out by the dominant party of the territory.

In spite of the remonstrances of the non-Mormons the People's Party went ahead with its plan to hold mass meetings in the various counties on the twenty-fifth of June. At this time the delegates to the constitutional convention were selected. As earlier noted, only members of the People's Party, or Mormons, were in attendance although all citizens had been invited to join in the meetings.

The constitutional convention met as planned on June 30, 1887, at the City Hall in Salt Lake City and remained in session over a week.

Sixty-nine delegates representing every county in the territory with the

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1Ibid., p. 33.


3Ibid., Minority Report, p. 35.
exception of Garfield and Rich counties were present. In the first
order of business John T. Caine was selected chairman of the
convention.

The constitution drawn up by the delegates was adopted by the
convention on the seventh of July. Two sections of this constitution
were remarkable because of the provisions contained within them.

They were as follows:

Section 3 (of Article I) There shall be no union of Church
and State, nor shall any church dominate the State.

Section 12 (of Article XV) Bigamy and polygamy being
considered incompatible with a 'republican form of
government,' each of them is hereby forbidden and
declared a misdemeanor.

Any person who shall violate this section shall, on
conviction thereof, be punished by a fine of not more
than $1,000 and imprisonment for a term of not less
than six months nor more than three years, in the
discretion of the court. This section shall be construed
as operative without the aid of legislation, and the
offenses prohibited by this section shall not be barred
by any statute of limitation within three years after the
commission of the offense; nor shall the power of pardon

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1U. S., Congress, House, Memorial of the Constitutional
Convention of Utah, Miscellaneous Documents No. 104, 50th Cong.,

2The minutes of the 1887 constitutional convention have been
lost. If they were available for research, the exact role of Caine in
the convention could be clearly defined.

3U. S., Congress, House, op. cit., p. 3.

extend there to until such pardon shall be approved by the President of the United States.

Furthermore, Article XVI provided that section twelve of Article XV could not be amended until the proposed amendment had been submitted to Congress, approved and ratified by Congress, and approved by the President.

Immediately following the acceptance of the new constitution by the convention, a committee asked the Utah Commission to take charge of the election for the adoption or rejection of the constitution by the legal voters at the next general election on August 1, 1887. The Commission responded by disclaiming any express legal authority to take any official action; but whereas, the constitution contained prohibitions of the practice of bigamy and polygamy as well as the union of Church and State, it expressed a willingness to recommend to the judges of the election that they might receive all the ballots which were cast by the qualified voters on the issue, canvass the vote, and return the results to the convention officials.

At the general election on August 1, 1887, 13,195 votes were cast in favor of the constitution with 502 votes cast against it. Of the

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1*U. S., Congress, House, op. cit., p. 3; 11.

2Ibid., p. 11.

Refer to Appendix F for the complete text of the Constitution.

3*U. S., Utah Commission, Minority Report, 1887, p. 35.
502 negative votes cast, it was estimated that about one-half had been

cast by Mormons. This is an indication of the degree to which the

non-Mormons had determined to remain aloof from the entire issue. 1

Post-election reactions among the Gentiles in Utah were varied.

Many of them claimed that the anti-polygamy movement among the

Mormons was a "sham." The comment made by Commissioners G. L.

Godfrey, A. B. Williams, and Arthur L. Thomas in their majority

report to the Secretary of the Interior is typical of the sentiments of

certain Gentiles, who feared the achievement of statehood in 1887.

Objecting strongly to the admission of Utah, they said,

......

That the action taken is without authority from the proper
source and not entitled to any recognition, and is
accompanied by many, and strong evidences of evasion
and bad faith in professing an abandonment of polygamy
and the accompanying social evils, with the intent to
acquire statehood, and without any intent to restrain and
punish such offenses, but merely to intrench them behind
statehood; that the historical attitude of the great body of
the people towards the laws on the subject had not changed
down to the eve of calling the convention, and that until
then the Mormons, their press and pulpits, had not ceased
to declare the laws of Congress unconstitutional and their
enforcement persecution ... the hostility to the
enforcement of existing laws and Federal authority was
still as active and general as before ... there had been
no evidence of any struggle or contest between the
polygamists and monogamists, but all have acted with the
greatest harmony ... 2

1Ibid.

2Ibid., Majority Report, 1887, pp. 21-22.
These three commissioners were of the opinion that Utah should not be admitted into the Union until such time as the Mormons by their actions showed they had abandoned polygamy. ¹

Proof that the sentiments of the Gentiles were varied on the subject of statehood can be found in the mere existence of the majority and minority reports of the Utah Commissioners in 1887. A. B. Carlton and John A. McClernand could not concur with the majority report of their fellow commissioners. Thereupon, they filed a minority report in which they denied the accusation made by the other commissioners that the anti-polygamy movement on the part of the framers of the constitution was merely a sham. They concluded after investigating the matter that,

... Whatever may be their motives, and whether they are influenced by choice or necessity, the generality of the monogamous Mormons have deliberately and wisely resolved that their highest earthly interests, the prosperity and happiness of themselves and their posterity, and the avoidance of the odium which attaches to them throughout the civilized world, demand that polygamy shall be abolished...²

Reactions to the new constitution were not confined to the Utah Territory. The Syracuse, New York, Standard said,

Delegate Caine and the other smart Saints are trying to outwit the whole Yankee nation. Probably they will not

¹Ibid.
²Ibid., Minority Report, 1887, p. 36.
succeed. Their game is to put down polygamy by promise, and reform their morals by an article in the constitution, while they go on living with their second, third, and fourth wives. Being a practical lot of people, the Americans are more likely to observe what the Mormons are doing than hearken to what they are saying; more likely to heed their behavior than their professions; and to ask whether all this scouring of the outside of the platter is accompanied by equal ardor in the purification of the inside. 1

The Philadelphia, Pennsylvania, Ledger remarked,

. . . The sudden conversion of the Mormon leaders, exhibited by their willingness to adopt a constitution prohibiting bigamy and polygamy in order to have Utah admitted into the Union as a State, naturally arose suspicion as to their good faith. At present Utah is governed in the effort to suppress polygamous practices from Washington; but if Utah should be admitted as a State, the Mormons being in the ascendency, would have the execution of the laws without any troublesome interference by outside Gentiles, in the shape of United States Judges and court officers. It is a very pretty scheme, and might have worked if the polygamous Mormons had not made the mistake of resisting the Edmunds law so strenuously so as to make their present apparent conversion incredible. This present enterprise, however, is not the first offer to submit polygamy to the tribunal of a public election. 2

The Advancement of Utah’s Claim for Statehood in Congress

In December, 1887, a delegation composed of Franklin S. Richards, Edwin G. Woolley, William W. Riter, and John T. Caine

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1 Standard (Syracuse, New York), July 8, 1887, n. p. (newspaper clipping on file at the Utah State Historical Society)

2 The Ledger (Philadelphia, Pa.), July 9, 1887, n. p. (newspaper clipping on file at the Utah State Historical Society)
left Salt Lake City for Washington to present a memorial for statehood to Congress. This memorial which was drafted by Caine and adopted by the convention in an October meeting, presented in explicit terms the case of Utah in desiring statehood. It read as follows:

To the President and the Senate and House of Representatives of the United States of America in Congress assembled:

GENTLEMEN: For the fifth time the people of Utah present to your honorable body a constitution providing for a republican form of government, and respectfully ask admission into the Union as a free and sovereign State.

Your memorialists are delegates in a constitutional convention, chosen by the people of this Territory in mass meeting, to which all citizens of every party were publicly invited. The constitution presented herewith was framed by your memorialists with a desire to effect a political settlement of the questions which have heretofore interposed, as the sole objections, when Utah has applied for the rights and privileges of statehood.

Under recent acts of Congress no person practicing polygamy can vote or hold office in this Territory. Your memorialists are registered voters, and the constitution which they adopted on 7th day of July, 1887, was ratified at the general election, August 1, 1887, by a popular legal vote of 13,195, only 502 voting against it. The total number of votes cast at the same election for precinct and county officers and members of the Legislative Assembly was 16,640. This shows a balance of 2,943 who refrained from voting on this question; the voters of the minority party having been so directed, openly, by their political leaders, who do not favor any movement for the removal of those disabilities which are common to the Territorial system, unless likely to be specially favorable to them.

The number of the voting population has been considerably reduced by the operations of Congressional statutes. The act of March 22, 1882, disfranchised all polygamists. The act of March 3, 1887, excluded all women from the polls. The test oath prescribed by the same law was so distasteful to many persons of all classes who were
otherwise qualified that they abstained from registration. And, as only registered voters could cast their ballots at the general election, for or against the constitution framed by your memorialists, the total vote in favor was under the circumstances, remarkably large.

The people who have adopted and ratified this constitution are law-abiding citizens of the United States. They have not violated any law of Congress. The special provisions they have framed in reference to practices condemned by the popular voice were made in good faith, and so worded that they are practically unrepealable. In these Congress has not imposed unusual requirements upon a new State, but the people have placed these restrictions upon themselves in order to meet prevailing objections and secure political harmony with the existing States. In doing this they consider they have but exercised a reserved and constitutional right. If Utah shall be admitted into the Union, these provisions will be strictly and fairly enforced.

Your memorialists have no hesitation in stating that almost the entire population of Utah are desirous of becoming fully identified as a State with the institutions of this great Republic and taking part in national affairs as loyal and peaceable citizens. They have demonstrated their fitness for the duties, responsibilities, and privileges of statehood. They are thrifty, temperate, industrious, intelligent, and progressive. They form a vigorous stable, and permanent community, out of debt and ready to move forward in step with existing States.

The Territory has a population of not less than 200,000. Her wealth, exclusive of mines, which are untaxed and represent unknown millions, aggregates not less than $150,000,000. Her resources, products, interests and prospects are conceded by all to be amply sufficient to sustain a State government, and have so frequently been presented to Congress and the nation, with statistics, that we deem it unnecessary to detail them in this memorial. The soil, irrigated by mountain streams, diverted through canals and ditches over large areas once a desert, brings forth grain and fruit in rich abundance. Cattle and sheep roam upon a thousand hills and supply both home and foreign markets. Her woolen and other manufactories have become famous for their honest and useful products. Factories and workshops supply labor to skilled and common artisans, who are content with reasonable wages and among whom
strikes and troubles with capital have hitherto been unknown. The necessities and many of the luxuries of life are abundant and cheap. Minerals of all kinds, abound within her borders, and the mining output aggregates from $7,000,000 to $10,000,000 annually. A part from the precious metals there are valuable deposits so varied in character and immense in quantity as to afford in themselves material for untold wealth. These await but the touch of the capital that a settled condition will draw to Utah, to be brought forth for the benefits of her people and the enrichment of the nation. The great railroads which already have their termini in or near her capital city, with others in process of construction, place her people in easy communication with the rest of the country and facilitate commercial relations. The telegraph, the telephone, the electric light, and other modern improvements are utilized extensively by her citizens. Her business status and reputation in the great centers of trade are unimpeachable. Her taxes are phenomenally low, and her internal affairs have been honestly and economically conducted. Her school system, with the best textbooks used in the foremost schools of the country, provide strictly secular education for the children in every city and settlement. Her school statistics bear very favorable comparison with even the older States. Nothing now stands in the way of her march to that proud position to which everything just and natural points as her destiny but those political disabilities which only statehood can remove.

We appeal to your honorable body to regard the wishes of a people who earnestly desire to aid in promoting the welfare and glory of the Union, and who, from the day their pioneers first unfurled the stars and stripes, on this then Mexican soil, have looked forward to that time when they could enter the Union as a State, as guaranteed to them in common with the other residents on the territory acquired by the treaty of Guadalupe Hidalgo.

We ask that the constitution of the new proposed State of Utah shall receive the close and impartial attention of your honorable body. It guaranties a republican form of government. It provides for equal rights and privileges before the law to citizens of all parties, creeds, and conditions. It is broad and liberal and contains the best provisions to be found in other State constitutions. It meets the demands that have been made upon the majority of the
people of Utah when they have previously asked admission into the Union. What more can be required of any people?

The admission of Utah will relieve the Government of a question that has troubled it for a quarter of a century, and remove it from national to local regulation, where it properly belongs. It will add one more star to the national galaxy, increase the strength of the Union, save the country many thousands of dollars annually, and bind to the interests of the nation a body of honest, patriotic and grateful people, who will be found, when the mists of misrepresentation and prejudice are cleared away, to be a community of which any government might be proud.

We ask for a 'republican form of government,' and we ask that it be given us now. For nearly forty years Utah has been pleading for statehood. Shall a deaf ear be still turned to her entreaties? We hope for better things. In behalf of the great majority of the people of Utah, we submit that having broken no law we should not be deprived of our liberties on account of objections raised against others. We ask for justice and a fair consideration of our cause, with the solemn pledge that Utah as a State will be faithfully devoted to true republican principles, and to the interests and welfare of the Government of the United States; and your memorialists will ever pray.

Adopted in convention at Salt Lake City, Utah Territory, on the 8th day of October, A. D. 1887, by unanimous vote, and ordered to be signed by the president and secretary.

John T. Caine, President.
Heber M. Wells, Secretary. ¹

On December 19, 1887, after the memorial and the constitution had been presented to the Senate,² the issue came up for discussion.

Senator Wilkinson Call of Florida presented a resolution that the

¹U. S., Congress, House, op. cit., pp. 1-3. Evidence strongly suggests that Caine was the author of the draft of the memorial for there is a copy in his handwriting on file at the Church Historian's Office.

memorial be printed in the *Congressional Record*. ¹ Senators Edmunds and Paddock objected inferring that the memorial might contain disrespectful remarks. In the ensuing debate Call read the memorial to illustrate that it was entirely respectful, and in this manner he insured its publication as a part of his speech. Having gained what he desired, he withdrew his resolutions. ² In reporting this incident to President Woodruff, Caine compared the mention of Utah to the flaunting of a red flag before a wild bull. He said "The anti-Mormon Republicans were all up in arms as though the printing of the memorial was going to endanger the whole country." ³

The Caine Bill for the Admission of Utah

A bill for the admission of Utah was introduced in the House by Delegate Caine on January 10, 1888. The bill was read by title and referred to the Committee on Territories with the order that it be printed. ⁴ At the same time, Senator M. C. Butler of South Carolina, encouraged by Caine, introduced a duplicate bill in the Senate. ⁵

¹Ibid., p. 89.

²Ibid., p. 118.

³Letter from John T. Caine to Wilford Woodruff, George Q. Cannon, and Joseph F. Smith, December 31, 1887, Letterbook I, p. 36.


⁵Ibid., p. 2136.
During the latter part of January, 1888, Caine received an intimation from a friend that William M. Springer, Chairman of the House Committee on Territories, was considering referring the Utah bill to a sub-committee. ¹ Caine saw Springer and informed him that if this was his intention, he wished to suggest some members for the sub-committee. Springer assured Caine he would not do anything concerning this matter until he had first consulted with Caine.²

Meanwhile, in the Senate during a meeting of the sub-committee to which the memorial and constitution had been referred, Senator William M. Stewart presented a report filled with bitter anti-Mormon statements which denounced the entire state movement as being an insincere action on the part of the Mormons. The democrats led by Senator Butler opposed the idea of taking any additional action upon the matter until someone representing Utah could be heard by the committee in refutation of the charges. The democrats, being united on this issue, forced the republicans to concede the point. Thus, Senator Orville H. Platt of Connecticut wrote to Caine inquiring if any of the Utah men in Washington desired to speak before the senate committee in behalf of

¹ Earlier Caine had appraised Representative Springer as a man who professed to be a friend of the Utah people, but who could not live up to his words. (Letter to Wilford Woodruff, George Q. Cannon, Joseph F. Smith, January 7, 1888).

the admission of Utah. Originally, the committee desired to hold the hearing within a few days, but Caine was able to prevail upon them to postpone the hearing until February so he would have sufficient time for preparation.

Caine immediately contacted the Church leaders because he realized that whoever appeared before the committee would be closely questioned as to the intentions of the Mormon people to abandon polygamy. Since the committee was composed of able lawyers, the speaker had to be well prepared with full and frank explanations. After carefully explaining the situation to the Church leaders, Caine said, "We want to know from you how far we would be justified in going in that direction."¹

The hearing took place on February 18, 1888, with Franklin S. Richards opening the argument by presenting the general facts on the matter and urging favorable action upon the bill by the Senate. Then Delegate Dubois, Senator Paddock, and others countered with the argument that the Mormons were not sincere in their anti-polygamy statements.² Commenting upon the action of Dubois, Caine remarked,

... I do not believe that Dubois made a favorable impression upon the committee; his swaggering and


ungainly manner, with his mouth full of tobacco was anything but pleasing. While his exaggerations and palpable falsehoods must have been apparent even to prejudiced minds . . . 1

To allow the opposing side time to be heard in full, the hearing was held over until the tenth of March. At that time Judge Jeremiah M. Wilson, a paid legal consultant for the Utah Delegate, made the closing argument in favor of statehood. Dubois and Paddock again opposed the admission of Utah. 2 While the hearing was taking place, a sensation was created in the Senate when a huge petition against Utah's admission, which was signed by 102,762 names representing thirty-three states and territories, was introduced. The petition had been circulated by the Presbyterians through the Women's Home Mission Society. 3

Senator Cullom reported the memorial and constitution back to the Senate on the twenty-sixth of March and asked that they be discharged from any further consideration. He also reported three resolutions unanimously adopted by the committee, which stated that Utah ought not be admitted as a state until her people abandoned polygamy completely and until it was evident that the civil affairs of the territory were no longer in the hands of the Church leaders. These resolutions read as follows:

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1Ibid., p. 257.


3For the petitions presented against the bill see Congressional Record, 50th Cong., 2d Sess., 1888, XX, pp. 450, 513, 688, 724, 1324.
Resolved, That it is the sense of the Senate that new States should be admitted into the Union only upon a basis of equality with existing States, and that Congress ought not to exercise any supervision over the provisions of the constitution of any such new State further than is necessary to guarantee to every State in this Union a republican form of government.

Resolved, That the proposed constitution for the State of Utah submitted to Congress with the memorial praying for the admission of the Territory of Utah into the Union as a State, contains provisions which would deprive such proposed State, if admitted into the Union, of that equality which should exist among the different States.

Resolved, further, That it is the sense of the Senate that the Territory of Utah ought not to be admitted into the Union as a State until it is certain beyond doubt that the practice of plural marriages, bigamy, or polygamy, has been entirely abandoned by the inhabitants of said Territory, and until it is likewise certain that the civil affairs of the Territory are not controlled by the priesthood of the Mormon Church.\footnote{U. S., \textit{Congressional Record}, 50th Cong., 1st Sess., 1888, XIX, p. 2391.}

Here the issue ended in the Senate; but, the fight was just beginning in the House.

During the first session of the Fiftieth Congress, Caine spent many hours talking with the democratic members of the House. His plan of action was to advocate the admission of all the territories in one omnibus bill. In this way he hoped to destroy the Utah question as a separate topic of discussion.\footnote{Letter from John T. Caine to Wilford Woodruff, George Q. Cannon and Joseph F. Smith, December 27, 1888, \textit{Letterbook III}, pp. 151-52.}
Chairman Springer of the Committee on Territories had a similar idea for the territories of Washington, Montana, and New Mexico in his desire to amend the enabling act for the admission of Dakota to include these territories. While Springer expressed feelings of kindness toward Utah, he had informed Caine that he did not think he would be able to add Utah to his omnibus bill. Assured that his omnibus bill would be acted upon by the House, Springer called a democratic caucus for the discussion of his proposition. The caucus agreed to support his plan. Disappointed in the failure of the caucus to add Utah to the omnibus bill, Caine said,

The general feeling in the caucus towards Utah was that of kindness. There was hardly a harsh word said concerning the Territory or the Mormon people. It was very evident from the first that the members of the caucus had not the courage of their convictions. They were afraid to do for Utah what they felt in their hearts was their duty to do, and what they knew the Territory was entitled to receive.

Caine tried to discover how the democrats in the Senate and the House felt about the caucus action in ignoring Utah in the omnibus bill.

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Some of the congressmen believed a blunder had been committed; whereas, others felt it was the only safe policy to follow in the interests of the other territories.  

Near the close of the session the House Committee on Rules reported a resolution which allotted the Committee on Territories two days in which to present bills reported by that committee to the House. The Judiciary Committee was also allotted two days in which to present their bills with the understanding that a bill for refunding to the states the direct tax collected during the Civil War should be considered first. The consideration of the direct tax led to a deadlock which lasted ten days. Therefore the Committee on Territories was deprived of its time on the floor that session. Although Caine had originally supported the omnibus bill in the hope of seeing Utah made a part of it, he was happy to see Springer's measure defeated in this manner. He said in part,  

... I am glad that Springer has been defeated, for if the omnibus bill should pass the House at this session, I think it would leave Utah in a worse position than she will be with the bill still pending, when the next session opens.  

Early in 1889 the question of statehood once more came to the fore in the House Committee on Territories, to which Caine's bill for

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1Ibid., p. 159.

the admission of Utah had been referred in January, 1888. A hearing which closely resembled the Senate hearings of the previous year in the content of the arguments presented was held on January twelfth through the twenty-third. Caine, aided by Franklin S. Richards, Judge Jeremiah M. Wilson, and Delegate Marcus Smith, supported the admission of Utah in opposition to the arguments presented by Baskin, J. R. McBride, and Caleb West. ¹ When the bill was reported to the House with the recommendation that it be placed on the calendar by Springer on March 2, 1889, the recommendation was opposed by Strubel who advocated the postponement of favorable action upon the bill until the people of Utah exhibited by their actions that they would be obedient to all of the federal laws. Therefore, favorable action was postponed. ²

A Dilemma: Home Rule or Statehood for Utah?

Despite numerous discouragements in his efforts to achieve statehood for Utah during the previous sessions of Congress, Caine's hopes for such a condition had not been dimmed. With the opening of

¹ Letter from John T. Caine to Wilford Woodruff, George Q. Cannon and Joseph F. Smith, January 24, 1889. (MS on file at Church Historian's Office.)

the first session of the Fifty-second Congress, Caine was prepared once more to further the cause of Utah. It must be emphasized that Caine was not an idle dreamer pursuing that which was not immediately attainable; he was realistic in his comprehension of the facts relative to the chances of Utah winning her claim for statehood. Therefore, to aid Utah in her desire for local government Delegate Caine in 1892, in addition to espousing statehood, was seeking the passage of a home rule bill, which fell short of statehood but provided for a larger popular participation in the territorial government.

The Home Rule Bill, 1892

Prior to his introduction of the home rule bill in the House, Caine had been slowly arriving at the conception that such a measure was an appropriate solution to Utah's problem. His first realization of its value perhaps came from a suggestion made to him by A. B. Carlton, a former member of the Utah Commission, who wrote to Caine in the fall of 1889 to suggest the possibility of a bill, which would abolish the Utah Commission and devolve its duties upon the governor, the territorial secretary and the president of the Council or of the Legislative Assembly. Carlton maintained that the members of the Utah Commission, contrary to the desires of the federal government, had become the tools of local radical agitators who were seeking to gain the political control of Utah. Carlton advised that the introduction
of such a bill, whether it passed or not, would serve as a warning to the men on the Commission. 1

Certain that the suggestion from Carlton had favorable possibilities, Caine informed others of its provisions. In December, 1891, the Democratic Territorial Committee in response to the idea prepared a bill which modified the Organic Act of the territory so as to provide for the election of all territorial officials from the governor down to the precinct justices of the peace by the people. The natural result of the bill was the abolitionment of the Utah Commission. The guiding idea was to provide local self-government for the territory under the general supervision of Congress, which would retain the power to pass any law or annul any act of the territorial legislature. A United States District Court would have jurisdiction to try all offenses under the laws of Congress. The Democratic Committee realized such legislation might not be possible of attainment, but they were certain the democrats would benefit politically from such a move since it would be left to the republicans to defeat the measure and suffer the political consequences for the act. 2

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1 Letter from A. B. Carlton to John T. Caine, November 12, 1889. (MS on file at the Church Historian's Office).

2 Letter from John T. Caine to Franklin S. Richards, December 21, 1891. (MS on file at the Church Historian's Office).
This bill was received by Caine on January 3, 1892, and introduced in the House by him on the seventh. A copy of the bill was introduced in the Senate by Charles J. Faulkner of West Virginia. The advocates of the bill affirmed the readiness of the territory for admission into the Union, but they feared it might be some time before the condition of statehood would be granted due to the fact that public prejudice against the Mormons was still prevalent.

Governor Thomas, however, considered the home rule bill to be harmful to the best interests of Utah. He declared,

The majority of the people did not at the time it was introduced support it, do not now, and in my opinion never will. It was sprung upon the people without their knowledge or consent. The leaders of the people were not consulted nor were the people. It was the offspring of men who, having done all in their power in former years to secure legislation by Congress and by States and Territories to correct the evils of Mormonism are now trying to out Herod - Herod in their attempts to gain the good will of the Mormon people ....

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1 Letter from S. A. Merritt to John T. Caine, December 29, 1891. (MS on file at the Church Historian's Office.)


3 Ibid., p. 108.

Contrary to the opinion of the Governor and other opponents of his bill, Caine believed the home rule bill to be a step in the direction of complete statehood. The chances of achieving statehood were improving constantly. ¹ Some of the democrats in Congress were of the opinion that Caine should strive for absolute statehood and forget about the home rule bill. When confronted by the dilemma inherent in this situation, Caine said,

. . . All right . . . we will take the best that Congress feels disposed to give us—but if you can't give us statehood, give us home rule and relieve us from a government of Federal officials, by Federal officials, and for Federal officials . . . .²

In February, 1892, hearings were held before the Committees on Territories of both the Senate and the House. Prominent Mormons and Gentiles appeared before the committees to urge the passage of the home rule bill. Some of the democrats from Utah who went to Washington to plead the case of Utah were Charles C. Richards,³ ex-Governor West, Frank H. Dyer, Joseph L. Rawlins, and Franklin S. Richards.⁴ Utah republicans who were in the capital to oppose the

¹ Letter from John T. Caine to George Goddard, February 1, 1892, Letterbook VII, p. 19.
² Letter from John T. Caine to J. B. Walden, February 8, 1892, Letterbook VII, p. 48.
³ Ibid.
⁴ Letter from John T. Caine to Junius Wells, February 13, 1892, Letterbook VII, p. 68.
measure as being likely to retard the eventual achievement of statehood were Apostle John Henry Smith and Colonel Nick Treweek. A liberal delegation led by William Goodwin opposed the bill primarily because of their dislike in seeing the sphere of local government enlarged to any degree.

Within the House Committee on Territories very little objection was expressed toward the bill. The main obstacle in the way of its passage in that body was the provision of the bill which said that the governor and the territorial secretary should have the right to redistrict the territory and reapportion members of the Legislative Assembly. Realizing that the provision contemplated a very undemocratic proceeding, Caine could not argue very strongly in favor of it. Instead, he pled that it had been inserted to correct some of the evils perpetrated by the Utah Commission in their apportionment moves. Finally, the provision was deleted from the bill to remove any cause for opposition. The provision providing for the sale of the school lands was also deleted from the bill when opposition to it arose. It was evident that Caine was prepared to trim down his bill in order to see it passed.

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1 Ibid.
2 Ibid.
On March 23, 1892, the House committee voted to report the bill favorably. Thus, on March 30, 1892, the home rule bill was favorably reported to the House by Joseph E. Washington of Tennessee. Like other measures concerning Utah, the bill had become a party measure. All of the democrats on the committee had voted in favor of the bill while all of the republicans went on the record as opposing it. On the day the vote was taken in the committee, the republicans stayed away from the committee meeting because they preferred to voice their opposition in a minority report. Caine, fearing that such a situation might complicate the outcome of the bill when it reached the Senate, regretted that the bill had become a party measure.

Chairman Orville H. Platt, of the Senate Committee on Territories, was upset over the Utah problem as a result of receiving a flood of petitions from all areas of the nation in opposition to the Faulkner bill. He deferred action upon the bill in his committee taking

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\[2\]
U. S., Congressional Record, 52d Cong., 1st Sess., 1892, XXIII, p. 2837.

\[3\]
Letter from John T. Caine to George Q. Cannon, April, 1892, Letterbook VII, pp. 315-17.

\[4\]
U. S., Congressional Record, 52d Cong., 1st Sess, 1892, XXIII, pp. 1167, 2385, 2596, 2597, 2600, 2635, 2682, 2856, 2890, 2943, 3151, 3153, 3234, 3356, 3403, 3435, 3513, 3606, 3641, 3731, 4077, 5103, for petitions.
a wait-and-see attitude. Confronted by the possibility of an impasse in
the Senate, Caine sought for an alternate method to destroy the Utah
Commission.

A New Plan to Abolish the Utah Commission

Expressing his anxieties to Charles C. Richards, Caine asked
him if he had any ideas as to a new course of action to follow. Richards
advised Caine that he might contemplate inserting a clause to dispense
with the Commission altogether in the appropriation bill for the
territory. Therefore, if the home rule bill failed to pass Congress, the
Commission would be abolished anyway. ¹

Believing that Richards' suggestion had merit, Caine notified
William S. Holman of the House Committee on Appropriations to inform
him that he wished to be heard on the Utah Commission whenever the
committee was ready to take up the Legislative, Executive and Judicial
Appropriation Bill for the territory. Caine prepared a brief clause
providing for the abolition of the Utah Commission and showed it to
Holman informing him that he wanted to insert it in the bill in place of
the usual appropriation clause for the Commission. Holman agreed to
allow Caine to submit the clause to the rest of the committee.

¹ Letter from C. C. Richards to John T. Caine, May 20, 1892.
(MS on file at Church Historian's Office).
Caine, accompanied by ex-Governor West, appeared before the sub-committee which was composed of William Henry Forney, Alexander M. Dockery, and David B. Henderson on May 10, 1892. He submitted a statement of the facts pertaining to the Utah Commission, read the law which had created the Commission, and then read the clause providing for its discontinuance. Dockery opposed his proposition on the grounds that the committee had not fully investigated the situation and could not adequately handle the issue in fairness to both sides. He suggested that the Committee on Territories should offer an amendment on the floor of the House to have the Utah Commission abolished when the appropriation bill was discussed and debated.

Pursuing this possibility, Caine talked with Forney, who assured him that he would take charge of a bill containing an amendment if Washington by the authority of the Committee on Territories would make a motion to strike out the appropriations for the Commission. Washington agreed to submit the plan to his committee, but he was of the opinion that the Committee on Appropriations should have assumed the responsibility to abolish the Utah Commission.

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1 Governor West, in a change of attitude, had become a good friend of the Mormon people in their effort to gain local government privileges.

2 Letter from John T. Caine to C. C. Richards, May 27, 1892, Letterbook VII, pp. 441-44.
Eventually, Caine was able to induce the House Appropriations Committee to dissolve the Utah Commission in spite of the fact that the issue would be opposed by the Senate Committee on Appropriations.⁴ True to his apprehensions, the senate committee on June 29, 1892, voted twenty-eight to twenty-four to continue the Utah Commission at a yearly salary of two-thousand dollars per member, which was a reduction in their present salary. Every democrat but one voted to abolish the Commission, while every republican but three voted to continue it.² Here the matter lay, with no further developments.

As expected, the home rule bill passed the House under a suspension of the rules on July 8, 1892, by a vote of one hundred and sixty-four to forth-one with one hundred and twenty-three abstentions.³ The measure, however, failed to reach the Senate for consideration due to the lateness of the session. Caine was not unhappy over the fate of his home rule bill. Actually, it would have been unwise for him to have urged the bill's passage in the Senate because the tide had changed in Utah's political situation. At last, sentiments were being widely expressed favoring statehood for Utah.

³Telegram from John T. Caine to Franklin S. Richards, July 8, 1892, Letterbook VIII, p. 56.
As will be seen, Senator Henry M. Teller, a republican from Colorado, in a counter move to the home rule bill introduced a statehood bill for Utah in the Senate. For some time Caine's attention had been sharply divided between home rule and statehood. With the defeat of the home rule bill, he was free to devote all his energies to the statehood measure.

Utah Once More Sought Statehood

On January 22, 1892, bills for the admission of Utah into the Union as a State were introduced in the Senate by Senator Teller\(^1\) and in the House by Clarence D. Clark.\(^2\) Doubtful of the sincerity of the Teller bill, Caine said,

\[\ldots\text{It looks to me like a bluff.\ldots\text{intended merely to capture a majority of the Mormon votes at the next election in the Territory. The Democrats having introduced the Home Rule measure, the other Party says 'We'll go you one better.' While I firmly believe that Senator Teller is in earnest, and that he and one or two other Republicans might vote for the admission of Utah, I have no idea that Statehood will find many advocates among the Republicans in the Senate.\ldots}\]

Governor Thomas disagreed with Caine concerning the sincerity of the republicans. He maintained that the republicans felt it was their duty to

\(^{1}\)U. S., Congressional Record, 52d Cong., 1st Sess., 1892, XXIII, p. 356.

\(^{2}\)Ibid., p. 383.

\(^{3}\)Untitled newspaper clipping in Church Historian's Office.
put forward the statehood bill in order to give Congress an opportunity
to decide between home rule or statehood for Utah. 1

Nevertheless, whatever the motives of its originators might have
been, the bill seems to have worked as a catalyst in stimulating
congressmen of both parties to think in positive terms about granting
statehood to Utah. Events had progressed so much in favor of Utah that
on July 30, 1892, Caine felt the time had arrived to introduce an
enabling bill in Congress. After being introduced in the House, the bill
was referred to the House Committee on Territories. 2

Desiring to secure the opinions of the democrats of the territory
relative to his action, Caine encouraged them to suggest possible
revisions to his bill. C. C. Richards of the Democratic Territorial
Committee drafted some amendments to the bill, which he forwarded to
Caine. While Caine thought all of the proposed amendments were
desirable, he doubted the propriety of bringing some of them up in the
House debates. One of the amendments changed the qualifications of the
voters so that the disfranchised polygamists would be entitled to vote.
Caine feared that some of the congressmen would say it was an attempt
to recognize polygamists and to legalize polygamy. The section of the

1 U. S., Report of the Governor of Utah to the Secretary of the
Interior, 1892, p. 60.

2 U. S., Congressional Record, 52d Cong., 1st Sess., 1892,
XXIII, p. 6967.
bill written by Caine pertaining to the qualifications of the voters provided the usual qualifications. Another amendment forwarded by Richards proposed to consolidate the grants of land to the Agricultural College with those granted to the Deseret University. Caine refused to present this amendment since if the state legislature at some future date desired to consolidate the University and the Agricultural College, it would be free to do so.  

The republicans, realizing that national sentiments were changing in favor of the admission of Utah, made plans to join the statehood bandwagon by having the Senate pass an enabling act for Utah in an effort to capture the votes of the territory. In light of this new development, Caine urged the house democrats to take early action upon his enabling act. If an enabling act was to be passed at that time, Caine desired that the date for the election of delegates and the holding of the constitutional convention be established at a sufficiently late date to enable President Cleveland to have the opportunity of appointing new officers for the territory to insure that the entire slate of territorial officials would be democratic. 

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1 Letter from John T. Caine to C. C. Richards, December 5, 1892, Letterbook VIII, pp. 212-17.

As an added impetus to the statehood movement, Caine introduced a second bill to enable the people of Utah to form a constitution and state government in preparation for statehood. 1 The House Committee on Judiciary, to which his latest bill for statehood had been referred agreed to report his bill favorably for an enabling act on January 18, 1893. 2 But, Caine's time in Congress was nearing an end. 3 Furthermore, Senator Joseph M. Carey of Wyoming had informed him that the Senate was not anticipating any action on the admission of Utah that session. 4

Perhaps if there had been a little more time, Caine's bill might have passed Congress. Caine did not return to the following Congress as the elected delegate from Utah and have the privilege of introducing the enabling act which resulted in Utah's becoming a state in 1896. But the role he played in this memorable event should not be underestimated. Joseph L. Rawlins, who succeeded Caine in the House of

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1 U. S., Congressional Record, 52d Cong., 1st Sess., 1893, XXIV, p. 584.

2 Telegram from John T. Caine to C. C. Richards, January 18, 1893, Letterbook VIII, p. 296.

3 Caine declined to run for the delegateship in the 1892 general election preferring to support Joseph L. Rawlins in the campaign.

Representatives, indicated his awareness of Caine's good work. "I fully appreciate," he said, "that a good foundation for successful effort has been previously laid by my predecessor."\(^1\)

\(^1\) Letter from Joseph L. Rawlins to John T. Caine, August 18, 1893, (MS on file at the Utah State Historical Society).
CHAPTER V

CAINE AND INDIAN AFFAIRS

Legislative activities pertaining to Indian policies were of special interest for John T. Caine due to the unique position held by the American Indian in Mormon theology. Joseph Smith, the founder of the Latter-day Saint Church, published a book which claims to be the history of some of the inhabitants of America before the coming of the white settlers. This book, known as the Book of Mormon, is said to be a translation of the original record kept by the ancestors of some of the American Indians. The basic interest of the Mormons in the Indians gave rise to proselyting among them in the hope of making conversions. During the 1880's due to the antagonism toward Mormonism engendered by the crusade the proselyting work of the Mormon elders in preaching to the Indians on the reservations was handicapped. The federal government was reluctant to place the Mormons in charge of the Indians.

Two distinct issues of Indian policy received the attention of Caine during his congressional career. Of primary concern was a proposal to remove the Southern Ute Indians from Colorado to Utah.

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1Letter from John T. Caine to D. E. Harris, December 23, 1888 (MS on file in the Church Historian's Office).
In addition Caine worked for the adjudication of Indian claims held by Utah residents.

Removal of the Southern Utes from Colorado to Utah

Beginning in 1884 prominent cattlemen in Colorado sought to have the Southern Utes in that state removed to San Juan County in the Utah Territory. For the next decade the people of Utah through their representative in Congress, John T. Caine, fought this proposal on the grounds that San Juan had been settled by Utahns, who would suffer a great injustice through the loss of their homes and business interests if the Indians were moved onto their lands. From 1884 until 1893, twelve separate Indian removal bills were introduced and discussed in Congress. ¹

Senate bill 1916 was typical of these numerous measures and for this reason will be considered in detail. On March 19, 1886, this bill, the second bill having as its substance the removal of the Southern Utes from Colorado to Utah, was introduced in the Senate and referred to the Senate Committee on Indian Affairs for consideration. ²


Previously on March 4, 1886, three leading chiefs of the Southern Utes: Ignacio, Buckskin Charley, and Ta-pu-che, had appeared before the committee to express their desires in the removal proposal. In his testimony at the hearing Buckskin Charley expressed a desire to change the site of the reservation to the west of their present location because that site was too narrow and long, being 110 miles in length but only fifteen miles in width. Also, it was not suitable for the raising of stock. Furthermore, he expressed a desire to move closer to the Navajo Indians so that his tribe could visit them.¹

A letter stating the known facts on the problem from J. D. C. Atkins, Commissioner of Indian Affairs, was read to the committee. Atkins stated that although it was the desired wish of the Indians to remove from their present reservation, they did not desire to be consolidated with or settled among any of the other Ute tribes. He affirmed the chiefs in their contention that the dissatisfaction arose from their particular geographical condition, which made it almost impossible for them to keep their stock from roaming beyond the narrow limits of their reserve. The Southern Utes were a pastoral people owning 4,000 head of horses and mules and approximately 4,000 head of sheep. Although they numbered nine hundred and eighty-three

persons, they had only two hundred acres of land under cultivation and showed very little inclination to engage in agricultural pursuits. It was the decided opinion of the office of the Indian Commissioner that the Indians should be removed from Colorado because of their unfortunate condition there. But at the same time, Akins doubted if the Indians would gain anything by moving to San Juan—the area proposed in the bill.

The first section of Senate Bill 1916 in its proposal of San Juan as the site for relocation defined the boundary lines of the proposed reservation in southeastern Utah as:

... beginning at the southeast corner of the Territory of Utah; running thence north along the eastern boundary line of said Territory of Utah one hundred miles; thence west, true courses, to the center of the channel of the Colorado River; thence southwesterly along the center of the channel of said stream to the southern boundary of said Territory of Utah; thence east along the southern boundary line of said Territory to the place of beginning; excepting, however, such portions of the Territory above described lying south of the San Juan River now constituting a portion of the Navajo Reservation. 1

Within the above described area, there were four towns including Bluff (the county seat of San Juan), La Sal, Saint Elmo, and Montezuma; and thirty-one farms. The total population of the county according to the tenth census was two hundred and four persons. 2

1Ibid., p. 3.

2Ibid.
The bill, amended by the committee with the suggestion that the Indians should be sent to the Uintah Reservation in Utah rather than the San Juan, was reported back to the Senate on April 22, 1886.¹ That same day it was recommitted to the committee where it was amended with the provision that the Indians themselves should agree upon a new location after observing various possibilities.²

The bill was once more considered on the floor of the Senate on June 12, 1886, at which time it was passed and referred to the House where it was referred to the House Committee on Indian Affairs.³ Delegate Caine on June fifteenth presented a petition from one hundred and eight citizens of San Juan County protesting the bill's passage.⁴ Senate bill 1916 failed to pass Congress as did the other numerous measures advanced between the years 1884 and 1893. The majority of these bills proposed San Juan as the relocation site.

A brief examination of the facts clearly shows why the suggested removal was so repugnant to the inhabitants of Utah, particularly to those people residing in San Juan. The probable effect upon the

²U. S., Congress, Senate, op. cit., p. 6.
³U. S., Congressional Record, 49th Cong., 1st Sess., 1886, XVII, pp. 5008; 5718.
⁴Ibid., p. 5743.
setlers of San Juan, if their region was named the relocation site, would mean the destruction of all their interests because they would have no other alternative than to make new homes elsewhere. The settlers of San Juan County, having made valuable improvements, possessed good claims to their lands and had no disposition to leave their homes unless they were compelled to do so by the federal government. These settlers considered as one group owned a total of 27,000 head of horned stock, 12,000 head of sheep, and 600 head of horses. In addition to their stock, cattlemen of Colorado ranged 5,000 head of cattle there during the winter because of a lower tax rate in Utah than in Colorado. If the government concluded to remove the Southern Utes to this county, it would receive 2,500 acres of fenced improved lands, with seventeen miles of canals; one large dwelling house valued at $8,000 which was located on the northeastern slopes of the Blue Mountains; sixty-five log cabins; numerous rock houses; a school house; a store; and an undisclosed number of corrals. Furthermore, the territory and county had expended over $27,500 for road construction in the county.

Needless to say, the whole issue caused a great deal of stress to the settlers of San Juan. They lived in a constant state of anxiety, being afraid to make extensive improvements for fear that they would be forced to move to new homes any day.¹

Widespread disapproval of the plan to remove the Utes to Utah was expressed. The inhabitants of San Juan County reacted negatively to all of the bills by sending in a petition against the proposal whenever a new removal bill was introduced. In the same manner, the territorial officials made their opposition known. As the representative of the people of Utah in Congress, Caine presented the numerous petitions as they came forth. He apparently preferred to work behind the scenes against the Indian removal bills; for, there is not a single recorded account of any extensive argument made by him either before a committee or on the floor of the House. Nevertheless, his correspondence shows that his interest was very keen on these measures. Because there were no recorded statements of his activity in behalf of the San Juan settlers, he was accused by some Utah citizens of not opposing the measures. In answer to this accusation, Caine denied it, and noted that the Ute removal proposition was not a new issue with him. He said, "I have not only opposed it in this Congress (Fifty-second Congress) but in two if not three previous congresses."\(^1\)

\(^1\) For a sampling of the numerous petitions and memorials see the Congressional Record, 49th Cong., 1st Sess., XVII, pp. 1048; 3375; 5744. 50th Cong., 1st Sess., XIX, pp. 2228, 2229. 51st Cong., 1st Sess., XXI, p. 1152. 52d Cong., 1st Sess., XXIII, p. 1357.

\(^2\) Letter from John T. Caine to Fred Tremmer, April 14, 1892, (MS on file at the Church Historian's Office).
The second general issue of Indian policy which was of interest to the people of Utah and their delegate concerned the adjudication of Indian claims held by certain Utah residents. In some instances these claims were based upon damages suffered by settlers because of Indian depredations; whereas, other claims were based upon financial losses suffered by settlers who gave of their own resources to aid poverty-stricken Indians. A remarkable example of the latter cause of the claims concerned the Shebit tribe in Washington County.

Congress seemed to be extremely reluctant to pass an appropriation bill for the adjudication of depredation claims during the time Caine served as a delegate. Actually, no provision, which would aid people in Utah holding claims, was passed by Congress. In 1889 a bill providing for the appointment of a court to adjudicate claims passed the House but failed to garner the necessary votes to pass the Senate. The only concrete step taken by Congress for this type of claim since 1882 was to make an annual appropriation for the examination of the merits of the claims by a board connected with the Indian Bureau. The cases passed upon by the board were reported to Congress where they saw no further action in their behalf at that time.¹ The

¹ Letter from John T. Caine to Tanner, September 20, 1889, Letterbook III, pp. 478-79.
settlers who extended financial aid voluntarily to the Shebit Indians did receive some temporary aid from the federal government in the form of an appropriation for the support of these Indians. This relieved the settlers of the burden of their support.

In 1890 Caine received a petition, which called his attention to the destitute condition of the Shebit band, from citizens of southwestern Utah. About two hundred in number, their home was in the mountains bordering between Utah and Arizona. They had no means of living because of the scarcity of game in the region. Unless they were fed by the settlers, they would steal and kill the cattle of the ranchers for food. Due to the gravity of this situation, the danger of bloodshed and an Indian war was present.¹ Immediately upon receiving this petition, Caine presented it to Thomas J. Morgan, the Commissioner of Indian Affairs. Morgan was of the opinion that before any permanent steps were taken, the Indian Bureau should send an official to Utah to investigate the condition of the Shebits.² Accordingly, George W. Parker was instructed to go to Southern Utah to investigate the Shebit question and to make recommendations, which would be of most benefit to the Indians and the ranchers, to the Commissioner of Indian Affairs.

¹ Letter from John T. Caine to Thomas J. Morgan, Commissioner of Indian Affairs, May 9, 1891, Letterbook VI, p. 408.

² Letter from John T. Caine to A. W. Ivins, September 10, 1890, Letterbook VI, pp. 124-25.
Affairs. 1 Anthony W. Ivins, who had sent the petition to Caine and had since been in frequent communication with him, wrote to Caine to inform him of the work accomplished by Parker. Upon the arrival of Parker in St. George, runners were sent out to tell the Indians to meet together with Parker at the city. A complete census was taken. After consulting with the Shebits and Utah citizens, Parker made his report, which suggested remedial measures and substantiated the claims of the settlers. 2 Parker suggested that the Shebits be aided in settling down and entering into agricultural pursuits in an attempt to become self-supporting. A strip of land on the Santa Clara River in Washington County was selected as the most suitable place for them to establish their homes. The Shebits expressed delight over the possibility of receiving this aid. Parker, in his report, also presented a tentative list of implements and supplies needed by the Indians if they were to commence farming.

After receiving Parker's report, Morgan sent an estimate to Congress asking for an appropriation of $10,000 for the relief of the Shebits. This amount was placed in an Indian appropriation bill, which

1 Letter from John T. Caine to A. W. Ivins, October 2, 1890, Letterbook VI, p. 172.

2 Letter from A. W. Ivins to John T. Caine, December 20, 1890 (MS on file in the Church Historian's Office).
was passed by Congress and enacted on May 3, 1891. The provision relating to the Shebits provided:

For the temporary support of the Shebit tribe of Indians in Washington County, Utah, and to enable them to become self-supporting, the purchase of improvements on land situated near the Santa Clara River, on which to locate said Indians, the purchase of animals, implements, seeds, clothing, and other necessary articles, for the erection of houses and for the temporary employment of a person to supervise these purchases and their distribution to the Shebits, $10,000, to be immediately available . . .

This appropriation was made immediately available in order that the Indians could plant their crops before the coming of winter.

The appropriation provided for the temporary employment of a person to supervise the activities of the Shebits. Caine suggested to Morgan the name of Anthony Ivins for the position and emphasized that this man enjoyed the confidence of the Shebits and would be an excellent choice. 2

Respecting Caine's evaluation of Ivins, Morgan appointed him as the agent for the Shebits. 3

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1 Letter from John T. Caine to Thomas J. Morgan, May 9, 1891, Letterbook VI, p. 408.

2 Ibid., pp. 408-11.

3 Letter from John T. Caine to Anthony W. Ivins, May 21, 1891, Letterbook VI, p. 434. Anthony W. Ivins later became a member of the First Presidency of the Latter-day Saint Church.
CHAPTER VI

CHURCH AND STATE RELATIONSHIPS DURING CAINE'S ADMINISTRATION

A complete theocracy existed in Utah during the early territorial period. It was natural that the pioneer settlers, who comprised one religious unit, should establish an ecclesiastical form of government. Due to the absence of federal administrative machinery in Utah in the late 1840's, the Latter-day Saint Church developed an elaborate governmental system. It was to this government, the only one in the region, that the settlers looked to for advice and the maintenance of law and order.

When the region encompassing Utah was ceded to the United States by Mexico, a need arose for an extensive political organization of the area. In March 1849, a convention assembled in Salt Lake City and adopted a constitution for the "Provisional Government of the State of Deseret." Elections were held with Brigham Young being chosen governor and numerous other high Latter-day Saint officials being elected to important offices. The new officials petitioned Congress for

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1 There was considerable doubt about who had jurisdiction over the Great Basin at this time. Both the United States and Mexico claimed the region.

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admission into the Union as the State of Deseret. Congress refused the request and organized Utah as a territory in 1850. President Millard Fillmore selected Brigham Young to be the territorial governor. However, the settlers were disappointed when the entire state of territorial officials were not selected from the Mormon population.

As would be expected, friction between the inhabitants and the Gentile federal officials arose. According to the Constitution of the United States and the federal laws providing for the governing of the territories, a union of church and state was prohibited. Theoretically, there was a separation of church and state, but in reality the church dominated the secular life of the territory. The concept of political obligation as held by the Mormons differed from the traditional attitude of Americans. Loyalty to the church took precedence over loyalty and obedience to the state. This particular frame of political thought offended the gentile officials. The entire circumstance reached a climax in 1857 with the initiation of the so-called Utah War. This event cannot be detailed here. It is only mentioned to illustrate the conflict existing in federal-local relations in the early years of Utah.¹

The existence of a union of church and state in Utah was still being proclaimed by Gentiles in the 1880's and early 1890's when John

T. Caine served the territory in the capacity of delegate to Congress.

Governor Caleb West, speaking of this condition in his 1888 report to the Secretary of the Interior, said in part,

... In the Mormon policy established and governing the people of this Territory since its settlement, the unity of church and state is perfect and indissoluble. It is based upon the complete and absolute control of a priesthood—wielding a supreme power, exercised and wielded to as emanating immediately from God—in all things secular as well as spiritual. The word of this priesthood is to the Mormon people the command of God, not only in matters of faith and morals, but in all civil, political and commercial affairs. This priesthood not only rules the church, but governs the State...

... The church power has determined the policy of the civil government and administered the affairs of the Territory through its faithful servants, whom it has selected and designated as territorial, county, and municipal officers... Utah has a theocratic government while the other States and Territories have republican governments...

In 1887 when the People's Party issued a call for a constitutional convention, Joseph B. Rosborough, the chairman of the Central Committee of the Democratic Party of Utah, declined the invitation and refused to take part in the proceedings. One of the numerous reasons given by him for this response concerned the issue of a possible union of church and state. He said that Utah should not be admitted as a State because it was a theocracy and could not be trusted to perpetuate the ideals of republicanism.


2 Ibid., 1887, p. 32. Supra, pp. 67-69.
This notion was shared by some of the congressmen in Washington. The senate Committee on Territories refused even to debate the issue of statehood for Utah in 1888 after considering the appeal of the Utahns. The principle reasons for the federal attitude were expressed in three resolutions drafted by the committee and later presented to the Senate on March 26, 1888. The third resolution is of importance for it read as follows:

Resolved, further, That it is the sense of the Senate that the Territory of Utah ought not to be admitted into the Union as a State until it is certain beyond doubt that the practice of plural marriages, bigamy, or polygamy, has been entirely abandoned by the inhabitants of said Territory, and until it is likewise certain that the civil affairs of the Territory are not controlled by the priesthood of the Mormon Church.¹

The accusation of a union of church and state was denied by the Mormons throughout the period of Caine's administration. In 1882 the Deseret News printed an editorial which denied the presence of such a situation in territorial politics. "When such arguments against a union of church and state are pointed out and facts presented to prove that the ecclesiastical and political machinery are entirely separate," the editorialist declared, "arguments are used to show that the Mormon Church exercises influence in the politics of its members."²

¹ U. S., Congressional Record, 50th Cong., 1st Sess., 1887, XIX, p. 2391, Supra, pp. 82-83.
² Deseret News Weekly, November 1, 1882, p. 648.
The editor was of the opinion that critics were confusing the influence of
certain church leaders in politics as constituting a union of church and
state. The writer of the article continued,

... While we deny that the church and state are made one
in Utah, we do not dispute the fact that religion has some
bearing upon politics, nor that men who figure as religious
teachers exercise an influence in the political affairs of the
Territory . . . 1

Two years later another Utah newspaper, The Utah Journal,
presented an article which serves as an illustration of the manner in
which the issue was rationalized by the Mormons. This writer said,

... There is no union of church and state. No such union
does or can exist here under the laws as at present formed.
If churchmen of any sect are taking part in the politics or
government of the Territory which is in violation of law,
let the law be invoked to restrain and punish them. If such
a condition exists as must of absolute necessity be the case
if a union of church and state exists—let the powers of the
state be exercised through the courts, the proper channels
for the enforcement of the rights of society, to abolish an
amalgamation so repugnant to the constitution and the laws.
If it be admitted that there are no grounds for appeal to law,
it is of course admitted that the law is not being violated;
and hence that churchmen have a right to do what they are
doing. And when this is admitted it follows as an inevitable
consequence that there exists here no union of church and
state . . . 2

Therefore, without adequately defending his view, the writer seemed to
condone the existing relationship between church and state.

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1 Ibid.

The First Presidency of the Latter-day Saint Church repeatedly said they were not in favor of preaching politics from the pulpit or in trying to exercise any influence upon their followers. In 1892 the official position of the church leaders was made public. At this time they were being accused of attempting to influence the citizens to adhere to the Republican Party.\(^1\) They denied the accusation in an official declaration, which said in part,

As rumors have been circulated and published, accusing the Presidency of the Church of Jesus Christ of Latter-day Saints with interference in political affairs, so as to control elections, and to direct members of the Church as to which political party they should support, we hereby declare these rumors to be false and without foundation in fact . . . If we have any desire in this matter it is that the people of this Territory shall study well the principles of both the great national parties, and then choose which they will join freely, voluntarily and honestly, from personal conviction, and then stand by it in all honor and sincerity. Each party should have the same rights, privileges and opportunities as the other. If any man claims that it is the wish of the First Presidency that a Democrat shall vote the Republican ticket, or a Republican the Democratic ticket, let all people know that he is endeavoring to deceive the public and has no authority of that kind from us. We have no disposition to direct in these matters, but proclaim that, as far as we are concerned, the members of this Church are entirely and perfectly free in all political affairs. But they should not indulge in ill feeling or personalities . . .\(^2\)

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\(^1\) In 1891 the People's Party and the Liberal Party were dissolved and the Utahns aligned themselves with the two national political parties.

\(^2\) "A Complete Answer to the False Charges of The Utah Commission, There Is No Union of Church and State." (unpaged MS on file at the Utah State Historical Society).
The crucial question for this historical study of the congressional career of John T. Caine is the basic question of whether or not he was directed or controlled in his role as delegate by the church leaders. If it is determined that Caine sought and received instructions from the First Presidency of the Church, the logical assumption would be that there was a union of church and state in 1882-1893. The correspondence of Caine contains information which seems to substantiate the arguments alleging the domination of the Mormon Church over secular affairs. Even the most superficial examination of his correspondence will reveal that he was in constant contact with President Wilford Woodruff, George Q. Cannon, and Joseph F. Smith. Caine wrote to these men an average of one letter a week and telegraphed important information to them as the situation demanded during his terms of office. In contrast, he seldom contacted the territorial officials--federal or local. Therefore, it is significant that Caine sought the advice and counsel of the church authorities on important legislation. As would be expected, he sought their guidance particularly when it was apparent that the political rights of the Mormons were in jeopardy.

At the time of the introduction of the Paddock bills, which provided for the appointment by the governor of certain county officers as well as for the reapportionment of Salt Lake City, Caine informed the church authorities that he did not anticipate fighting the measures in
public. "Unless otherwise advised," he said, "I shall favor working against these bills privately with members of the committee."¹

Likewise, when Senator Edmunds introduced his bill in the Senate providing for the escheatment of the personal property of the Mormon Church, Caine once more informed the First Presidency of his anticipated course of action. He was of the opinion that definite steps should be taken to defeat the bill. "I take the liberty of suggesting for your consideration the propriety of preparing a bill,"² he declared. "If you conclude that it will be beneficial to introduce such a bill as is herein suggested," he asked, "will you have a bill prepared such as will meet your views, and send it to me as soon as possible?"³

Furthermore, when the Edmunds' church property bill was discussed in the house sub-committee on judiciary, Caine telegraphed the following message to the church leaders:

... I would suggest for your consideration that said bill should be opposed in committee by person familiar with legal proceedings had under the Edmunds-Tucker Act, who can explain whole status to lawyers of committee from

³ Ibid., p. 390.
personal knowledge, either Col. Broadhead or F. [Franklin] S. Richards.

The Cullom and Struble disfranchisement bills of 1890 in their intended purpose to deprive the Mormons residing in the Utah Territory of their right to vote or to hold an office of public trust constituted the gravest threat to the political rights of the Mormons. The introduction of these bills on April 11, 1890, was a source of great concern to Caine. Neither he nor Judge Jeremiah M. Wilson, his legal advisor, was sure of the most beneficial course of action to follow. Caine telegraphed James Jack, who was his clerk in Salt Lake City and a clerk in the office of the First Presidency, to explain their predicament. "Judge J. M. Wilson wants your views whether it is deemed best to resist passage of the bill to disfranchise," he said. This same question was asked in a letter dated April 12, 1890, and addressed to Woodruff, Cannon, and Smith. Caine related how he and Judge Wilson were uncertain of their future action in opposing the bills. They did not know if they should

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2 James Jack, according to Charles A. Caine, was John T. Caine's clerk in Salt Lake City and at the same time a clerk in the office of the First Presidency. Interview with Charles A. Caine, August 6, 1959.

3 Telegram from John T. Caine to James Jack, April 11, 1890, Letterbook V, p. 261.
engage in an active and open opposition to the bills or if they should appear indifferent and engage in a quiet behind-the-scenes opposition.¹

As events progressed, Caine became convinced that the cause of Utah in opposing the disfranchisement measures could be aided by the pressure of the business interests. So, he wrote to President Woodruff and his councillors to suggest the feasibility of such a move.² The existence of several letters from prominent businessmen in Utah and elsewhere to important men in industry and commerce throughout the nation suggests that this procedure was agreed upon. Thomas G. Webber of Salt Lake City wrote to businessmen in the east with whom he had business transactions to enlist their aid in the protest against the disfranchisement bills. His actions were related to Caine in a letter dated May 19, 1890, wherein he said,

I have written a number of letters to our friends in the east asking their aid and assistance to defeat the Cullom and Struble bills now pending in Congress. These letters were carefully drawn up and I have received replies from three firms already, namely E. L. Simmons of the Simmons Hardware Co., H. B. Clafin & Co., and C. H. Filley. All promise to do their best with their senators and congressmen to defeat such an unjust and uncalled for wholesale disfranchisement. Mr. Filley, Presdt. of

¹Letter from John T. Caine to Wilford Woodruff, George Q. Cannon, and Joseph F. Smith, April 12, 1890, Letterbook V, p. 268. Supra, p. 56.

the Excelsior Manf. Co. of St. Louis stated that he had sent my letter, together with a strong letter of his own, to Mr. F. G. Niedringhaus, congressman from his district in St. Louis. He also suggests that someone should call upon Mr. Niedringhaus and urge him to work for the interests of the people here . . . 1

E. L. Simmons of St. Louis, one of the men contacted by Webber, expressed his opposition to the bills in a letter to Caine. 2 These are only two of the numerous letters verifying this course of action.

Further evidence of the close relationship between Caine and the church leaders can be seen in his efforts to achieve statehood for Utah. Caine was at a disadvantage in his work on the various statehood measures because he was not always adequately informed about the exact views of the Mormon leaders on the status of the practice of polygamy, which was the main obstacle in the path of statehood. He was constantly asked by his colleagues in Washington if polygamy would be prohibited by the Mormon Church. Caine wired President Woodruff on February 1, 1888, while the petition of Utah for statehood was being discussed by the senate Committee on Territories, to ask him how he should answer questions concerning the practice of polygamy. Caine sent the following telegram:

1Letter from Thomas G. Webber to John T. Caine, May 19, 1890 (MS on file at the Church Historian's office).

2Letter from E. L. Simmons to John T. Caine, May 16, 1890 (MS on file at the Church Historian's Office).
The following questions will undoubtedly be asked by Senate Committee Friday morning. How shall we answer? It will not do to evade or equivocate. First: Do you think it is the honest intention of the Mormon people, or a majority of them, to abolish and suppress polygamy? Second: When you say the people acted in good faith, in adopting Constitution, do you mean that it is their intention to abolish and suppress polygamy, or that it is merely their intention to prosecute those that violate provisions of the Constitution on the subject? Must have answer Thursday sure.¹

The next day Caine received these words of advice from President Woodruff:

You know the situation, answer as guided by Spirit at time. Be firm and courageous. If by suppression of polygamy is meant the outrages now committed, answer should be no: if full enforcement of the law against future polygamy is meant, answer is yes. Intentions can only be deduced from actions and guarantees. Make persons define their questions, then your replies can be made suitable. You have our faith and support. You represent monogamous and voting citizens and can speak as we cannot. Go as far as may be necessary and you will not be censured. Preserve political as distinct from church attitude.²

This particular set of telegrams seems to give credence to the notion that James Jack served as a direct source of communication between Caine and the First Presidency.

Although there is considerable evidence that Caine was advised and at times guided by the church leaders, it must be emphasized that

¹Telegram from John T. Caine addressed to Wilford Woodruff and sent to James Jack, February 1, 1888, Letterbook I, p. 156.

he was not a man who blindly followed the dictates of others without exerting his own independent thoughts and desires. There are numerous instances of his criticism of the attitudes and actions of the church authorities. For example, when certain congressmen were advancing the idea of a constitutional amendment to prohibit the practice of polygamy in all the territories, the First Presidency endorsed the amendment because they believed it would detract attention from the separate issue of polygamy in Utah. Caine disagreed with this saying, "I cannot see how you can consistently favor such a measure. While it seems probable that . . . it will be to our advantage, I think on principle we should oppose its enactment."¹

In conclusion, after the extensive researching of the correspondence of John T. Caine, it is the opinion of the author that Caine sought and received counsel and advice from the church leaders on crucial issues, which affected the rights and privileges of the Mormons residing in Utah. This circumstance is understandable in light of the general tenor of the times. The Mormons, who constituted the dominant political element in Utah in 1882-1893, had a past history of numerous conflicts with and persecutions by federal officials. Furthermore, the political theory of the Mormons in their basic

conception of political obligation was at variance with the general belief of other Americans. For the Mormons, loyalty to one's religious views was a higher loyalty than loyalty to the state. This basic conflict was not unusual or confined to experiences in Utah. It has been a basic concern of civilization from the earliest recorded times. The political developments in Utah as they related to John T. Caine in his service as delegate to Congress must be evaluated in terms of the general emotional climate of the age.
CHAPTER VII

THE HISTORICAL SIGNIFICANCE OF JOHN T. CAINÉ

The historical reputation of John T. Caine has yet to be fully recognized and appreciated. With the single exception of Orson F. Whitney, Utah historians have not been cognizant of the importance of the work performed by Caine in his capacity as the Utah Territorial Delegate during the years 1882-1893. The man seems to have been somewhat overshadowed by the issues of the period. Nevertheless, Caine is best remembered for his service as Utah's delegate during the most controversial period of her past. He was a man who devoted all his energy and intellect in a supreme effort to protect the inhabitants of Utah from an avalanche of anti-Mormon congressional legislation. The years of the anti-Mormon crusade witnessed the existence of severe strife and conflict between the federal government and the Latter-day Saints inhabitants of Utah. The adherence to and the practice of plural marriage as a basic religious tenet by the Mormons furnished the basis for expressions of prejudice and antipathy towards those who were obedient to the Mormon faith. The federal government, moved by the forces of popular antagonism, embarked upon a course of action which
was designed to force the Mormons to abandon their practice of polygamy. Influenced by this tide of public opinion, congressmen introduced bill after bill in Congress in an effort to destroy all adherence to the doctrine.

Caine fought against the various efforts of the national government to deprive the Utahns of their political rights and privileges. In part due to his consistent work in behalf of his constituents, Congress was able to secure the passage of only one bill directed towards the destruction of the political rights of the Mormons during his five successive terms of office. The one measure passed was the 1887 Edmunds-Tucker Act. This one fact is significant in estimating the historical significance of Caine. It is the author's opinion that the valuable public relations work achieved by and under the guidance of Delegate Caine in and out of Congress was a primary factor in this situation. Caine was respected and admired by friends and enemies alike. According to Charles A. Caine, the only surviving son of John T. Caine, William J. Bryan once referred to Caine as being not only his personal friend but also one of the great proponents of American liberty. One will search the newspapers of his era in vain for disparaging comments concerning him. In a time of conflict when Mormons were looked upon as being immoral and fanatical by numerous Gentiles, Caine served as a living refutation of this conception.
At the same time that the federal government was attempting to deprive the Utahns of their political rights, the inhabitants of the territory were striving to achieve statehood. Caine proved himself to be an adroit leader in his work to aid the people in the attainment of this goal. He was the guiding genius of the 1887 statehood movement, which was of special significance because the constitutional convention formulated an organic act providing severe penalties for the practice of bigamy and polygamy. The memorial advanced by this body is predominantly Caine's creation. When the movement failed to achieve statehood, Caine was prepared to continue the fight for local government privileges by the introduction of a brilliant substitute measure in Congress--the Home Rule Bill of 1892. Caine should be recognized as one of the dominant forces in the eventual achievement of statehood. Because he did not return to serve Utah as the elected delegate in the first session of the Fifty-third Congress, which approved the enabling act resulting in Utah becoming a state in 1896, the role he played in the final achievement of this memorable event has been underestimated.

Joseph L. Rawlins, who succeeded Caine in the House of Representatives, is usually credited with the sole honor of the achievement of statehood. Without depreciating the work of Rawlins, more attention should be directed towards the accomplishments of Caine. Rawlins was aware of the valuable work performed by Caine. In a letter written to
Caine in August, 1893, he remarked, "I fully appreciate that a good foundation for successful effort has been previously laid by my predecessor."

In conclusion, the significance of John T. Caine in his service as territorial delegate must not only be evaluated in terms of the personal characteristics of the man but also in terms of the general emotional climate of the historical period. Feelings of antipathy and prejudice towards members of the Mormon faith, especially those who upheld the doctrine of plural marriage, were so strong that Caine was influenced by and to a certain degree controlled by this circumstance in his congressional work.
APPENDIX A

AN ACT to amend section fifty-three hundred and fifty-two of the Revised Statutes of the United States, in reference to bigamy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that section fifty-three hundred and fifty-two of the Revised Statutes of the United States be, and the same is hereby, amended so as to read as follows, namely:

'Every person who has a husband or wife living who, in a Territory or other place over which the United States have exclusive jurisdiction, hereafter marries another, whether married or single, and any man who hereafter simultaneously, or on the same day, marries more than one woman, in a Territory or other place over which the United States have exclusive jurisdiction, is guilty of polygamy, and shall be punished by a fine of not more than five hundred dollars and by imprisonment for a term of not more than five years; but this section shall not extend to any person by reason of any former marriage whose husband or wife by such marriage shall have been absent for five successive years, and is not known to such person to be living, and is believed by such person to be dead, nor to any person by reason of any former marriage which shall have been dissolved by a valid decree of a competent court on the ground of nullity of the marriage contract.'

Sec. 2. That the foregoing provisions shall not affect the prosecution or punishment of any offense already committed against the section amended by the first section of this act.

Sec. 3. That if any male person, in a Territory or other place over which the United States have exclusive jurisdiction, hereafter cohabits with more than one woman, he shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than three hundred dollars or by imprisonment for not more than six months, or by both said punishments, in the discretion of the court.

Sec. 4. That counts for any or all of the offenses named in section one and three of this act may be joined in the same information or indictment.

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Sec. 5. That in any prosecution for bigamy, polygamy, or unlawful cohabitation, under any statute of the United States, it shall be sufficient cause of challenge to any person drawn or summoned as a juryman or talesman, first, that he is or has been living in the practice of bigamy, polygamy, or unlawful cohabitation with more than one woman, or that he is or has been guilty of an offense punishable by either of the foregoing sections, or by section fifty-three hundred and fifty-two of the Revised Statutes of the United States, or the act of July first, eighteen hundred and sixty-two, entitled 'An act to punish and prevent the practice of polygamy in the territories of the United States and other places, and disapproving and annulling certain acts of the legislative assembly of the Territory of Utah,' or second, that he believes it right for a man to have more than one living and undivorced wife at the same time, or to live in the practice of cohabiting with more than one woman; and any person appearing or offered as a juror or talesman, and challenged on either of the foregoing grounds, may be questioned on his oath as to the existence of any such cause or challenge, and other evidence may be introduced bearing upon the question raised by such challenge; and this question shall be tried by the court. But if to the first ground of challenge before mentioned, the person challenged shall not be bound to answer if he shall say upon his oath that he declines on the ground that his answer may tend to criminate himself; and if he shall answer as to said first ground, his answer shall not be given in evidence in any criminal prosecution against him for any offense named in sections one or three of this act; but if he declines to answer on any ground, he shall be rejected as incompetent.

Sec. 6. That the President is hereby authorized to grant amnesty to such classes of offenders guilty of bigamy, polygamy, or unlawful cohabitation, before the passage of this act on such conditions and under such limitations as he shall think proper; but no such amnesty shall have effect unless thereof shall be complied with.

Sec. 7. That the issue of bigamous or polygamous marriages, known as Mormon marriages, in cases in which such marriages have been solemnized according to the ceremonies of the Mormon sect, in any Territory of the United States, and such issue shall have been born before the first day of January, anno Domini eighteen hundred and eighty-three are hereby legitimated.

Sec. 8. That no polygamist, bigamist, or any person cohabiting with more than one woman, and no woman cohabiting with any of the persons described as aforesaid in this section, in any Territory or other place over which the United States have exclusive jurisdiction, shall be entitled to vote at any election held in any such Territory or other place, or be eligible for election or appointment to or be entitled to hold any office or place of public trust, honor, or
emolument in, under, or for any such Territory or place, or under the United States.

Sec. 9. That all the registration and election offices of every description of the Territory of Utah are hereby declared vacant, and, each and every duty relating to the registration of voters, the conduct of elections, the receiving or rejection of votes, and the canvassing and returning of the same, and the issuing of certificates or other evidence of election in said Territory, shall, until other provisions be made by the legislative assembly of said Territory as is hereinafter by this section provided, be performed under the existing laws of the United States and said Territory by proper persons, who shall be appointed to execute such offices and perform such duties by a board of five persons, to be appointed by the President, by and with the advice and consent of the Senate, not more than three of whom shall be members of one political party; and a majority of whom shall be a quorum. The members of said board so appointed by the President shall each receive a salary at the rate of three thousand dollars per annum, and shall continue in office until the legislative assembly of said Territory shall make provision for filling said offices as herein authorized. The secretary of the Territory shall be the secretary of said board, and keep a journal of its proceedings, and attest the action of said board under this section. The canvass and return of all the votes at elections in said Territory for members of the legislative assembly thereof shall also be returned to said board, which shall canvass all such returns and issue certificates of election for those persons who, being eligible for such election, shall appear to have been lawfully elected, which certificates shall be the only evidence of the right of such persons to sit in such assembly; provided, that said board of five persons shall not exclude any person otherwise eligible to vote from the polls on account of any opinion such person may entertain on the subject of bigamy, polygamy, nor shall they refuse to count any such vote on account of the opinion of the person casting it on the subject of bigamy or polygamy; but each house of such assembly, after its organization, shall have power to decide upon the elections qualifications of its members. And at, or after the first meeting of said legislative assembly whose members shall have been elected and returned according to the provisions of this act, said legislative assembly may make such laws, conformable to the organic act of said Territory and not inconsistent with other laws of the United States, as it shall deem proper concerning the filling of the offices in said Territory declared vacant by this act.

Approved, March 22, 1882. 1

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1 U. S., Report of the Utah Commission to the Secretary of the Interior, 1883, pp. 3-5.
APPENDIX B

CHAP. 397--An act to amend an act entitled 'An act to amend section fifty-three hundred and fifty-two of the Revised Statutes of the United States, in reference to bigamy, and for other purposes,' approved March twenty-second, eighteen hundred and eighty-two.

Be it enacted by the Senate and House of Representatives of the United State of America in Congress assembled, SEC. 1. That in any proceeding or examination before a grand jury, a judge, justice, or a United States commissioner, or a court, in any prosecution for bigamy, polygamy, or unlawful cohabitation, under any statute of the United States, the lawful husband or wife of the person accused shall be a competent witness, and may be called, but shall not be compelled to testify in such proceeding, examination, or prosecution without the consent of the husband or wife, as the case may be; and such witness shall not be permitted to testify as to any statement or communication made by either husband or wife to each other, during the existence of the marriage relation, deemed confidential at common law.

SEC. 2. That in any prosecution for bigamy, polygamy, or unlawful cohabitation, under any statute of the United States, whether before a United States commissioner, justice, judge, a grand jury, or any court, an attachment for any witness may be issued by the court, judge, or commissioner, without a previous subpoena, compelling the immediate attendance of such witness, when it shall appear by oath or affirmation, to the commissioner, justice, judge, or court, as the case may be, that there is reasonable ground to believe that such witness will unlawfully fail to obey a subpoena issued and served in the usual course in such cases; and in such case the usual witness fee shall be paid to such witness so attached: Provided, That the person so attached may at any time secure his or her discharge from custody by executing a recognizance with sufficient surety, conditioned for the appearance of such person at the proper time, as a witness in the cause or proceeding wherein the attachment may be issued.

SEC. 3. That whoever commits adultery shall be punished by imprisonment in the penitentiary not exceeding three years; and when the act is committed between a married woman and a man who is unmarried, both parties to such act shall be deemed guilty of adultery; and when such act is committed between a married man and a woman who is unmarried, the man shall be deemed guilty of adultery.

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SEC. 4. That if any person related to another person within and not including the fourth degree of consanguinity computed according to the rules of the civil law, shall marry or cohabit with, or have sexual intercourse with such other so related person, knowing her or him to be within said degree of relationship, the person so offending shall be deemed guilty of incest, and, on conviction thereof, shall be punished by imprisonment in the penitentiary not less than three years and not more than fifteen years.

SEC. 5. That if an unmarried man or woman commit fornication, each of them shall be punished by imprisonment not exceeding six months, or by fine not exceeding one hundred dollars.

SEC. 6. That all laws of the legislative assembly of the Territory of Utah which provide that prosecutions for adultery can only be commenced on the complaint of the husband or wife are hereby disapproved and annulled; and all prosecutions for adultery may hereafter be instituted in the same way the prosecutions for other crimes are.

SEC. 7. That commissioners appointed by the supreme court and district courts in the Territory of Utah shall possess and may exercise all the powers and jurisdiction that are or may be possessed or exercised by justices of the peace in said Territory under the laws thereof, and the same powers conferred by law on commissioners appointed by circuit courts of the United States.

SEC. 8. That the marshal of said Territory of Utah, and his deputies, shall possess and may exercise all the powers in executing the laws of the United States or of said Territory, possessed and exercised by sheriffs, constables, and their deputies as peace officers; and each of them shall cause all offenders against the law, in his view, to enter into recognizance to keep the peace and to appear at the next term of the court having jurisdiction of the case, and to commit to jail in case of failure to give such recognizance. They shall quell and suppress assaults and batteries, riots, routs, affrays, and insurrections.

SEC. 9. That every ceremony of marriage, or in the nature of a marriage ceremony, of any kind, in any of the Territories of the United States, whether either or both or more of the parties to such ceremony be lawfully competent to be the subjects of such marriage or ceremony or not, shall be certified by a certificate stating the fact and nature of such ceremony, the full names of each of the parties concerned, and the full name of every officer, priest, and person, by whatever style or designation called or known, in any way taking part in the performance of such ceremony, which certificate shall be drawn up and signed by the parties to such ceremony and by every officer, priest, and person taking part in the performance of such ceremony,
and shall be by the officer, priest, or other person solemnizing such
marrige or ceremony filed in the office of the probate court, or if
there be none, in the office of court having probate powers in the county
or district in which such ceremony shall take place, for record, and
shall be immediately recorded, and be at all times subject to inspection
as other public records. Such certificate, or the record thereof, or a
duly certified copy of such record, shall be prima facie evidence of the
facts required by this act to be stated therein, in any proceeding, civil
or criminal, in which the matter shall be drawn in question. Any
person who shall willfully violate any of the provisions of this section
shall be deemed guilty of a misdemeanor, and shall, on conviction there-
of, be punished by a fine of not more than one thousand dollars, or by
imprisonment not longer than two years, or by both said punishments,
in the discretion of the court.

SEC. 10. That nothing in this act shall be held to prevent the
proof of marriages, whether lawful or unlawful, by any evidence now
legally admissible for that purpose.

SEC. 11. That the laws enacted by the legislative assembly of
the Territory of Utah which provide for or recognize the capacity of
illegitimate children to inherit or to be entitled to any distributive share
in the estate of the father of any such illegitimate child are hereby
disapproved and annulled; and no illegitimate child shall hereafter be
entitled to inherit from his or her father or to receive any distributive
share in the estate of his or her father: Provided, That this section
shall not apply to any illegitimate child born within twelve months the
passage of this act, nor to any child made legitimate by the seventh
section of the act entitled 'An act to amend section fifty-three hundred
and fifty-two of the Revised Statutes of the United States, in reference
to bigamy, and for other purposes', approved March twenty-second,
eighteen hundred and eighty-two.

SEC. 12. That the laws enacted by the legislative assembly of
the Territory of Utah conferring jurisdiction upon probate courts, or
the judges thereof, or any of them, in said Territory, other than in
respect of the estates of deceased persons, and in respect of the
guardianship of the persons and property of infants, and in respect of the
persons and property of persons not of sound mind, are hereby
disapproved and annulled; and no probate court or judge of probate shall
exercise any jurisdiction other than in respect of the matters aforesaid,
except as a member of a county court; and every such jurisdiction so by
force of this act withdrawn from the said probate courts or judges shall
be had and exercised by the district courts of said Territory
respectively.

SEC. 13. That it shall be the duty of the Attorney-General of
the United States to institute and prosecute proceedings to forfeit and
escheat to the United States the property of corporations obtained or
held in violation of section three of the act of Congress approved the first day of July, eighteen hundred and sixty-two, entitled 'An act to punish and prevent the practice of polygamy in the Territories of the United States and other places, and disapproving and annulling certain acts of the legislative assembly of the Territory of Utah', or in violation of section eighteen hundred and ninety of the Revised Statutes of the United States; and all such property so forfeited and escheated to the United States shall be disposed of by the Secretary of the Interior, and the proceeds thereof applied to the use and benefit of the common schools in the Territory in which such property may be: Provided, That no building, or the grounds appurtenant thereto, which is held and occupied exclusively for purposes of the worship of God, or parsonage connected therewith, or burial ground shall be forfeited.

SEC. 14. That in any proceeding for the enforcement of the provisions of law against corporations or associations acquiring or holding property in any Territory of the United States in excess of the amount limited by law, the court before which such proceeding may be instituted shall have power in a summary way to compel the production of all books, records, papers, and documents of or belonging to any trustee or person holding or controlling or managing property in which such corporation may have any right, title, or interest whatever.

SEC. 15. That all laws of the legislative assembly of the Territory of Utah, or of the so-called government of the State of Deseret, creating, organising, amending, or continuing the corporation or association called the Perpetual Emigrating Fund Company are hereby disapproved and annulled; and the said corporation, in so far as it may now have, or pretend to have, any legal existence, is hereby dissolved; and it shall not be lawful for the legislative assembly of the Territory of Utah to create, organize, or in any manner recognize any such corporation or association, or to pass any law for the purpose of or operating to accomplish the bringing of persons into the said Territory for any purpose whatsoever.

SEC. 16. That it shall be the duty of the Attorney-General of the United States to cause such proceedings to be taken in the supreme court of the Territory of Utah as shall be proper to carry into effect the provisions of the preceding section, and pay the debts and to dispose of the property and assets of said corporation according to law. Said property and assets, in excess of the debts and the amount of any lawful claims established by the court against the same, shall escheat to the United States, and shall be taken, invested, and disposed of by the Secretary of the Interior, under the direction of the President of the United States, for the benefit of common schools in said Territory.

SEC. 17. That the acts of the legislative assembly of the Territory of Utah incorporating, continuing, or providing for the corporation known as the Church of Jesus Christ of Latter-Day Saints,
and the ordinance of the so-called general assembly of the State of Deseret incorporating the Church of Jesus Christ of Latter-Day Saints, so far as the same may now have legal force and validity, are hereby disapproved and annulled, and the said corporation, in so far as it may now have, or pretend to have, any legal existence, is hereby dissolved. That it shall be the duty of the Attorney-General of the United States to cause such proceedings to be taken in the supreme court of the Territory of Utah as shall be proper to execute the foregoing provisions of this section and to wind up the affairs of said corporation conformably to law; and in such proceedings the court shall have power, and it shall be its duty, to make such decree or decrees as shall be proper to effectuate the transfer of the title to real property now held and used by said corporation for places of worship, and parsonages connected therewith, and burial grounds, and of the description mentioned in the proviso to section thirteen of this act and in section twenty-six of this act, to the respective trustees mentioned in section twenty-six of this act; and for the purposes of this section said court shall have all the powers of a court of equity.

SEC. 18. (a) A widow shall be endowed of third part of all the lands whereof her husband was seized of an estate of inheritance at any time during the marriage unless she shall have lawfully released her right thereto.

(b) The widow of any alien who at the time of his death shall be entitled by law to hold any real estate, if she be an inhabitant of the Territory at the time of such death, shall be entitled to dower of such estate in the same manner as if such alien had been a native citizen.

(c) If a husband seized of an estate of inheritance in lands exchanges them for other lands, his widow shall not have dower of both, but shall make her election to be endowed of the lands given or of those taken in exchange; and if such election be not evinced by the commencement of proceedings to recover her dower of the lands given in exchange within one year after the death of her husband, she shall be deemed to have elected to take her dower of the lands received in exchange.

(d) When a person seized of an estate of inheritance in lands shall have executed a mortgage, or other conveyance in the nature of mortgage, of such estate, before marriage, his widow shall nevertheless be entitled to dower out of the lands mortgaged or so conveyed, as against every person except the mortgagee or grantee in such conveyance and those claiming under him.

(e) Where a husband shall purchase lands during coverture, and shall at the same time execute a mortgage, or other conveyance in the nature of mortgage, of his estate in such lands to secure the payment of the purchase-money, his widow shall not be entitled to dower out of such lands, as against the mortgagee or grantee in such conveyance or
those claiming under him, although she shall not have united in such mortgage; but she shall be entitled to her dower in such lands as against all other persons.

(f) Where in such case the mortgagee, or such grantee or those claiming under him, shall, after the death of the husband of such widow, cause the land mortgaged or so conveyed to be sold, either under a power of sale contained in the mortgage or such conveyance or by virtue of the decree of a court if any surplus shall remain after payment of the moneys due on such mortgage or such conveyance, and the costs and charges of the sale, such widow shall nevertheless be entitled to the interest or income of the one-third part of such surplus for her life, as her dower.

(g) A widow shall not be endowed of lands conveyed to her husband by way of mortgage unless he acquire an absolute estate therein during the marriage period.

(h) In case of divorce dissolving the marriage contract for the misconduct of the wife, she shall not be endowed.

SEC. 19. That hereafter the judge of probate in each county within the Territory of Utah provided for by the existing laws thereof shall be appointed by the President of the United States, by and with the advice and consent of the Senate; and so much of the laws of said Territory as provide for the election of such judge by the legislative assembly are hereby disapproved and annulled.

SEC. 20. That it shall not be lawful for any female to vote at any election hereafter held in the Territory of Utah for any public purpose whatever, and no such vote shall be received or counted or given effect in any manner whatever; and any and every act of the legislative assembly of the Territory of Utah providing for or allowing the registration or voting by females is hereby annulled.

SEC. 21. That all laws of the legislative assembly of the Territory of Utah which provide for numbering or identifying the votes of the electors at any election in said Territory are hereby disapproved and annulled; but the foregoing provision shall not preclude the lawful registration of voters, or any other provisions for securing fair elections which do not involve the disclosure of the candidates for whom any particular elector shall have voted.

SEC. 22. That the existing election districts and apportionments of representation concerning the members of the legislative assembly of the Territory of Utah are hereby abolished; and it shall be the duty of the governor, Territorial secretary, and the Board of Commissioners mentioned in section nine of the act of Congress approved March twenty-second, eighteen hundred and eighty two entitled 'An act to amend section fifty-three hundred and fifty-two of the Revised Statutes of the United States in reference to bigamy, and for other
purposes', in said Territory, forthwith to redistrict said Territory, and apportion representation in the same in such manner as to provide, as nearly as may be, for an equal representation of the people (excluding Indians not taxed), being citizens of the United States, according to numbers, in said legislative assembly, and to the number of members of the council and house of representatives, respectively, as now established by law; and a record of the establishment of such new districts and the apportionment of representation thereto shall be made in the office of the secretary of said Territory, and such establishment and representation shall continue until Congress shall otherwise provide; and no persons other than citizens of the United States otherwise qualified shall be entitled to vote at any election in said Territory.

SEC. 23. That the provisions of section nine of said act approved March twenty-second, eighteen hundred and eighty-two, in regard to registration and election officers, and the registration of voters, and the conduct of elections, and the powers and duties of the Board therein mentioned, shall continue and remain operative until the provisions and laws therein referred to be made and enacted by the legislative assembly of said Territory of Utah shall have been made and enacted by said assembly and shall have been approved by Congress.

SEC. 24. That every male person twenty-one years of age resident in the Territory of Utah shall, as a condition precedent to his right to register or vote at any election in said Territory, take and subscribe an oath or affirmation, before the registration officer of his voting precinct, that he is over twenty-one years of age, and has resided in the Territory of Utah for six months then last passed and in the precinct for one month immediately preceding the date thereof, and that he is a native-born (or naturalized, as the case may be) citizen of the United States, and further state in such oath or affirmation his full name, with his age, place of business, his status, whether single or married, and, if married, the name of his lawful wife, and that he will support the Constitution of the United States and will faithfully obey the laws thereof, and especially will obey the act of Congress approved March twenty-second, eighteen hundred and eighty-two, entitled 'An act to amend section fifty-three hundred and fifty-two of the Revised Statutes of the United States, in reference to bigamy, and for other purposes,' and will also obey this act in respect of the crimes in said act defined and forbidden, and that he will not, directly or indirectly, aid or abet, counsel or advise, any other person to commit any of said crimes. Such registration officer is authorized to administer said oath or affirmation; and all such oaths or affirmations shall be by him delivered to the clerk of the probate court of the proper county, and shall be deemed public records therein. But if any election shall occur in said
Territory before the next revision of the registration lists as required by law, the said oath or affirmation shall be administered by the presiding judge of the election precinct on or before the day of election. As a condition precedent to the right to hold office in or under said Territory, the officer, before entering on the duties of his office, shall take and subscribe an oath or affirmation declaring his full name, with his age, place of business, his status, whether married or single, and, if married, the name of his lawful wife, and that he will support the Constitution of the United States and will faithfully obey the laws thereof, and especially will obey the act of Congress approved March twenty-second, eighteen hundred and eighty-two, entitled 'An act to amend section fifty-three hundred and fifty-two of the Revised Statutes of the United States, in reference to bigamy, and for other purposes,' and will also obey this act in respect of the crimes in said act defined and forbidden, and that he will not, directly or indirectly, aid or abet, counsel or advise, any other person to commit any of said crimes; which oath or affirmation shall be recorded in the proper office and indorsed on the commission or certificate of appointment. All grand and petit jurors in said Territory shall take the same oath or affirmation, to be administered, in writing or orally, in the proper court. No person shall be entitled to vote in any election in said Territory, or be capable of jury service, or hold any office of trust or emolument in said Territory who shall not have taken the oath or affirmation aforesaid. No person who shall have been convicted of any crime under this act, or under the act of Congress aforesaid approved March twenty-second, eighteen hundred and eighty-two, or who shall be a polygamist, or who shall associate or cohabit polygamously with persons of the other sex, shall be entitled to vote in any election in said Territory, or be capable of jury service, or to hold any office of trust or emolument in said Territory.

SEC. 25. That the office of Territorial superintendent of district schools created by the laws of Utah is hereby abolished; and it shall be the duty of the supreme court of said Territory to appoint a commissioner of schools, who shall possess and exercise all the powers and duties heretofore imposed by the laws of said Territory upon the Territorial superintendent of district schools, and who shall receive the same salary and compensation, which shall be paid out of the treasury of said Territory; and the laws of the Territory of Utah providing for the method of election and appointment of such Territorial superintendent of district schools are hereby suspended until the further action of Congress shall be had in respect thereto. The said superintendent shall have power to prohibit the use in any district school of any book of a sectarian character or otherwise unsuitable. Said superintendent shall collect and classify statistics and other information
respecting the district and other schools in said Territory, showing their progress, the whole number of children of school age, the number who attend school in each year in the respective counties, the average length of time of their attendance, the number of teachers and the compensation paid to the same, the number of teachers who are Mormons, the number who are so-called gentiles, the number of children of Mormon parents and the number of children of so-called gentile parents, and their respective average attendance at school; all of which statistics and information shall be annually reported to Congress, through the governor of said Territory and the Department of the Interior.

SEC. 26. That all religious societies, sects, and congregations shall have the right to have and to hold, through trustees appointed by any court exercising probate powers in a Territory, only on the nomination of the authorities of such society, sect, or congregation, so much real property for the erection or use of houses of worship, and for such parsonages and burial grounds as shall be necessary for the convenience and use of the several congregations of such religious society, sect, or congregation.

SEC. 27. That all laws passed by the so-called State of Deseret and by the legislative assembly of the Territory of Utah for the organization of the militia thereof or for the creation of the Nauvoo Legion are hereby annulled, and declared of no effect; and the militia of Utah shall be organized and subjected in all respects to the laws of the United States regulating the militia in the Territories: Provided, however, That all general offices of the militia shall be appointed by the governor of the Territory, by and with the advice and consent of the council thereof. The legislative assembly of Utah shall have power to pass laws for organizing the militia thereof, subject to the approval of Congress.

Received by the President, February 19, 1887.

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the President of the United States for his approval, and not having been returned by him to the house of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.] 1

1U.S., Statutes at Large, XXIV, pp. 635-41.
APPENDIX C

SPEECH OF HON. JOHN T. CAIN.

The House having under consideration the bill (S. 10) to amend an act entitled 'An act to amend section 5352 of the Revised Statutes of the United States, in reference to bigamy, and for other purposes,' approved March 22, 1882, with a substitute reported from the Committee on the Judiciary--

Mr. CAINE said:

Mr. SPEAKER: It is a work of supererogation to point out the enormities of this proposed legislation, which, while professing to be for the suppression of polygamy in the Territory of Utah, is actually a measure intended to suppress the Mormon Church and place its property in the hands of a receiver. Under ordinary circumstances I would content myself with entering a formal protest, serenely confident that enlightened mankind throughout the world will in due time condemn such legislation as wrong in theory, violative of fundamental constitutional provisions, undemocratic and un-American, and wantonly destructive of the dearest, most sacred rights of humanity. There has never yet been a wanton exercise of arbitrary power, whether by unrestrained executive authority or by prejudice-impelled legislative enactment, which did not, as time rolled on, bring its own revenges. This bill rudely overrides and sets at naught the eternal, the immutable principles upon which the common rights of men are bottomed. Do you flatter yourselves that you can with impunity trifle with the rights of your fellow men? Do you sacrifice your own sense of right and justice, and bend your better judgment to the demands of a false public sentiment, which owes its existence to two unworthy sources—religious intolerance and bigotry—and the arts of unscrupulous, designing, self-seeking men whose only object is the plundering of my people, and hope that you and your posterity will escape the penalty that heretofore has, sooner or later, been visited upon those willfully breaking the unchangeable laws governing the destinies of nations?

France to-day still pays, as for long years she has been paying, the penalty for the revocation of the Edict of Nantes. That wanton act,
as shortsighted as it was arbitrary, as senseless as it was wicked, drove beyond the borders of France a million of souls, comprising some of the best blood and best intellects of the French people. The Protestant Emigres, driven from their homes in France, stripped of their property, carried with them to England, to Germany, and to the wilds of America, not only their religion but that training and discipline of mind which the school of adversity always teaches, and to-day you can read on the brightest pages of the histories of the countries receiving the refugees the great achievements wrought by them. England owes to them and their posterity much, very much, of her pre-eminence in the world's commerce. Germany is their debtor both in the acts of peace and of war. Strike from your galaxy of statesmen and warriors, from your roll of great men in all the walks of life, the names of French Huguenots and their descendants, and see what a void there would be!

England lost in great part what she gained through her kindly reception of the persecuted fleeing from other lands by her impolitic and atrocious treatment of Puritan Englishmen and Catholic Irishmen. Had she been content with driving the Puritans from her own soil and not sought to impose unwarrantable restraints upon them in the homes they had established on this continent, it is possible that to-day all English-speaking people would be united under one government—the grandest and greatest upon earth. The condition of Ireland to-day attests most eloquently the incontestable fact that legislation like this you propose to enact never has and never will accomplish aught but the creation of a plague spot in the body-politic, which in her case has festered for many centuries and is at this moment the dominant issue in English politics.

Do you say I am presumptuous in comparing the despised Mormons with the French Huguenots, the English Puritans, and the Catholic Irishmen? In numbers we will probably not equal either, and yet there are nearly a quarter of a million who hold that religious belief in the United States. This bill strikes at the property of the Mormon Church and proposes a test oath to professors of the Mormon faith. It is true that our religious establishment is only fifty-six years old, but in that short period our people have been driven from three States by mob-violence, our property destroyed, our prophet and leaders murdered in cold blood, and forty-one years ago we had, in the dead of winter, to leave our homes on the east bank of the Mississippi River, which we had won by honest toil, and make an unparalleled pilgrimage of more than 1,500 miles, across trackless plains and unknown mountains, to find beyond the pale of civilization a new abiding place. We found a desert land not then the domain of the United States.
The first act of the pioneer band, nearly all of whom came of good New England, Pennsylvania, and New York stock, was to hoist the Stars and Stripes and take possession in the name of the United States, a Government which we then believed and still believe to be of divine origin. This country was at war with Mexico. The Mormons, driven from their homes on the banks of the Mississippi, and living in tents and rude huts, scattered in camps along the way from the Mississippi to the Missouri, had been especially appealed to by the President to furnish a battalion of five hundred men to make a forced march across the continent and help seize and hold California. The appeal was responded to, although it required every fifth man to abandon his family at the outset of an enforced journey, long, arduous, and perilous, but whither no one then knew, save that their tabernacle was to be set up somewhere beyond the Rocky Mountains.

In making this heroic sacrifice, as in hoisting the flag of their country on the mountain peak overlooking the valley of Great Salt Lake, and taking possession in the name of the United States, the Mormon pilgrims were simply doing their duty. The believed and taught then, as they believe and teach to-day, that the Government of the United States was founded by men who were inspired of God. It mattered not what they had suffered at the hands of lawless men, or wherein those in authority had failed to do their duty, the Mormon religion imposed upon those who accepted the faith the sacred obligation of supporting, defending, and aggrandizing that Government, the establishment of which was but part of the latter-day dispensation.

The achievements of the Mormons speak for themselves. They found a desert region in the interior of the continent, which the few white men who had theretofore penetrated pronounced an un reclaimable waste. Hostile savages held the then supposed to be only habitable places round about. Almost 2,000 miles of plains and mountains, uninhabited, save by warlike savage nomads, separated us from the eastern frontier line. Between Great Salt Lake Valley and the few scattered Spanish settlements on the Pacific, more than 800 miles of still more inhospitable deserts and rugged mountains intervened. The history of mankind does not afford another such example of a people, stripped of all their possessions, and with the scantiest possible provision, successfully accomplishing so marvelous an undertaking. Within less than two years more than five thousand souls made the pilgrimage from the banks of the Mississippi to Great Salt Lake Valley, growing on their way their provisions and making the raiment with which they were clothed. What was endured during that exodus, the awful suffering from hunger, until the first year's crops were grown and
matured in the valley, would require a far more eloquent tongue than mine to adequately describe. Men and women, who were children then, will tell you that even now they experience in dreams an after-taste of the pangs of hunger gnawing at their vitals through the long and dreary winter of 1847-1848. All stores were held under strict guard and meager rations meted out. But for the kindly assistance of the scarcely-better provided Indians, who taught our people to find, dig, and cook wild roots, starvation would have been the lot of all the weak and ailing.

Those of you who have made the journey across the great plains, over the Rocky Mountains, and through the great valley in palace cars, and seen the wonders wrought by the persistence, the industry, and the thrift of the Mormons can have only the faintest idea of what the transformation has cost the people whom you now deliberately propose to turn over to insatiable spoilers.

I hazard nothing, Mr. Speaker, when I make the statement that but for the Mormons the building of the Union and Central Pacific Railroads would have been an utter impossibility. More than that, sir, but for the work of reclamation, accomplished in two short years among the dreary wastes of Salt Lake Valley, the California and Oregon pioneers of 1849 and succeeding years could not have made the overland journey from the Missouri to the Pacific. We marked out the way, built the roads, bridged the streams, established ferries, and along the line planted settlements.

I repeat, sir, that not only would the construction of a continental iron highway have been indefinitely postponed, save for the Mormon settlements in the inter-mountain region, but, to-day, all that vast region, now populous, gridironed with railroads, yielding millions upon millions in the products of mines and of soil, would be scarcely better known than it was forty years ago.

If the material work accomplished by the Mormons has been such as to challenge the admiration of the world, their political, moral, and intellectual achievements have been none the less remarkable. They have not only reclaimed waste places deemed irreclaimable before their advent; they have not only subdued nature and made the desert to blossom as a garden of flowers; they have not only built cities and towns, railroads and telegraph lines, but they have dotted the land they won from sterility everywhere with school-houses and places of worship. It is our proud boast that but few of the oldest States in this Union can show a less percentage of illiteracy than the Mormon
population of Utah. There is no community on the face of this earth where so large a percentage of the heads of families own their homes. Ninety per cent. of Mormon heads of families in Utah own the houses they live in and the lands they cultivate! Of all the States and Territories in the Union there are but thirteen showing a lower percentage of total population who can not read, Connecticut having the same as Utah, 3.37 per cent. The money raised for school purposes in Utah is greater in amount than the school funds of three States, and of any of the Territories save Dakota. And more than that, sir, not one dollar of the school fund, by far the larger part of which comes from Mormon taxpayers, is used for sectarian purposes! The school books of the public schools of Utah are as absolutely free from Mormon teachings as are those used in the District of Columbia.

The only successful attempts, unaided by the General Government, to reclaim Indians from a savage state and teach them the arts of peace, and make them thrifty agriculturists and useful citizens, have been the work of the Mormon Church and its missionaries. I assert only that which I know to be true when I declare that on more than one occasion the Mormons have prevented costly Indian wars, not only in Utah but in the adjoining Territories.

One of the many slanders so industriously spread abroad concerning my people is the statement that the great mass of them are densely ignorant. Sir, the official statistics give the lie most emphatically to this reckless assertion. Has the State of Connecticut a densely ignorant population? But three and thirty-seven hundredths of the inhabitants of the State of Connecticut can not read. Precisely the same proportion of the people of the Utah in 1880 could not read.

Another unfounded slander spread abroad most industriously by our enemies is the charge that the population of Utah is largely made up of foreigners, who are ignorant and unfit to be citizens of the United States. What do the statistics prove? According to the census of 1880 the total population of Utah was 143,963. Of this number 74,509 were males, and 69,454 females--the males outnumbering the females by 5,045. Of the total population 99,969 were native-born, and only 43,994 foreign-born. There were 52,189 native-born males and 44,780 native-born females; and the foreign-born males were 22,320, and the foreign-born females, 21,674. While the proportion of the foreign-born population of Idaho, is 44,062 to 100,000; of Wisconsin, 44,548; California, 51,217; Minnesota, 52,168; Dakota, 62,117; Arizona, 65,798; Nevada, 70,065; in Utah it is only 44,062. In Dakota, Oregon, New Hampshire, Rhode Island, Michigan, Maine, Massachusetts, Florida,
Arkansas, Washington, Colorado, and New Mexico the foreign-born population increased during the decade preceding the census of 1880, from which these statistics are taken; in Utah it had decreased, and Utah showed a more rapid decrease in its foreign-born population during the period named than twenty-nine of the States and the District of Columbia.

Mr. Speaker, I assert without fear of successful contradiction that there is not upon the face of the globe another agricultural and pastoral community where the average of general intelligence is so high, where so small a percentage of men, women, and children can not read. This is not an idle boast. If I dared to trespass upon your time and your patience I could bring overwhelming proof of my assertion. It is the universal verdict of the intelligent and unbiased observers who have visited Utah and gone among her people.

The fact that the Mormon people have, in a high degree, capacity for self-government is attested by their history. I defy any impartial student of institutional history to take up the legislative enactments of the Territorial Assembly of Utah, beginning with our provisional government, and coming down to date, and fail to pronounce the highest encomium upon the wisdom, the fairness, the justness, and equity of the Mormon government of Utah.

A gentleman who has devoted years to a critical study of their ecclesiastic and political institutions says:

The wisdom of their leading men has been exemplified in the founding and elaboration of a local government, which will receive the unqualified approval of every student of institutional history. In the settlement of no other Western Territory has the distinguishing feature of old New England, the principle of the town meeting, community, self-government, been so rigidly adhered to as in Utah. Brigham Young, who was pre-eminently great as a leader of men and a builder of communities, was a native of Vermont. His chief co-laborers were either natives of New England, New York, Pennsylvania, or the Western Reserve of Ohio. Their civil, like their ecclesiastical policy, was essentially democratic. They built not for to-day, but for all time. The community was the starting point. Mutual assistance, mutual forbearance, unity of sentiment, unity of sympathy, love of God, love of fellow men, and absolute reliance on
Divine Providence were the foundations of the community. Co-operation of communities was the guiding principle of the State.

The result is a model local government. The Territory is absolutely without debt. The expenses of administration are reduced to the minimum. Taxation, on a very low valuation, is, for Territorial purposes, three mills on the dollar. Property in Salt Lake City, with its 30,000 people, and all its public improvements, has a debt of less than $200,000, created to build an irrigating canal 26 miles long, and the rate of taxation, Territorial, school, county, and municipal, is only 17 mills on the dollar. A model school system is maintained without sectarianism. The percentage of illiteracy is three-tenths of 1 per cent. less than that of Massachusetts, and one-tenth of 1 per cent. greater than that of Vermont.

There is no agricultural community on the face of the globe where you can meet so many traveled and educated men as you will in the different Mormon settlements of Utah. You will cease to wonder at this statement when you are told that every year the church calls upon a large number of young men to go "without scrip and without purse," as missionaries to all lands. These men are gone on an average of three years. They preach the gospel, learn languages, take note of all they see and hear. The Mormon is inquisitive as well as acquisitive. He is cautious, secretive, and prudent, because the world looks at him as a. Shrewd at making a bargain, his word is as good as his bond. There is no trade so eagerly sought after as that of the Mormon merchant. They are scrupulously honest, pay invariably 100 cents to the dollar, and mind their own business.

Such, Mr. Speaker, is the testimony of a disinterested observer.

A great deal was said before the Judiciary Committee, and the bill now under consideration contains a provision about grants of land, water, and timber privileges made to certain individuals by the provisional legislature of Utah. It was claimed before the committee, and apparently with effect, that these grants were for the purpose of creating monopolies and thereby aggrandizing particular men, or interfering in some way with settlement by non-Mormons. Nothing could be farther from the truth. Water and timber were scarce articles. Grants were given to a few men who had means to build roads into
canons to enable the people to get timber out, and the privilege of charging toll was given to those who at great expense made the roadways. Toll bridges were allowed to be built by private individuals for the accommodation of the public. But these were mere temporary expedients necessary in a poor community. They long since ceased to exist. As to the charge of monopolizing water rights I will repeat what I said before the committee, the truth of which can not be questioned:

The Mormon pioneers undoubtedly had an eye to securing whatever there was good in the desert country they had sought out as a place of refuge. * * * The area of land which can successfully be cultivated by irrigation by a family is not great. * * * Community co-operation is one of the features of the Mormon polity. A settlement was first made where the water could be, with the least labor and cost, brought to irrigate the land. The custom which has come to be recognized law in all other countries is, that those who first take out the water can not be deprived of the quantity to which they thereby become entitled. The Mormons were provident and thoughtful of the future. They settled at the mouths of canons where the mountain streams debouched. They did just what every forehanded people, pioneers, will do; they took all they could get. It is now made a serious charge against them that they monopolized the water and the arable land, not to aggrandize themselves, but to provide for their children and their brethren of other sections of the Union and of other lands, who might come to join them. Was it a crime?

Every one acquainted with the local history of Western Territories knows that it was the common practice to grant charters for toll roads and bridges in almost every Territory. I believe it is an undisputed fact that for a long time the firm of Barlow & Sanderson, two enterprising Vermonters, had a monopoly of the stage coach and mail carrying business in Colorado, because they owned the toll roads through every available pass in a certain region. They got the charters from the Legislature of Colorado, built the roads, and the tolls they were allowed to charge prevented competition in their business.

There is no more occasion for the twenty-first section of this bill than there would be for an enactment requiring the Attorney-General to institute suits to annul grants given to Barlow & Sanderson for toll roads in Colorado by its Territorial Assembly.
Mr. Speaker, disguise the fact as the advocates of this bill may; seek with great ingenuity, as the authors of this bill have done, to slip round, or under, or over, constitutional prohibitions, they can not escape certain demonstrable conclusions:

First. That in prescribing a test oath as a qualification prerequisite to exercising the right of suffrage they are doing something that is not only hateful and odious in the sight of every American, but they in this case do it in despite of the plain letter of the Constitution. I need only quote the honorable gentleman from Virginia [Mr. TUCKER] who has charge of this bill. When the so-called Edmunds anti-polygamy bill was under consideration in this House he said, in premising his remarks:

I believe the most precious assurance for American liberty and the most essential guarantee of American civilization is the Constitution of the United States. To destroy any evil by unconstitutional methods is to cure a disease by a poison which disturbs the vital functions of the body politic and injects into it a principle most difficult to be extirpated, and creates a precedent whose influence must be injurious and may be fatal to the life of constitutional government.

That was sound doctrine, right eloquently and pithily announced. But hear him on the question of the test oath prescribed by that bill:

I come now--

He said--

to the eighth section of the bill. That provides that no bigamist, polygamist, or any person cohabiting as before mentioned, shall vote or be eligible to office, or hold office in any Territory of place over which the United States have exclusive jurisdiction, or under the United States. This disfranchises every such person from every office from the Presidency down to the most petty place under the Government.

I waive the question of a constitutional power to make disqualifications for offices to which another department appoints, or as to which the Constitution itself establishes its own free qualifications. I assert that this section, without trial of any kind, takes from every person
guilty of any of these offenses the precious right of suffrage and the privilege of eligibility to or the title to hold any office under the United States. This is done by act of Congress for crime. It operates so instantly of the approval of this law. If at that moment he is guilty of a new offense created by this act, this act in the same moment inflicts this heavy penalty.

It does more. The ninth section establishes a commission of five persons, whose decision of exclusion of any man from the polls is absolute and final. He has no appeal. That commission tries the question of guilt or innocence in order to determine his right to vote. His citizenship is emasculated under this law, without the process of law by indictment and jury trial before a court of law. The commission of five are the absolute arbiters of the rights and immunities of one hundred and forty thousand citizens of the United States.

The gentleman from Virginia held that such a law was unconstitutional, and in this he was but voicing the unbroken current of decisions, up to that time, by the courts of last resort in every State in this Union that had passed upon the question, as well as that of the Supreme Court of the United States. Learned lawyer, as the gentleman is I know, he must have had in mind at that time the celebrated case in the matter of Dorsey, found in 7 Porter, 293. A statute of Alabama disqualified persons who had engaged in duels, and prescribed a test oath. Mr. J. L. Dorsey declining to take this oath was refused admission to the bar, and the case coming up to the supreme court of that State was elaborately considered in all its bearings. In the course of the opinion the court says:

The tenth section of the bill of rights, among other things, provides that no one shall be compelled to give evidence against himself, nor shall he be deprived of his life, liberty, or happiness, but by due course of law. After a patient and mature examination of the matter, I am of opinion that the requisition of the expurgatory oath exacted by this law offends against this portion of the bill of rights. It is so offensive to the first principles of justice to require a man to give evidence against himself in a penal case that, independent of the constitutional interdict, no one in this enlightened age will be found to advocate the principle. But it may be said, this is not a case of this kind, as no corporal or pecuniary punishment is the consequence of a refusal to take the oath against duelling. But are not the
results the same whether punishment follows from the admission or is imposed as a consequence of silence? Can ingenuity make a distinction between a punishment inflicted in this mode, as a consequence of the refusal to take the oath, by closing one of the avenues to wealth and fame, and a positive pecuniary mulct? If there be a difference, I think it entirely in favor of the latter so far as the amount or weight of the penalty could affect the decision of this question.

I do not doubt that, familiar as the gentleman is with constitutional law, he had overlooked the opinion of the New York court of appeals in Barker vs. The People (3 Cowen, 686), wherein that high court held that--

Eligibility to office is not declared as a right or principle by any express terms of the constitution; but it results, as a just deduction, from the express powers and provisions of the system. The basis of the principle is the absolute liberty of electors and the appointing authorities to choose and appoint any person who is not made ineligible by the constitution. Eligibility to office, therefore, belongs not exclusively or specially to electors enjoying the right of suffrage. It belongs equally to all persons whomsoever not excluded by the constitution. I therefore conceive it to be entirely clear that the Legislature can not establish arbitrary exclusions from office, or any general regulation requiring qualifications which the constitution has not required. If, for example, it should be enacted by law that all physicians or all persons of a particular religious sect should be ineligible to public trusts; or that all persons not possessing a certain amount of property should be excluded; or that a member of the Assembly must be a freeholder; any such regulation would be an infringement of the constitution, and it would be so because, should it prevail, it would be, in effect an alteration of the constitution itself.

As a right flowing from the constitution, it cannot be taken away by any law declaring that classes of men, or even a single person not convicted of a public offense, shall be ineligible to public station; but as a right not expressly secured by the constitution it may be taken from convicted criminals when the Legislature in their plenary power over crimes deem such a deprivation a
necessary punishment. To say this is to say, in substance that the right in question may be forfeited by crimes when the Legislature so direct.

Now I appeal to the gentleman to say if the law laid down by the supreme court of Alabama and the New York court of appeals in these cases was not sound. If it was good law, as declared by the New York court of appeals, that 'as a right flowing from the constitution, it can not be taken away by any law declaring that classes of men, or even a single person not convicted of a public offense, shall be ineligible to public station,' then I want to know if the right of suffrage can be taken from a class of men, or even a single individual not accused or even suspected of any crime, because he will not take a prescribed oath in which he is required to swear that he will not violate certain laws? Was there ever anything more preposterous proposed? But the gentleman may say the right of suffrage is not expressly secured by the Constitution of the United States to white men. Then I reply to him, in the language of the New York court of appeals, 'as a right expressly secured by the constitution it may be taken from convicted criminals when the Legislature in their plenary power over crimes deem such deprivation a necessary punishment. To say this is to say in substance that the right in question may be forfeited by crimes when the Legislature so direct.' But could the Legislature inflict a punishment like this upon innocent men who will not swear that they never will be guilty of an offense which the Legislature may create?

The Supreme Court of the United States, in the Cummings case, declared of the provisions of the constitution of Missouri, which disfranchised those who would not swear that they had not been guilty of certain things--

The clauses in question subvert the presumption of innocence and alter the rules of evidence, which heretofore, under universally recognized principles of common law, have been supposed to be fundamental and unchangeable. They assume that the parties are guilty; they call upon the parties to establish their innocence; and they declare that such innocence can be shown only in one way--by an inquisition in the form of an expurgatory oath into the conscience of the parties.

How much more reprehensible are the provisions of section 25 of the bill under consideration. By this the citizen who will not swear that he is not going to violate a law, by his refusal is, ipso facto,
subjected to a severe penalty—total disfranchisement and disqualification. Could anything be more monstrous?

The supreme court of New York, in Gotchens vs. Matheson (58 Barbour, 152), said:

Citizenship of the United States is an important right and the privileges conferred by it are important privileges, dearly prized by the American people. An act that provides for a forfeiture thereof imposes a penalty and comes within the provisions of the Constitution in regard to bills of attainder.

The gentleman from Virginia, standing in his place in this House on the 13th of March, 1882, declared of the eighth and ninth sections of the bill then under consideration:

I should be false to my sworn duty to support and defend the Constitution of the United States if I voted for a bill which not only violates the Constitution, but makes a precedent of evil omen to the liberties of the people. I can not consent to eradicate one vice by an act of usurpation of power which might involve results of greater magnitude and importance to the happiness of the present and future generations of this great Union. I forbear--

He said further--

to dwell upon the dangerous powers vested in the oligarchy to be constituted by the ninth section. Given a board, which is to regulate suffrage, to hold elections, to make returns thereof, and all this without appeal, and there will be no difficulty in reaching the conclusion that for the time being 140,000 citizens of the United States will be subject to an autocratic oligarchy as absolute in its authority and capable of achieving as much unhappiness for its subjects by the plunder of their property, the deprivation of their liberties, and the violation of their constitutional rights as ever existed among any people in ancient or modern times.

That bill which the gentleman thus denounced became a law March 22, 1882, the provisions of the eighth and ninth sections being
unchanged. By the terms of the twenty-fourth section of the bill now under consideration the ninth section of the act of March 22, 1882, is continued in force.

Yes, Mr. Speaker, that 'board' which the gentleman so eloquently denounced 'as an autocratic oligarchy as absolute in its authority and capable of achieving as much unhappiness for its subjects by the plunder of their property, the deprivation of their liberties, and the violation of their constitutional rights as ever existed among any people in ancient or modern times,' is by this bill to be continued in full force and effect. An that, too, notwithstanding the gentleman knows that the Territorial Assembly of Utah at its last session passed a bill meeting in every possible way the requirements of the act of March 22, 1882, but which was causelessly vetoed by the then governor of the Territory.

I know it has been claimed that the Supreme Court of the United States, in Murphy et al. vs. Ramsey et al. (114 U. S., 15), has affirmed the power of Congress to prescribe a test oath such as was provided by the eighth section of the act of March 22, 1882; but I insist that that judgment of the Supreme Court does not meet the issue raised by the proposed legislation contained in section 25 of this bill.

The eighth section of the act of March 22, 1882, only applied to bigamists, polygamists, or those guilty of unlawful cohabitation. It required all the ingenuity of the Supreme Court to get around the decision of that court in the Cummings case to escape the logic of the opinions in half dozen cases decided by the highest courts of Pennsylvania, New York, Alabama, Georgia, and Kentucky. I refer to Huber vs. Reilly (3 P. F. Smith, 142); Gotchens vs. Matheson (58 Barbour, 152); Baker vs. The People (3 Cowen, 686); In the Matter of Dorsey (7 Porter, 293); Campbell vs. The People of Georgia (11 Ga., 353); Gaines vs. Buford (1 Dana, 510).

The Supreme Court of the United States recognized the hopelessness of answering the logic of these famous cases. If it admitted that the disfranchisement prescribed in the eighth section of the act of March 22, 1882, was imposed as a punishment, it knew it would be open to two objections, either one of which would be fatal. Accordingly a majority of the court, ignoring the point that it in effect was a bill of pains and penalties directed against a class merely held that 'it is not open to the objection that it is an ex post facto law.' Referring to the eighth section the court says:
It does not seek in this section, and by the penalty of disfranchisement, to operate as a punishment upon any offense at all. The crime of bigamy or polygamy consists in entering into a bigamous or polygamous marriage, and is complete when the relation begins. That of actual cohabitation with more than one woman is defined, and the punishment prescribed in the third section. The disfranchisement operates upon the existing state, and condition of the person, and not upon a past offense. It is, therefore, not retrospective. He alone is deprived of his vote who, when he offers to register, is then actually cohabiting with more than one woman. Disfranchisement is not prescribed as a penalty for being guilty of the crime and offense of bigamy or polygamy, for, as has been said, that offense consists in the fact of unlawful marriage and a prosecution against the offender is barred by the lapse of three years by section 1044 of the Revised Statutes. Continuing to live in that state afterwards is not an offense, although cohabitation with more than one woman is. But as one may be living in a bigamous or polygamous state without cohabiting with more than one woman, he is in that sense a bigamist or a polygamist, and yet guilty of no criminal offense. So that, in respect to those disqualifications of a voter under the act of March 22, 1882, the objection is not well taken that represents the inquiry into the fact by the officers of registration as an unlawful mode of prosecution for crime.

In respect to the fact of actual cohabitation with more than one woman, the objection is equally groundless, for the inquiry into the facts so far as the registration officers are authorized to make it, or the judges of election, on challenge of the right of the voter if registered, are required to determine it is not, in view of its character as a crime, nor for the purpose of punishment, but for the sole purpose of determining, as in the case of every other condition attached to the right of suffrage, the qualification of one who alleges his right to vote. It is precisely similar to an inquiry into the fact of nativity, of age, or of any other status made necessary by law as a condition of the elective franchise. It would be quite competent for the sovereign power to declare that no one but a married person shall be entitled to vote; and in that event the election officers would be authorized to determine for that occasion, in
case of question in any instance, upon the fact of marriage as a continuing status. There is no greater objection, in point of law, to a similar inquiry for the like purpose into the fact of a subsisting and continuing bigamous or polygamous relation, when it is made, as by the statute under consideration, a disqualification to vote.

Observe the inconsistency of the court as well as the inexactness of the language employed to convey its meaning. It says that the law 'does not seek in this section, and by the penalty of disfranchisement, to operate as a punishment upon any offense at all.' What the writer was trying to say was that 'disfranchisement' in its imposition in this instance was not as a 'punishment' for crime, but the habit of using legal phraseology was so strong upon him that he could not escape self-condemnation out of his own mouth. 'Penalty,' according to Webster means, 'penal retribution;' 'punishment for crime or offense;' 'the suffering in person or property which is annexed by law or judicial decision to the commission of a crime, offense, or trespass.'

Therefore 'the penalty of disfranchisement' is a punishment, and to argue that it can be inflicted and not 'operate as a punishment upon any offense at all' is self-stultifying. But let us analyze the whole paragraph quoted above. The court admits that disfranchisement can not be inflicted as a penalty by the Legislature without a trial. Its attempt to prove that a bigamist is not disfranchised for that offense, or for unlawful cohabitation, is disingenuous. Of course 'the crime of bigamy or polygamy' is committed by 'entering into a bigamous or polygamous marriage,' but 'disfranchisement,' although it 'operates upon the existing state and condition of the person,' is none the less 'a punishment' for that offense even if prosecution therefor 'is barred by section 1044 of the Revised Statutes.' To claim that 'disfranchisement is not prescribed as a penalty for being guilty of the crime and offense of bigamy or polygamy,' but is imposed as a punishment for continuing in a bigamous or polygamous state, which is made an offense, is to describe exactly 'a penal retribution,' which the Constitution of the United States declares shall not be inflicted 'without due process of law.'

To admit that while 'one may be living in a bigamous or polygamous state without cohabitation with more than one woman, he is in that sense a bigamist or a polygamist and yet guilty of no criminal offense,' and still insist that 'the objection is not well taken that represents the inquiry into the fact by the officers of registration as an unlawful mode of prosecution for crime,' is simply begging the question. What is the purpose of the inquiry? To ascertain if the person is living
in a bigamous or polygamous state without being guilty of a criminal offense? No! The object is to find out whether he is guilty of an offense which subjects him to the penalty of disfranchisement. To do this what is the mode? An expurgatory oath? Yes! Who are to do this? The officers of registration, who, in the language of the New York court of appeals, 'are not authorized to do so. They can determine who are citizens, but they can not adjudge and declare, as an original adjudication, that the plaintiff's citizenship has been forfeited by the commission of an offense.' (Gotchens vs. Mathewson 58 Barbour, 152.)

Unlawful cohabitation is an offense punishable by fine and imprisonment; nevertheless the Supreme Court says that 'the inquiry into the fact, so far as the registration officers are authorized to make it, or the judges of election, on challenge of the right of the voter, if registered, are required to determine it, is not in view of its character as a crime, nor for the purpose of punishment, but for the sole purpose of determining, as in the case of every other condition attached to the right of suffrage, the qualification of one who alleges his right to vote.' But how far 'in the case of every other condition attached to the right of suffrage' are the registration officers, or judges of elections, competent to inquire? 'They may determine,' says the supreme court of Pennsylvania, 'many things, such as the age and residence of a person offering to vote, whether he has paid taxes, and whether, if born an alien, he has a certificate of naturalization; ** but whether he has been guilty of a criminal offense and has, as a consequence, forfeited his right, is an inquiry of a different character.' (Huber vs. Riley, 3 P. F. Smith, 142.) The utmost extent to which they can go, says the supreme court of New York, is to receive as evidence the adjudication by a court of competent jurisdiction 'that the plaintiff's citizenship has been forfeited by the commission of an offense.' (Gotchens vs. Mathewson, 58 Barbour, 152)

And the reasons for this are threefold. First, because both in the United States and in England it has invariably been held that an election officer is 'neither a judge nor anything like a judge.' Second, because 'citizenship of the United States is an important right, and the privileges conferred by it are important privileges, dearly prized by the American people. An act that provides for a forfeiture thereof, imposes a penalty, and comes within the provisions of the Constitution in regard to bills of attainder.' (Ibid.) Third, because 'if this were not so, if that which can not be accomplished by means looking directly to the end can be accomplished by indirect means, the inhibition may be evaded at pleasure. No kind of oppression can be named against
which the framers of the Constitution intended to guard which may not be effected.' (Cummings vs. The State of Missouri, 4 Wall. 272.)

Having wabbled into this untenable position it is not surprising that the court should assert that "it would be quite competent for the sovereign power to declare that no one but a married person shall be entitled to vote." It might with equal accuracy have said that the sovereign power could prescribe the height, in feet and inches, of the persons entitled to vote, as well as the color and cut of their hair.

Mr. Speaker, waiving, for argument sake, the question of the righteousness and soundness of the law and reasoning of this decision of the Supreme Court of the United States, does not the provisions of section 25 of the bill now under consideration go way beyond what the court says Congress may lawfully do? It is not content with fixing a 'status' for the voter by requiring him to 'register himself by his full name, with his age, place of business, his status, whether single or married, and if married, the name of his lawful wife,' but says he 'shall take and subscribe an oath,' wherein he must swear, among other things, not only that he does not mean to commit certain offenses, but that 'he will not, directly or indirectly, aid, abet, counsel, or advise any other person to commit the same.'

There have been test oaths prescribed in this country before; but never, I believe, what might be termed in futuro test oaths, which men who were neither accused nor suspected of crime were required to take as a prerequisite to being qualified to vote. If it is forbidden by the Constitution to prescribe an oath as to the past actions of a man who has not been convicted of any crime, thereby disfranchising him as a penalty for not taking the oath, how much more must it be unconstitutional to require him, under the pain and penalty of disqualification, to swear that he does not intend to commit an offense, or aid, abet, advise, or counsel, directly or indirectly, others 'to commit the same?'

Mr. Speaker, in the language of the gentleman from Virginia, 'I believe the most precious assurance for American liberty and the most essential guarantee of American civilization is the Constitution of the United States. To destroy any evil by unconstitutional methods is to cure a disease by a poison which disturbs the vital functions of the body politic and injects into it a principle most difficult to be extirpated, and creates a precedent whose influence must be injurious and may be fatal to the life of constitutional government.'

But, Mr. Speaker, this test oath is by no means the only undemocratic and un-American feature of this bill. It provides for the
emasculating of the present Territorial government. It deprives the people of the right to elect one branch of their Legislative Assembly, and provides for a legislative council of thirteen members who are to be appointed by the President and confirmed by the Senate. And this, too, in the face of the fact that the governor of the Territory has by the organic act an absolute veto power. What possible excuse for the addition of autocratic oligarchical powers?

But this is not all. The people are deprived of the last vestige of local self-government by conferring upon the governor the power to appoint every county, municipal, and precinct officer, except judges and selectmen of the county and probate courts, who are to be appointed by the President of the United States, by and with the advice and consent of the Senate.

The gentleman from Virginia has experienced a wonderful change of heart since 1882. Then he denounced as atrocious the proposition to confer upon a 'board'—'an autocratic oligarchy'—power that would enable them to plunder the people of their property, to deprive them of their liberties, and to violate their constitutional rights. Now he not only is in favor of continuing this 'autocratic oligarchy' with all its powers unimpaired, but he wants to impose upon the people alien local officers—those who assess their property and collect the taxes—as well as every other vestige of local self-government.

Mr. Speaker, can it be that such a precedent as this is to be set by the Congress of the United States? Sir, I take it that there is not a member of this House who will contend that Congress can with impunity disregard that right of local-community self-government which lies at the basis of all free representative governments. It has been well remarked, 'That it is a principle of institutional law, peculiar to the race from which we sprang, and without it no free government ever has been, or ever can be, maintained. From the time Tacitus remarked this feature of the common law of primitive Germany it has been the well-spring of the free institutions which distinguish the governments of the races springing from the liberty-loving and liberty-maintaining Teutonic tribes. Whenever our English ancestors, from any combinations of circumstances, temporarily lost sight of or were deprived of the right of local-community self-government, they invariably became the victims of oppressive power exerted by the tyranny of one or of many.'

Our forefathers were wisely tenacious of this principle of community government. All the reasons which they gave in justification of their revolt against British tyranny were bottomed on this fundamental
right. It was in a town meeting, the embodiment of the idea of local-community self-government and a venerable survival of an archaic institution that determined and systematic resistance to the encroachments of King and Parliament was first organized. Otis, Old Man Eloquent, and John Adams, of glorious memory thundered in the former, but plain yeoman Sam Adams, the man of the town meeting, with his committee of correspondence, solidified New England and prepared the way for united action by the thirteen colonies.

You have the power to deprive one hundred and fifty thousand people in the Territory of Utah of this sacred right of local-community self-government; but remember precedents, like curses, come back to plague their inventors. It is not so many years since the representatives of the people of thirteen States of this Union were shut out of both Houses of Congress and kept out until State governments were reconstructed in order, as Judge Black declared, to 'maintain the worst men in the highest offices, throw the reins loose on the neck of rapacity, make leprous fraud adored.'

Place thieves
And give them title, knee, and approbation
With Senators on the bench.

Mr. Speaker, I can not undertake to point out and comment upon all the monstrous features of this bill. I would not presume to trespass so long upon the time and patience of the House. I trust, however, you will bear with me while I briefly refer to two other of its provisions.

Section 14 annuls the law incorporating the Church of Jesus Christ of Latter-day Saints, so far as the same has any legal validity, and also annuls the corporation of the association called the 'Perpetual Emigrating Fund Company' and dissolves said corporation.

The argument made by the majority of the Judiciary Committee in favor of these provisions of the bill and the reasoning of gentlemen in support thereof on the floor of this House are both ingenious and disingenuous. Certain premises are laid down, and the whole fabric built thereon stands upon a false foundation.

The acts incorporating the Church of Jesus Christ of Latter-Day Saints and the Perpetual Emigrating Fund Company were within the legislative power conferred upon the Territorial Assembly of Utah by the organic act. They were as much within its power as the incorporation of any other companies or associations. They were 'rightful subjects of legislation, consistent with the Constitution of the United
States and the provisions of the organic act. Congress, it is true, reserved the right to disapprove, and if it exercised this power, the acts of the Legislative Assembly disapproved were null and of no effect. But the Supreme Court of the United States (in the Miners' Bank vs. The State of Iowa, 19 Curtis, 1) declared that until Congress did disapprove of the acts of Territorial Assemblies they were valid. It held, moreover, in the same case, that a corporation owing its existence to an incorporating act passed by a Territorial Assembly was a valid one. It follows, therefore, a corporation thus created would become vested with certain rights. If it was given the right to acquire and hold property and manage it for its own use or benefit, or for the use and benefit of others, those rights became vested rights. You cannot interfere with those vested rights any more than the Legislature of New Hampshire could with the vested rights of Dartmouth College.

If there is any law well settled in this country I take it that it is the law in regard to vested rights. When Congress came to legislate upon the subject of polygamy in 1862, the original bill contained a clause repealing, or annulling in toto, the act of the Legislative Assembly incorporating the Church of Jesus Christ of Latter-Day Saints, but the Congress did not dare go that far. It expressly declared that in the future no religious organization, association, or society should acquire property to a greater amount than $50,000; but it did not interfere with the property already held by such organization, association, or society. It did not, because it could not without violating the well-settled law of the land in regard to vested rights.

I will not consume your time by arguing this subject in all its details and ramifications. This is done fully and far better than I could hope to do it by the minority of the Judiciary Committee in their report to the House. It is so thoroughly and perfectly demonstrated there that Congress has not the power to do what this bill proposes to do in the fourteenth, fifteenth, and sixteenth sections that it would be a mere waste of time on my part to add one word further. If you will not 'believe on such authority and such reasoning you would not believe though one rose from the dead' to warn you against this contemplated wrong. For like reasons I have not deemed it necessary to touch upon other outrageous features of this bill, which have been so ably discussed in the minority report.

As is shown by that report, section 2 'invades the personal rights, attacks and overthrows the personal security of the citizen.' It is not only indefensible legislation, but it is useless. To-day the arrest of persons wanted as witnesses without previous service by a
subpoena is the course of procedure in Utah. There is no warrant of law for it. The only effect of this proposed legislation by Congress is to give a semblance of right to what has been, and is being, done by making it lawful in the future.

The sixth section of the bill is useless because no such laws as are therein denounced exist in the statute-books of Utah.

In the majority report, in speaking of the annulment of the laws incorporating the Mormon Church, this language is used--

The organic act expressly provides that all laws passed by the Territorial Legislature "shall be submitted to the Congress of the United States, and if disapproved shall be null and of no effect."

This power whenever exercised makes the original law null—not only hereafter, but 'of no effect.' If disapproval only nullified its effect for the future no force will be given to the last words.

Section 7 of the bill annuls certain laws conferring jurisdiction on the probate courts of Utah. Are we to infer that this disapproval by Congress of these laws not only annuls them for the future, but makes them 'of no effect' so far as the past is concerned? If this is the effect, as the majority agrees, in regard to the laws incorporating the Church and the Perpetual Emigrating Fund Company, then it must follow, according to their reasoning, that whatever has been done in the past by the probate courts was illegal, null, and 'of no effect.' This is contrary to the law laid down by the Supreme Court of the United States in the Miners' Bank vs. The State of Iowa, already referred to, but I suppose the court will promptly reverse itself, when it has the opportunity, on the dictum of the distinguished lawyers who subscribe to this later doctrine.

Mr. Speaker, may I venture to appeal to this House to consider well before it commits itself to the monstrous propositions contained in this bill. I know too well the influences which are operating to drive this proposed legislation through Congress. I realize how the very air has been made pregnant with the baseless calumnies, the slanders, the innumerable and unmitigated falsehoods, ceaselessly concocted and persistently disseminated. Religious bigotry and intolerance are arrayed against my people. Political necessity, cant, hypocrisy, and all kindred Pecksniffianism join in the hue and cry. The platform, the pulpit, the press, are mighty engines for the manufacture of public sentiment. Their batteries are directed constantly and with full force
upon the Mormons. I know that it is probably well-nigh impossible for any man in public life to even protest against a measure, no matter how monstrous, how unconstitutional, that is aimed at Mormonism.

Daily, almost hourly, we are told that it is the evil of polygamy that leaves us friendless. 'Rid yourselves of that stigma,' is the advice of those who admit the wrongfulness, the danger, of such legislation as is now proposed, 'and fair play and justice will have a chance.' But is it polygamy that is aimed at? If so, why not give the laws already enacted and so vigorously, nay, so ruthlessly enforced, an opportunity to work their legitimate effects? If they will not extirpate polygamy, surely no legislation of a kindred character ever will. If you are impatient and must have quicker results why not act upon the declaration of an assistant Attorney-General of the United States, who deliberately said that it would have been an act of mercy to have put all grown-up Mormons to the sword. This bill, if it becomes a law, will place the Mormon people at the mercy of men whose object is first to plunder them of all their earthly possessions, and drive them from their homes. The possibilities of the results of this legislation, Mr. Speaker, can not be exaggerated. In all candor I verily believe that a law directing general outlawry to be declared against all who did not, after certain time from the issuing of a proclamation, publicly renounce and recant their belief in the faith of the Mormon Church would be merciful in comparison with the effects of this proposed law.

Mr. Speaker, it is not the morals of the Mormon people or the contaminating influence thereof upon the public that is at the bottom of the persecution we have to endure. It is preposterous nonsense to talk about the 'Mormon blot' upon the civilization of our age. If you were to undertake to eradicate blots upon your civilization you would have your hands full. I would respectfully refer gentlemen who are curious to know something of the morality which the boasted civilization of the nineteenth century has developed in localities far removed from Utah, and where intellectual light blazes most powerfully, to Von Oettingen's Moralstatistik, published in 1882. The Fortnightly Review, speaking of this book recently, said:

It exhibits truly the most "dismal" of sciences, since it consists of little else than the exhibition of a complete record of crime. Perhaps the most disheartening pages of Von Oettingen's array of facts are those which relate to the crimes of great cities and densely populous areas. Von Oettingen's tabulations seem to include all European countries except Spain, Portugal, and Turkey. If a map of Europe were before us shaded in proportion
to the return of known vice and crime the darkest
shadows would rest where the boast of intellectual
light is greatest—in Saxony, the shrine of modern
culture, the fortress of free thought.

There is but scant probability of 'the canker of Mormon
polygamy,' as it is termed, endangering the morals of the world, of
endangering your civilization, in the presence of the widespread and
general demoralization of morals.

Mr. Speaker, the Mormon Church establishment is the thing
aimed at in all this onslaught upon the Mormon people. It is a religious
problem you are endeavoring to deal with in this as well as in all other
legislation that has been attempted or proposed. It is our ecclesiastical
and not our moral polity that is aimed at—that is sought to be over-
thrown. The men who are here from Utah, clamoring for the
disfranchisement of the Mormon people, who insist that every office
within that Territory shall be vacated and filled by appointees, that even
our selectmen, who make the assessments of property, and the tax-
collectors shall give way to non-Mormons, are not afraid of the
contamination of their own or their families' morals. They know, as
all the world knows, that apurer, more orderly, upright, God-fearing,
and God-serving community does not exist upon earth than the
exclusively Mormon settlements of Utah. It is simply because the
minority can not, under a democratic American form of local govern-
ment, rule the majority that these men are here clamoring for our
disfranchisement.

There is one question, Mr. Speaker, that is pressing swiftly
and strongly upon the people of this country; there is one problem that
demands the serious attention of all who are interested in the future
welfare of the nation, and even of society itself. That question, that
problem, the Mormons have solved for themselves. We are not
perplexed about the relations between capital and labor; we are not
threatened with the dangers of a dissatisfied proletariat; we have no
dread of communism; our slumbers are not disturbed by fears of
anarchists. The Perpetual Emigrating Fund Company you propose to
wipe out, cut up-root and branch, because it imports poor and ignorant
foreigners, who you claim become the bond slaves of the Mormon
hierarchy. And yet 90 per cent. of all the Mormon families in Utah
own their own houses. But 3.37 per cent. of men, women, and children
can not read. The official statistics are a sufficient answer to this
nightmare.
The hard times recently experienced the world over have been experienced in Utah. But where Mormon laborers have been employed, either in or outside the Territory, there have been no strikes. And, what is still more worthy your attention, there is not to-day in an exclusively Mormon community an almshouse or the need of one.

It is said the country demands the suppression of polygamy. Admit for argument's sake that it does. The country does not demand that the rights of citizenship shall be denied the people of Utah, nor that their church shall be disincorporated and the church property squandered.

It will be claimed that this legislation is recommended by the Utah Commission. Do those who make this claim fully comprehend how great a personal interest the members of that commission have in the success of this measure? This bill perpetuates them in positions where they draw $5,000 a year each from the public Treasury, where they are allowed some remarkable personal expenses, and where they have practically nothing to do. Is it a matter for astonishment that they should recommend the passage of this bill?

It is also claimed that this legislation is recommended by the governor of Utah. Is he not an interested party also? If this bill becomes a law it will give him the direct and indirect appointment of two thousand officers who heretofore have been chosen by the people. A patronage so great might satisfy the ambition of one more aspiring even than the governor of Utah. This modest gentleman, while admitting that he sees no probability of any outbreak in Utah, has had the supreme assurance to urge that a 'strong, well-disciplined, and efficient' force of United States soldiers be held near Salt Lake to assist the civil authorities. Is Congress prepared to follow the bent of these place-seekers in their insatiable cravings? Recommendations from sources in which personal considerations are so manifest would, ordinarily, carry eternal condemnation on the face of them.

If this bill were only what it professes to be, if its purpose were the suppression of polygamy alone, how can all this help it? As fast as can be done convictions are now secured and the ease with which they are obtained is of national notoriety. So long as the forms of law are observed it is impossible to expedite convictions without an increase in the number of courts, and this bill does not even hint at such a step. In breaking up the family relations already formed, of what advantage can it be to deprive me of my franchise? How can that cure the marriage relations of the president of the Mormon Church, or the unlawful cohabitation of any other man?
One man's polygamy was suppressed very successfully a few days since. An apostate Mormon, acting as deputy marshall, shot a Mormon for whom he had a warrant on a charge of unlawful cohabitation. The man was on horseback. He was unarmed. The marshall called on him to halt, and almost at the same instant fired. The burden of the testimony shows the man did not try to escape, though there was absolutely no justification for the shooting even had he endeavored to do so. In an hour the Mormon was dead. The murderer, while being taken to Beaver, where the district court was in session, was met by twelve or thirteen members of the grand jury, which he had selected on an open venire. This cavalcade carried refreshments, and the return trip was after the style of the triumphal march of a homeward-journeying hero. This same grand jury investigated the murder and found an indictment charging the deputy marshall with manslaughter. He was prosecuted by the assistant United States attorney for Utah, who, during the trial, declared in open court that unlawful cohabitation was a felony, when the United States statute explicitly makes it a misdemeanor. The same prosecutor told the jurors that the assassin should be acquitted, and they obediently returned a verdict of not guilty.

Mr. Speaker, the declaration of an assistant Attorney-General of the United States, that it would be an act of mercy to put every adult Mormon to the sword, is bearing fruit. The theory of the clique bent on our destruction, that a Mormon is, in his nature, a dangerous criminal, is bearing natural fruit. The continued legislation which is being driven through Congress and which, with unerring certainty is bedging in and trampling down the safeguards of liberty to Mormons, is bearing fruit after its kind. This bill, which renders it possible to enlarge the powers of Mormon haters and to swell their official numbers, will bear the same fruit. The unlawful cohabitation of E. M. Dalton was suppressed. This way of suppression has received an impetus by the acquittal of his assassin. Where do you expect this license by law and this immunity from punishment by courts will end? A Mormon boy, in a private brawl with a deputy marshall, in broad daylight, and on a crowded street in Salt Lake City, struck the deputy a blow with his fist. For this offense he was twice fined, and then sent to the penitentiary by the United States judge. A Mormon is killed in cold blood by a deputy marshall, and the assassin is acquitted at the instance of the United States prosecutor. This kind of history reads well, does it not? And it will improve vastly with age.

In conclusion, Mr. Speaker, I will say that no community ever did exist that was at the same time industrious and thrifty and yet immoral, dishonest, and disloyal. Men there may be bad to a degree
that will not bear mention who are also industrious, but communities
and nations never. History records no such example. The industry and
thrift of my constituents is admitted by their bitterest and most fanatical
enemies. They dare not deny it. Do a handful of Mormons in the Rocky
Mountains set at defiance all that the experience of history has revealed?
Are they in the world's history the solitary instance of thrift and
immorality, of industry and licentiousness, of probity and dishonesty,
possessed of material wealth and yet disrespectful of property rights?
Nothing could be more absurd.

History tells us, Mr. Speaker, that where there is thrift and
industry in a community, side by side with it will be found morality,
truthfulness, and loyalty. The admission of the industry of the people
of Utah destroys the whole case of their enemies. Industry and
immorality have ever been and will forever remain incompatible in
communities. But even were this not true, what can you do by
legislation? There is no gainsaying the fact that industry could not
exist where property rights are not duly respected and protected by law.
The industry of Utah therefore signifies the existence of ample
protection for property rights. It has been stated by one of those now
in Washington in the interest of this bill that one-half the property in
Salt Lake is owned by gentiles. Taking his word as true, what does it
show? That the very presence in business ventures in Utah of so many
persons intensely antagonistic to the Mormon people demonstrates the
existence of laws covering property rights absolutely.

What more can you do? You can not legislate the people
industrious. The history of all times contradicts such a possibility.
You can not legislate people virtuous, nor can you legislate them happy.
All that you can do is to throw around industrial communities those
safeguards which, while preserving them from interference, still see
that the rights of individuals in property are secured; that the people are
not subject to destroying exactions, nor to the fury and bigotry of men
invested with power, and base enough to use it for the injury of their
fellows, for the limitation of their liberties, and for the annulling of
their rights. No sound governmental policy dare go beyond this. No
statesman dare attempt to do more while he has any respect for his
reputation or regard for those lessons which history teaches. In Utah
what have we found? A people whose industrial accomplishments are
without rival in modern times, if ever rivaled. Arbitrarily, and with
an utter disregard of historical teaching and practical working, this
people has been assumed to be immoral.

With a full knowledge that every attempt at the introduction of
morality by means of legislation is against all good reason, men seem
determined to legislate this people moral. You are asked to make honest that which is alleged to be inherently dishonest; good that which is hopelessly bad; pure that which is reeking with filth; noble and elevating that which is ignoble and debased, and all by legislation. In other words, you are asked to legislate the sow's ear into the silk purse.

Mr. Speaker, it can not be done. You begin on a false basis. But even were the position sure, the means are opposed to reason and to history. If the Mormon people are what the popular belief declares them to be, they will destroy themselves more surely, more rapidly, than can be accomplished by any methods to which you dare resort. The effect of immoral practices by communities is such certain, such inevitable decay that even when all appears best and fairest the death-promoting germs are at work surely and relentlessly undermining, and will bring the whole into that crumbling decay, that putrid ruin, which a beneficent Creator has determined shall be the fate of all that is not builded upon and sustained by the eternal principles of morality. If Mormonism fall, it will fall of its own weight. I contend, Mr. Speaker, and I make the contention with all respect, that instead of promoting the true interests of Utah all this special and class legislation has been a pronounced detriment.

You have found my constituents honest, for their reputation in business marts is almost unexampled. You have found them industrious. Instead of following the promptings of reason and experience by throwing about them those safeguards which would enable them to continue their work of enriching this great nation—instead of this, it is proposed to hamper them still further and by the most violent methods.

I tell you if we want our own people and the nations of the world to respect our boast of justice and our right to govern, if we would have them love the principles of freedom we profess, we must begin by manifesting some respect for justice and some love for free and liberal principles ourselves. Only by this means can we inspire in others a permanent and abiding faith in our institutions and in our loyalty.

My constituents have suffered indignities, insults, and ostracism for years almost uncomplainingly. They have been despoiled of character by paid assassins—and by assassins I mean those that are vilest, who rob women and children of that which alone gives value to life—and my people have asked in vain for justice. They have been misruled by men sent from a Government that did not design to be unfriendly, men who have been their enemies in every way but that which gives the garb of honor to enmity, and my people have submitted. They have been taunted, and by wicked and treasonable designs have
been tempted to assume a position of open and avowed resistance to the Government, and the attempts have failed; yet charges of defiance and treason have been entered against them which were shown to be false, and still there came no redress for my people. On by one their rights—and those rights which give a community its reputation, its better, its immortal part—have been wrested arbitrarily from them, and still my people have appealed for justice and raised opposition only by those means which the Constitution has provided. A whole nation, if the words of blatant men prevail, is arrayed against them determined upon their destruction, and this determination is gradually crystallizing in the acts of Congress, and yet the appeal of my people is to constitutional means and to these alone. This is the disloyal people of Utah!

I tell you, Mr. Speaker, I tell you solemnly, that in the United States, in the whole world, there is no people more loyal to the eternal truths of liberty, as expressed in the Constitution of this country, than my constituents; and there will come a time, a time when the mists which now befog the understanding of the American people and its legislators, when the refuge of lies erected by characterless charlatans shall have been swept away, there will come such a time when my words will stand forth marked clear and bold and untarnished as their truth justifies.

Gentlemen, I ask you to pause. For your own sakes you can not afford to take a step which is determined upon by such insufficient and untrustworthy testimony. I am here more than a pleader. I speak for myself; and I pledge my word and my character that the statements upon which this legislation is based are without foundation in fact. You can not afford to pursue a policy which is determined upon the destruction of a people whose only fault is, at worst, that they pursue the happiness of themselves and their fellows by methods which are different from your own. Time, the great corrector of all evils, will right this wrong, if such it be, and the fiat of the Eternal has already decreed that the last vestige of Mormonism shall be swept away by the peaceful progress of events, if it be not that which God in His wisdom has appointed shall survive as the fittest.

Gentlemen, you who have freed from bondage the negro slave, you who love liberty and herish the institutions of our country, who would bequeath them fair and unsullied to your children, let me plead with you, let me beseech you, not to consign my people to such inhuman slavery. [Loud applause.]  

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APPENDIX D

DISFRANCISEMENT BILL

Delegate Caine Denounces the Proposed Outrage.

Washington, April 23. — At the opening of the meeting of the House Committee on territories this morning, Delegate Dubois opposed the proposition to give Delegate Caine, of Utah, and Judge Wilson an opportunity of being heard in opposition to the Mormon disfranchise- ment bill. Dubois said that this matter and the whole Mormon question had been fully argued before the committee both this year and last, and they, the committee, had all the facts and comprehended the whole matter.

Delegate Caine said he had never been heard on the disfranchisement proposition. If a thief attempted to rob him of a few dollars he could go to a court of justice and get all the time he wanted to convict the thief, but here was a proposition to deprive a quarter of a million American citizens of their rights and liberties, and this wide-minded statesman would refuse their representative an opportunity to convict the robber. On motion the committee granted Mr. Caine the time desired.

Mr. Caine, thereupon, in substance, said: 'The bill under consideration is intended to disfranchise all the members of the Church of Jesus Christ of Latter-Day Saints, commonly called the Mormon church, for, disguise it as you may, this is the aim and object of the measure. It is useless to say that no such law heretofore has been proposed to Congress in regard to any religious body. It is un-American and subversive of those rights of representative government which the author of the Declaration of Independence declared to be of inestimable worth to them "and formidable to tyrants." From colonial days down to the present time "governments of the people, by the people and for the people" express the American Idea of republican government. With the majority of a community disfranchised such a government is impossible. The government then of a minority cannot
be distorted to mean a government of people. It is such an extraordinary thing to propose the total disfranchisement of a whole people that I am amazed that any man claiming to be an American citizen, that any man claiming to be a Republican or a Democrat, could be found to advocate such a monstrous proposition. If this scheme should be enacted into law, the large majority of the people of the territory of Utah would be disfranchised, their property, their domestic institutions, the entire machinery of their local government would be at the mercy of the minority. In many towns and settlements throughout the territory men could not be found not members of the Mormon church to hold the local offices. All civil government would therefore be destroyed and anarchy run riot.

He said carpet-baggers would have to be imported to fill the offices. Political floaters, men without occupation, tempted by the prospect of plunder, a herd of unemployed politicians would descend like the Goths and Vandals to become petty tyrants and enrich themselves by pillage of the public treasuries. Are such men fit to hold important local offices, to collect and disburse the people's taxes, issue bonds and borrow money? The Mormon people were the pioneers of the Rocky Mountain Territories.

Mr. Caine recited the circumstances under which way they went to Utah and what they had accomplished there and added: 'The history of mankind does not afford another such example of a people stripped of all their possessions successfully accomplishing so marvelous an undertaking. Those who have made the journey across the great plains, over the Rocky Mountains and through the great valley in palace cars and seen the wonders wrought by their persistence, their industry and their thrift, can have only the faintest idea of what the transformation has cost the people whom this bill deliberately proposes to deprive of all their political rights. Are these people to be disfranchised because they opened the great transcontinental highway for the immigration of the nations? Because 500 of their number helped to conquer the territory they now occupy, as well as that embraced in the state of California? Because their pioneers took possession of the Salt Lake basin and raised on the mountain peaks the American flag? Because they have by industry and co-operation in labor redeemed the desert and made it blossom as a garden? Because they have established a great commonwealth, the wonder of all who have seen it? Because their people are frugal, industrious and honest? Because in the commercial world their promises to pay are worth one hundred cents on the dollar? Is it because of these and many other commendable works and qualities they are to be disfranchised?
'This bill is a new departure in Anti-Mormon legislation and is palpably in conflict with the avowed views of those members of the Senate and House of Representatives who advocated the former anti-polygamy act. All the objections to those measures on the ground of their violation either in letter or spirit of the fundamental freedom of religious opinion and worship invariably met with the emphatic declaration that they did not interfere with liberty of conscience, that the actions of men and not their opinion or religious creeds were the proper subjects of legal animadversion. But the spirit of persecution, like jealousy, grows by what it feeds on, and at length has assumed such monstrous proportions that would have appalled its projectors at the beginning so that according to the bard of Newstead "Honest and devout Christians have burnt each other, quite persuaded the apostle would have done as they did."'

Mr. Caine quoted largely from the supreme court decisions statements made by Senators and Representatives in Congress and from official reports of the Utah Commission to show that the legislation of Congress was enacted against the religion of the Mormon people but solely for the suppression of polygamy, and argued that there was no necessity for such a palpable departure from former methods.

'There is no rebellion in Utah,' Mr. Caine said, 'no insurrection; the people are orderly, peaceable, industrious and honest. It has been shown by official reports that during the last two years or more, polygamous marriages have been as rare in Utah as bigamous marriages in any other state, but it would seem the nearer the people approach to compliance with the requirements of the law, the more they are to be harrassed, distrssed, and persecuted. Is this just? Is it compatible with the character of a great and magnanimous nation to trample on the weak? We might reasonably expect from some of the agitators and adventurers of the far west who have rhinoceros hides and India rubber consciences who think that the Mormons have no rights others are bound to respect, should act upon the principle of the doggerel poet:

The Mormon people are quite appalling,
Knock them down and kick them for falling.

But it is to be hoped that enlightened statesmen will be governed by higher, more generous and magnanimous views. Consider what kind of a republican form of government you will have in Utah with three-fourths of the men, women and children disfranchised. The autocracy of Russia, the despotism of European states would deserve the name of a republican as well as such government.'
Referring to the enfranchisement of the slaves of the South, Mr. Caine said: 'It is a sad commentary upon the spirit of our times to note the fact that on Wednesday last, while the colored people of this district were celebrating their emancipation from slavery, this committee was gravely considering a measure which would condemn political slavery without a hearing, without conviction, a quarter of a million white American citizens, most of whom are not ever accused of any crime. This kind of accusation has been tried upon people by the British government for centuries, and we all know the result, and it will fail wherever it may be attempted.'

Mr. Caine referred to the legislative commission scheme of years ago and quoted Senator Edmunds' views upon it as published in the New York Independent, and claimed that they were equally applicable to the bill now before the committee. He quoted from the debates in the Senate during the passage of the Edmunds-Tucker bill and cited upon a universally recognized principle we would not undertake to interfere with anybody's faith, doctrine and worship,' and added: 'Now, will any person presume to say to me that I am not interfered with when I am disfranchised because I am a member of a certain order, organization or association? I think not. I am not a lawyer, but I hold such interference to be a violation of the Constitution because prohibiting the free exercise of religion. A man who is disfranchised is not free in the exercise of anything.'

The speaker then referred to the efforts made by the non-polygamous Mormons to place themselves in harmony with the rest of the nation. He showed that the constitutional convention of Utah had placed an anti-polygamy clause in the constitution which the people ratified. The marriage law passed by the legislature and the resolution of the same body favoring 'the enforcement of the anti-polygamy laws as other laws are enforced, and that all such offenses be prohibited.' He quoted statistics which showed that only six convictions for polygamy or bigamy had occurred in the whole territory of Utah during the year 1889, which included non-Mormon bigamists as well as polygamists, and this, too, notwithstanding the fact that the juries are especially charged to use great diligence in making inquiry into the offenses of polygamy and unlawful cohabitation. Thus United States marshals and their deputies resort to all means, legal and illegal, to hunt up Mormons suspected of polygamous offenses. Many arrests of innocent people are made, and though the marshals fail to secure convictions, they never fail to secure the fees. Of course deputy marshals must live, and Mormons have no rights and they have few friends, so they become an easy prey to the fee fiends.
'Gentlemen,' the speaker said, 'tear from this proposition the vail of pretense. It is not to punish polygamists for every such offense, suffering all the pains, penalties and disabilities intended to be inflicted by this measure. The only persons affected by it are those who have obeyed every law of their country, who have subscribed to every required test, who have given and are daily giving evidences of their love for this government. The title of this bill should be changed to read, "A bill to punish loyalty," for it seeks to condemn to perpetual serfdom a class of citizens who have transgressed no law and whose political fault, if any, has been trustfulness in the national government. When this era of proscription for Utah commenced, the loudly proclaimed intention was to bring the younger generation into accord with the government. In good faith they accepted the government's regulations. They subscribed to the oaths and obeyed the laws, and disfranchisement is the proposed reward. It is breaking faith without the poor excuse, doing evil that the good may come. Mormon prisoners when before the courts charged with polygamous offenses have repeatedly been told by the judges that all the government requested was that they should promise to obey the law, that the government did not desire to wreak vengeance upon them but to correct their morals; that if they would promise to obey the law in the future, they would escape with a nominal punishment. How different the spirit of the measure under consideration! Not only are men to be disfranchised who have never broken any law but who have registered an oath they would not do so hereafter.'

'An astonishing element in this matter is that the measure is seeking enactment without the endorsement of any party in Utah or the other territories. Who wants such legislation? Who asks for it? No one who has any direct interest in this question. A few days ago I inquired of the governor of Utah, who is here, and he stated emphatically that he was taking no part and would not do so one way or another. Prominent men here from Utah equally are reticent--'

At this point Delegate Dubois interrupted the speaker and said that Governor Thomas, ex-Governor West and members of the Utah commission who were here all favored the bill and thought it should become a law; that Governor Thomas had made such a statement before two or three members of the committee.

Mr. Caine replied he would only repeat what Governor Thomas had said to him, that he (Thomas) had talked the matter over and had decided to take no part either for or against the bill and then remarked: 'The committee have now both statements before them and can judge what kind of a man Governor Thomas is.'
'I have heard this bill originated with a certain Utah "Liberal,"
whose hatred for the people of that Territory has doubtless been
increased because his own party, now partially in power there, has seen
fit to ignore him. It is said that he contemplates leaving Utah and wants
to fire this poisoned arrow that he may be remembered. This man
represents no other but himself. He has been recognized for years as
a bitter, bigoted and fanatical enemy of the Mormon people. Is this a
proper source from which to receive inspiration for legislation? Would
you strike down a whole people at the suggestion of their most pro-
nounced and bitterest enemy? For over forty years the people of Utah
have enjoyed popular self-government. Will it not prove a great
damage to the Territory to emasculate the bone and sinew of its
inhabitants? To deprive a man of the franchise dries up his aspirations;
he has little left to excite his ambition; he becomes a political dunce.
Can a State, the majority of whose people are in a relation of servitude,
expect to achieve any brilliant future? All past experience answers no.'

During the delivery of his argument Mr. Caine was asked by the
chairman, Mr. Struble, if the Mormon Church had not been declared by
judicial decision in Utah to be a criminal organization, remarking that
it was not because of their religious belief that it was now proposed to
disfranchise the Mormons, but because they were members of a
criminal organization.

Mr. Caine answered that the time allowed him would not permit
him to explain the circumstances which led to that so-called declaration.
It was charged that while passing through the Mormon endowment
ceremonies certain oaths were taken against the United States and
disloyalty to the government was inculcated in the endowment
ceremonial. He said he had been through the endowment ceremonies
and could testify as a man of honor and truth that no such oaths or
teachings of the character represented were included in the ceremonial,
and that the decision was founded upon a basis of falsehood and rendered
for political purposes. He presented the official declaration recently
issued by the leading authorities of the Mormon Church from which he
read extracts bearing upon the points raised by the chairman. In
conclusion he said: 'I cannot believe that any gentleman of this
committee who is honest and honorable in all the relations of life, who
would shrink with horror from a proposition to participate in the
robbery of any man's money or property, who would spurn as a dog
the man who dared make such a suggestion. I cannot believe that you
will condescend to rob a people of that which is far more precious to
them than gold or silver—their liberty.'

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1 Journal History, April 23, 1890, p. 7.
APPENDIX E

PROCLAMATION No. 42.

[No. 42.]

By the President of the United States of America

A PROCLAMATION.

Whereas, Congress, by a statute approved March 22, 1882, and
by statutes in furtherance and amendment thereof, defined the crimes
of bigamy, polygamy and unlawful cohabitation in the Territories and
other places within the exclusive jurisdiction of the United States and
prescribed a penalty for such crimes; and

Whereas, on or about the 6th day of October, 1890, the Church
of the Latter Day Saints, commonly known as the Mormon Church,
through its President, issued a manifesto proclaiming the purpose of
said Church no longer to sanction the practice of polygamous marriages,
and calling upon all members and adherents of said church to obey the
laws of the United States in reference to said subject matter; and

Whereas, it is represented that since the date of said
declaration the members and adherents of said Church have generally
obeyed said laws and have abstained from plural marriages and
polygamous cohabitation; and

Whereas, by a petition dated December 19, 1891, the officials
of said Church, pledging the membership thereof to a faithful
obedience to the laws against plural marriage and unlawful cohabitation,
have applied to me to grant amnesty for past offences against said
laws, which request a very large number of influential non-Mormons,
residing in the Territories, have also strongly urged; and

Whereas, the Utah Commission, in their report bearing date
September 15, 1892, recommend that said petition be granted and said
amnesty proclaimed, under proper conditions as to the future
observance of the law, with a view to the encouragement of those now
disposed to become law-abiding citizens; and

Whereas, during the past two years such amnesty has been
granted to individual applicants in a very large number of cases,
conditioned upon the faithful observance of the laws of the United States against unlawful cohabitation; and there are now pending many more such applications;

Now, therefore, I, BENJAMIN HARRISON, President of the United States, by virtue of the powers in me vested, do hereby declare and grant a full amnesty and pardon to all persons liable to the penalties of said Act by reason of unlawful cohabitation under the color of polygamous or plural marriage, who have since November 1, 1890, abstained from such unlawful cohabitation; but upon the express condition that they shall in the future faithfully obey the laws of the United States hereinbefore named, and not otherwise. Those who shall fail to avail themselves of the clemency hereby offered will be vigorously prosecuted.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this fourth day of January in the year of our Lord, one thousand eight hundred and ninety three, and of the Independence of the United States the one hundred and seventeenth.

BENJ HARRISON

By the President:

JOHN W. FOSTER,

Secretary of State. 1

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APPENDIX F

CONSTITUTION OF THE STATE OF UTAH.

PREAMBLE.

We, the people of Utah, grateful to Almighty God for our freedom, in order to secure its blessings, insure domestic tranquillity, and form a more perfect government, do establish this

CONSTITUTION.

Article I. --Bill of Rights.

SECTION 1. All men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness.

SEC. 2. All free governments are founded on the authority of the people, and instituted for their equal protection and benefit.

SEC. 3. There shall be no union of church and State, nor shall any church dominate the State.

SEC. 4. The right to worship God, according to the dictates of conscience, shall never be infringed, nor shall the State make any law respecting an establishment of religion or prohibiting the free exercise thereof; nor shall any control of, or interference with the rights of conscience be permitted. No religious test or property qualification shall be required for any office or public trust, nor for any vote at any election, nor shall any person be incompetent to testify on account of religious belief, or the absence thereof.

SEC. 5. The right of trial by jury shall remain forever inviolate; but the legislature may provide that in civil actions five-sixths of a jury may render a verdict; and that in inferior courts a number less than twelve may constitute a jury.

SEC. 6. The privilege of the writ of habeas corpus shall not be suspended, unless, when in cases of rebellion or invasion, the public safety may require its suspension.

SEC. 7. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishments be inflicted; nor
shall witnesses be unreasonably detained, nor confined in any room
where criminals are actually imprisoned.

SEC. 8. All persons shall be bailable by sufficient sureties;
unless for capital offenses, when the proof is evident or the
presumption great.

SEC. 9. No person shall be held to answer for a capital, or
otherwise infamous crime, unless on a presentment or indictment of a
grand jury, except in cases arising in the land and naval forces, or in
the militia when in actual service in time of war or public danger, nor
shall any person for the same offense be twice put in jeopardy; nor be
compelled in any criminal case to be a witness against himself; nor be
deprived of life, liberty, or property without due process of law; nor
shall private property be taken or damaged for public use without just
compensation.

SEC. 10. In all criminal prosecutions the accused shall have
the right to a speedy and public trial, by an impartial jury of the State
and district wherein the crime shall have been committed, which
district shall have been previously ascertained by law; to be informed
of the nature and cause of the accusation; to be confronted with the
witnesses against him; to have compulsory process for obtaining
witnesses in his favor, and to have the assistance of counsel for his
defense.

SEC. 11. The State shall pass no law abridging the freedom of
speech or of the press, or the right of the people peaceably to
assemble, and petition the Government for the redress of grievances.

SEC. 12. The military shall be subordinate to the civil power.

SEC. 13. No soldier shall, in time of peace, be quartered in
any house without the consent of the owner, nor in time of war,
except in the manner prescribed by law, and no standing army shall be
maintained by this State in time of peace.

SEC. 14. Representation shall be apportioned according to
population.

SEC. 15. There shall be no imprisonment for debt, except in
cases of fraud.

SEC. 16. No bill of attainder, ex post facto law, or law
imparing the obligation of contracts shall be passed.

SEC. 17. All laws of a general nature shall have a uniform
operation.

SEC. 18. Foreigners who are, or who may hereafter become,
bona fide residents of this State, shall have the same rights in
respect to the possession, enjoyment, transmission, and inheritance
of property as native-born citizens.

SEC. 19. The right of the people to be secure in their persons,
houses, papers, and effects, against unreasonable searches and
seizures, shall not be violated, and no warrant shall issue but on
probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons or things to be seized.

SEC. 20. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. And no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 21. The right of citizens to keep and bear arms for common defense shall not be questioned.

SEC. 22. The blessings of free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

SEC. 23. This enumeration of rights shall not be construed to impair or deny others retained by the people.

Article II.—Right of Suffrage.

SECTION 1. Every male citizen of the United States, not laboring under the disabilities named in this constitution, of the age of twenty-one years and over, who shall have resided in the State six months, and in the county and voting precinct thirty days, next preceding any election, shall be entitled to vote for all officers that are now or hereafter may be elected by the people, and upon all questions submitted to the electors at such election: Provided, That no person who has been or may be convicted of treason or felony, in any State or Territory of the United States, or in any district over which the United States has jurisdiction, unless restored to civil rights, shall be entitled to the privileges of an elector.

SEC. 2. During the day on which any general election shall be held, no elector shall be obliged to perform military duty, except in time of war or public danger.

SEC. 3. All elections by the people shall be by secret ballot.

SEC. 4. Provisions shall be made by law for the registration of the names of the electors within the counties and voting precincts of which they may be residents, and for the ascertainment, by proper proofs, of the persons who shall be entitled to the right of suffrage.

Article III.—Distribution of Powers.

SECTION 1. The powers of the government of the State of Utah shall be divided into three separate departments: the legislative, the executive, and the judicial; and neither of said departments shall exercise any functions appertaining to either of the others except in the cases herein expressly directed or permitted.
Article IV. — Legislative Department.

SECTION 1. The legislative authority of this State shall be vested in a legislature, which shall consist of a senate and house of representatives, and the sessions thereof shall be held at the seat of government.

SEC. 2. The sessions of the legislature shall be biennial, and except at the first session thereof, shall commence on the second Monday in January next ensuing the election of members of the house of representatives unless the governor shall convene the legislature by proclamation.

SEC. 3. The members of the house of representatives shall, except at the first election, be chosen biennially, by the qualified electors of their respective districts, at the general election, and their term of office shall be two years from and including the first Monday in December next succeeding their election.

SEC. 4. The senators shall be chosen by the qualified electors of their respective districts, at the same time and places as the members of the house of representatives, and their term of office shall be four years from and including the first Monday in December next succeeding their election, except as otherwise provided in section 10 of Article XVII of this constitution.

SEC. 5. The first legislature shall consist of twelve senators and twenty-four representatives; the number of senators and representatives may be increased, but the senators shall never exceed thirty in number, and the number of representatives shall never be less than twice that of the senators. The apportionment and increase of the members of both houses shall be as prescribed by law.

SEC. 6. No person shall be a senator who shall not have attained the age of twenty-five years, nor shall any person be a senator or representative who shall not be a citizen of the United States, and who, except at the first election, shall not have been two years a resident of this State and for six months next preceding his election a resident of the district in which he is elected. No person holding any State office, except officers of the State militia, commissioners of deeds, and notaries public, and no executive or judicial officer shall have a seat in the legislature.

SEC. 7. The members of the legislature shall, before entering upon their official duties, take an oath or affirmation to support the Constitution of the United States and of this State, and faithfully to discharge the duties of their respective offices.

SEC. 8. Each house shall judge of the qualifications, elections, and returns of its own members, may punish them for disorderly conduct, and with the concurrence of two-thirds of its whole number, expel a member.
SEC. 9. No member of the legislature shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State which shall have been created, or the emoluments of which shall have been increased during such term, except such offices as may be filled by election by the people.

SEC. 10. Members of the legislature, in all cases except treason, felony, or breach of the peace, shall be privileged from arrest during the session of the legislature, and for fifteen days next before the commencement and after the termination thereof; and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 11. When a vacancy occurs in either house, the governor shall order an election to fill such vacancy.

SEC. 12. A majority of all the members elected to each house shall constitute a quorum to transact business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house may prescribe.

SEC. 13. Each house shall establish its own rules, keep a journal of its own proceedings, and publish them, except such parts as require secrecy, and the yeas and nays of the members of either house, on any question shall, at the desire of any three members present, be entered on the journal.

SEC. 14. The door of each house shall be kept open during its session, except the senate while sitting in executive session; and neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which it may be holding session.

SEC. 15. The enacting clause of every law shall be as follows: 'Be it enacted by the legislature of the State of Utah.'

SEC. 16. Any bill or joint resolution may originate in either house of the legislature, and shall be read three times in each house before the final passage thereof, and shall not become a law without the concurrence of a majority of all the members elected to each house. On the final passage of all bills the vote shall be by yeas and nays, which shall be entered on the journal.

SEC. 17. No law shall be revised or amended by reference to its title only, but the act as revised, or section as amended, shall be enacted and published at length.

SEC. 18. All bills or joint resolutions passed by the legislature shall be signed by the presiding officers of the respective houses.

SEC. 19. The legislature shall not grant any special privilege or bill of divorce, nor authorize any lottery, gift enterprise, or games of chance.
SEC. 20. No money shall be drawn from the treasury except as appropriated by law.

SEC. 21. Provision shall be made by law for bringing suit against the State.

SEC. 22. The first regular session of the legislature may extend to one hundred and twenty days, but no subsequent regular session shall exceed sixty days, nor shall any session convened by the governor exceed twenty days.

SEC. 23. The members and officers of the legislature shall receive for their services a compensation to be fixed by law, and no increase of such compensation shall take effect during the term for which the members and officers of either house shall have been elected.

SEC. 24. Every bill passed by the legislature shall be presented to the governor. If he approve it, he shall sign it, whereupon it shall become a law; but if not, he shall return it, with his objections, to the house in which it originated, which house shall cause such objections to be entered upon its journal, and proceed to reconsider it. If, after such reconsideration, it again pass both houses, by a vote of two-thirds of the members elected to each house, it shall become a law, notwithstanding the governor's objections. If any bill shall not be returned within ten days after it shall have been presented to him, Sundays excepted, exclusive of the day on which he received it, the same shall be law in like manner as if he had signed it, unless the legislature, by its final adjournment, prevent such return, in which case it shall not become a law unless the governor, within ten days after the adjournment shall file such bill, with his approval thereof, in the office of the secretary of state: Provided, That every general appropriation bill shall be presented to the governor at least five days before the day of final adjournment, and in case he vetoes the same, in whole or in part, he shall return it, with his objections to the whole or to the separate items of which he may disapprove, not less than two days before said final adjournment, whereupon each house shall proceed to consider his objections to the whole or to the separate items of which he may disapprove, and any item not receiving the necessary two-thirds vote shall not become law.

Article V.--Executive department.

SEC. 1. The supreme executive power of this State shall be vested in a governor.

SEC. 2. The governor shall be elected by the qualified electors at the time and places of voting for the members of the legislature, and shall hold his office for the term of two years from and including the first Monday in December next succeeding his election, and until his successor shall be qualified.
SEC. 3. No person shall be eligible to the office of governor who is not a qualified elector, and who, at the time of such election, has not attained the age of twenty-five years, and who, except at the first election under this constitution, shall not have been a citizen resident of this State for two years next preceding the election.

SEC. 4. The governor shall be commander-in-chief of the military forces of this State, and may call out the same to execute the laws, suppress insurrection, and repel invasion, and when the governor shall, with the consent of the legislature, be out of the State in time of war, and at the head of any military force thereof, he shall continue commander-in-chief of the military forces of the State.

SEC. 5. He shall transact all executive business for and in behalf of the State, and may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.

SEC. 6. When any office shall from any cause become vacant, and no mode is prescribed by the constitution or laws for filling such vacancy, the governor shall have power to fill such vacancy by appointment, which vacancy shall expire when such vacancy shall be filled by due course of law.

SEC. 7. He shall see that the laws are faithfully executed.

SEC. 8. The governor may, on extraordinary occasions, convene the legislature by proclamation, and shall state to both houses when organized the purpose for which they have been convened.

SEC. 9. He shall communicate by message to the legislature, at every regular session, the condition of the State, and recommend such measures as he may deem expedient.

SEC. 10. The governor shall have power to grant reprieves, commutations, and pardons, after conviction, of all offenses except impeachment, subject to such restrictions and regulations as are named in this constitution or as may be provided by law.

SEC. 11. A lieutenant-governor shall be elected at the same time and places and in the same manner as the governor, and his term of office and his eligibility shall also be the same. He shall be the president of the senate, but shall only have a casting vote therein. In case of impeachment of the governor, or his removal from office, death, inability to discharge the duties of said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the lieutenant-governor for the residue of the term, or until the disability shall cease; and in case of the disability of both the governor and lieutenant-governor, the powers and duties of the executive shall devolve upon the secretary of state until such disability shall cease or the vacancy be filled.

SEC. 12. A secretary of state, a treasurer, an auditor, a surveyor-general, and an attorney-general shall be elected at the same
time and places and in the same manner as the governor; the term of office of each shall be the same as is prescribed for the governor. Any elector who, except at the first election, shall have resided in this State two years next preceding such election shall be eligible to any of said offices, except the secretary of state, whose qualifications shall be the same as those of the governor.

SEC. 13. There shall be a seal of the State, kept by the secretary of state, which shall be called the 'Great Seal of the State of Utah.'

SEC. 14. All grants and commissions shall be in the name and by the authority of the State of Utah, and shall be signed by the governor, and countersigned by the secretary of state, who shall affix the great seal of the State thereto.

SEC. 15. The secretary of state shall be the custodian of the official acts of the legislature, and shall keep a true record of the proceedings of the executive department of the government, and shall, when required, lay the same and all other matters relative thereto before either branch of the legislature.

SEC. 16. The secretary of state, treasurer, auditor, surveyor-general, and attorney-general shall perform such other duties as may be prescribed by law.

SEC. 17. The governor shall not, during the term for which he is elected and qualified, be elected to the senate of the United States.

Article VI. — Judicial department.

SECTION 1. The judicial power of this State shall be vested in a supreme court, circuit courts, and such inferior courts as shall be established, and whose jurisdiction shall be determined by law.

SEC. 2. The supreme court shall consist of a chief-justice and two associate justices, a majority of whom shall constitute a quorum.

SEC. 3. The justices of the supreme court shall be elected and qualified electors of the State at the general election, and except as otherwise provided in section 12 of Article XVII of this constitution, shall hold office for the term of six years from and including the first Monday in December next succeeding their election, and until their successors are qualified; the senior justice in commission shall be chief-justice, and in case the commissions of any two or more said justices shall bear the same date, they shall determine by lot who shall be chief-justice.

SEC. 4. The supreme court shall have appellate jurisdiction in all cases arising under the laws of the State, including special proceedings. The court shall have original jurisdiction to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus, also all writs necessary or proper to the complete exercise of its
appellate jurisdiction, Each of the justices shall have power to issue writs of habeas corpus to any part of the State, upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the supreme court, or before any circuit court in the State, or before any judge of said courts.

SEC. 5. The State shall be divided into a convenient number of judicial circuits, in each of which shall be elected, by the electors thereof, at the general election, one judge, who shall be the judge of the circuit court therein, and whose term of office shall be four years from and including the first Monday in December next succeeding his election and until his successor shall be qualified. Until otherwise provided by law, there shall be four circuits, as follows: The counties of Weber, Box Elder, Cache, Rich, and Morgan shall constitute the first circuit; the counties of Salt Lake, Summit, Davis, and Tooele shall constitute the second circuit; the counties of Utah, Juab, Emery, San Pete, Sevier, Millard, Wasatch, and Uintah shall constitute the third circuit; and the counties of Beaver, Iron, Washington, Kane, Garfield, San Juan, and Piute shall constitute the fourth circuit.

SEC. 6. The circuit courts shall have both chancery and common-law jurisdiction; and such other jurisdiction, both original and appellate, as may be prescribed by law; Provided, That nothing herein shall be so construed as to prevent the legislature from conferring limited common-law or chancery jurisdiction upon inferior courts.

SEC. 7. The judges of the circuit courts may hold court for each other, and shall do so when required by law.

SEC. 8. The judges of the supreme and circuit courts shall be ineligible to election to any other than a judicial office, or to hold more than one office at the same time.

SEC. 9. No person shall be eligible to the office of supreme or circuit judge who is not a male citizen of the United States, and has not attained the age of twenty-five years, and who, except at the first election, has not been a resident of this State at least two years next preceding his election. But nothing in this section shall be construed to prevent the legislature from prescribing additional qualifications.

SEC. 10. The judges of the supreme and circuit courts shall each receive for his services a salary to be fixed by law, which shall not be diminished for the term for which he shall have been elected.

SEC. 11. The legislature shall determine by law the places in each circuit at which the circuit courts shall be held, and fix the terms thereof.

SEC. 12. The supreme court shall always be open for business, except in case of adjournment, which in no case shall exceed thirty days. Its sessions shall be held at the seat of government.
SEC. 13. The style of all process shall be 'The State of Utah,' and all prosecutions shall be conducted in the name and by the authority of the same.

Article VII.--Impeachment.

SEC. 1. The house of representatives shall have the sole power of impeachment, and all impeachments shall be tried by the senate. When sitting as a court of impeachment the senators shall be upon oath or affirmation to do justice according to law and evidence, and no person shall be convicted without the concurrence of two-thirds of all the senators.

SEC. 2. The governor, judges of the supreme and circuit courts, and other State officers shall be liable to impeachment. When the governor or lieutenant-governor is tried the chief justice of the supreme court shall preside, and in all cases judgment shall extend only to removal from office and disqualification to hold any office of honor, trust, or profit under this State, but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment according to law.

SEC. 3. When an impeachment is directed the house of representatives shall elect from their own body three members, whose duty it shall be to prosecute such impeachment. No impeachment shall be tried until the final adjournment of the legislature, when the senate shall proceed to try the same.

SEC. 4. In all impeachment trials the accused shall have the right to appear, and in person, and by counsel, to demand the nature and cause of the accusation, and to have a copy thereof; to meet the witnesses face to face, and to have process to compel the attendance of witnesses in his behalf.

SEC. 5. Any State officer shall be liable to impeachment for corrupt conduct in office, for immoral conduct, for habitual drunkenness, or for any act which, by the laws of the State, may be made a felony.

SEC. 6. The legislature shall determine by law the cause, and provide for the removal, of any officer whose removal is not herein provided for.

Article VIII.--Municipal and other Corporations.

SEC. 1. The legislature shall pass no special act conferring corporate powers.

SEC. 2. The legislature shall by general laws provide for the organization of cities, towns, and villages, and restrict their powers of taxation and assessment.
SEC. 3. The legislature shall provide, by general laws, for
the organization of private corporations.

Article IX. --Finance and State debt.

SEC. 1. The legislature shall provide by law for an annual tax,
sufficient to defray the expenses of the State.

SEC. 2. The State shall not assume or guarantee the debts of,
nor loan money or its credit to, or in aid of, any county, city, town,
village, school district, private corporation, or any individual, nor be
interested in the stock of any company, association, or corporation.

SEC. 3. The State debt shall not at any time exceed 3 per
centum of the taxable property of the State, to be ascertained by the
last assessment for State and county taxes previous to the incurring of
such indebtedness.

SEC. 4. No subdivision of the State shall be allowed to become
indebted in any manner or for any purpose, to an amount, including
existing indebtedness, in the aggregate exceeding the following
percentages of the taxable property therein; to be ascertained by the
last assessment for State and county taxes previous to the incurring of
such indebtedness, viz: School districts, 2 per centum; counties, 2
per centum; cities, 5 per centum; Provided, That cities of 5,000
inhabitants and upwards (to be ascertained by the preceding census) may
for the purpose of furnishing water increase their indebtedness to an
additional amount of not exceeding 5 per centum of the taxable property,
as aforesaid, upon a two-thirds vote of the qualified voters at any
election called for that purpose. Any city, county, or school district
incurring any indebtedness as aforesaid shall before, or at the time of
so doing, provide for the collection of a direct annual tax sufficient to
pay the interest on such debt as it falls due, and also to pay and
discharge the principal thereof within twenty-five years from the time
of contracting the same.

Article X. --Taxation.

SECTION 1. The legislature shall by law provide for a
uniform and equal rate of taxation, and shall prescribe such regulations
as shall secure a just valuation for taxation of all property, real,
personal, and possessory: Provided, That mines and mining claims
bearing gold, silver, and other precious metals, except the surface
improvements thereof, shall be exempt from taxation for a period of
ten years from the date of the adoption of this constitution, and
thereafter may be taxed as provided by law.

SEC. 2. The property of the United States and the property of
this State, and such property as may belong to any county or municipal
corporation or as may be used exclusively for agricultural, horticultural, and scientific societies, chartered or controlled by the State or for school, religious, cemetery, or charitable purposes, shall be exempt from taxation; and ditches, canals, dams, reservoirs, and flumes owned and used by individuals or corporations for irrigating lands owned by such individuals or corporations or by the individual members thereof shall not be taxed so long as they shall be owned and used exclusively for such purposes.

SEC. 3. The legislature shall not impose taxes for the purpose of any county, city, town, or other corporation, but may by law vest in the corporate authorities thereof respectively the power to assess and collect taxes for all purposes of such corporations.

Article XI.--Education.

SECTION 1. The legislature shall provide for a uniform system of public schools, the supervision of which shall be vested in a State superintendent and such other officers as the legislature shall provide. The superintendent shall be chosen by the qualified electors in the State in such manner as the legislature shall provide. His powers, duties, and compensation shall be prescribed by law.

SEC. 2. The legislature may establish free schools: Provided, That no sectarian or denominational doctrine shall be taught in any school supported in whole or in part by public funds. Nor shall any professor, instructor, or teacher be preferred, employed, or rejected in said schools on account of his religious faith or belief or affiliation or sympathy with any denomination, creed, or sect.

SEC. 3. All legislation in regard to education shall be impartial, guarantying equal rights and privileges to all persons, irrespective of race, color, or religion.

SEC. 4. The proceeds of all lands that have been or may be granted by the United States to this State for the support of schools shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands and such other means as the legislature may provide, shall be appropriated to the support of the public schools throughout the State.

SEC. 5. The University of Deseret shall be the university of this State, and be under the control of the legislature. The proceeds of all lands that have been granted by Congress for university purposes shall be and remain a perpetual fund, the interest of which, together with the rents of unsold land, shall be appropriated to the support of said university.

SEC. 6. The legislature shall foster and encourage moral, intellectual, and scientific improvement. They shall make suitable
provisions for the education of the blind and mute, and for the organization of such institutions of learning as the best interest of general education in the State may demand.

Article XII. -- The militia.

SECTION 1. The legislature shall provide by law for organizing and discipling a militia of this State in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States nor the constitution of this State.

SEC. 2. Officers of the militia shall be elected or appointed in such manner as the legislature shall, from time to time, direct, and shall be commissioned by the governor.

SEC. 3. The legislature shall provide for calling forth the militia to execute the laws of the State, to suppress insurrections and repel invasions.

Article XIII. -- Public institutions.

SECTION 1. Institutions for the care and benefit of the insane, the blind, the deaf and dumb, and such other benevolent institutions as the public good may require, shall be fostered and supported by the State, subject to such regulations as may be prescribed by law.

SEC. 2. A State prison shall be established and maintained in such manner as may be prescribed by law, and provision shall be made by law for the establishment and maintenance of a house of correction for juvenile offenders.

SEC. 3. The respective counties of the State shall provide, as may be prescribed by law, for those persons who, by reason of age, infirmity, or misfortune, may have claim upon the sympathy and aid of society.

Article XIV. -- Boundary.

The boundary of the State of Utah shall be as follows:

Commencing at a point formed by the intersection of the thirty-second degree of longitude west from Washington with the thirty-seventh degree of north latitude; thence due west along said thirty-seventh degree of north latitude to the intersection of the same with the thirty-seventh degree of longitude west from Washington; thence due north along said thirty-seventh degree of west longitude to the intersection of the same with the forty-second degree of north latitude; thence due east along said forty-second degree of north latitude to the intersection of the same with the thirty-fourth degree of longitude west from Washington; thence due south along said thirty-fourth degree of longitude west from
Washington; thence due south along said thirty-fourth degree of west longitude to the intersection of the same with the forty-first degree of north latitude; thence due east along said forty-first degree of north latitude to the intersection of the same with the thirty-second degree of longitude west from Washington; thence due south along said thirty-second degree of west longitude to the place of beginning.

Article XV.--Miscellaneous provisions.

SECTION 1. The seat of government shall be at Salt Lake City, until the legislature may otherwise determine.

SEC. 2. No person shall be eligible to any elective office who is not a qualified elector.

SEC. 3. The general election shall be held on the first Monday in August of each year, unless otherwise provided by law.

SEC. 4. The legislature shall provide for the speedy publication of all laws of this State.

SEC. 5. The compensation of all State officers shall be as prescribed by law: Provided, No change of salary or compensation shall apply to any officer, except a judge of the supreme or circuit court, during the term for which he may have been elected.

SEC. 6. All executive officers of the State shall keep their respective offices at the seat of government.

SEC. 7. A plurality of votes given at any election by the people for officers shall constitute a choice, where not otherwise provided by the constitution.

SEC. 8. No person holding any office of honor or profit under the government of the United States, shall hold office under the government of this State, except postmasters whose annual compensation does not exceed $300, and except as otherwise provided in this constitution.

SEC. 9. The legislature at their first session shall prescribe the methods of conducting all general and special elections in this State, and for canvassing all votes cast at such elections, and declaring the results thereof.

SEC. 10. All officers, executive, judicial, and ministerial, shall before they enter upon the duties of their respective offices, take and subscribe to the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States, and of the State of Utah, and will faithfully discharge the duties of the office of according to the best of my ability.

SEC. 11. Until otherwise provided by law, the several counties, as they now exist, are hereby recognized as legal subdivisions of this State.
SEC. 12. Bigamy and polygamy being considered incompatible with 'a republican form of government,' each of them is hereby forbidden and declared a misdemeanor.

Any person who shall violate this section shall, on conviction thereof, be punished by a fine of not more than $1,000 and imprisonment for a term not less than six months nor more than three years, in the discretion of the court. This section shall be construed as operative without the aid of legislation, and the offenses prohibited by this section shall not be barred by any statute of limitation within three years after the commission of the offense; nor shall the power of pardon extend thereto until such pardon shall be approved by the President of the United States.

Article XVI. --Amendments.

SECTION 1. Any amendment or amendments to this constitution, if agreed to by a majority of all the members elected to each of the two houses of the legislature, shall be entered on their respective journals, with the yeas and nays taken thereon, and referred to the legislature then next to be elected, and shall be published for three months next preceding the time of such election, and if, in the legislature next elected as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment or amendments to the people, in such manner and at such times as the legislature shall prescribe, and if the people shall approve and ratify such amendment or amendments, by a majority of the qualified electors voting thereon, such amendment or amendments shall become a part of the constitution: Provided, That section 12 of Article XV shall not be amended, revised, or in any way changed until any amendment, revision, or change as proposed therein shall, in addition to the requirements of the provisions of this article, be reported to the Congress of the United States and shall be by Congress approved and ratified, and such approval and ratification be proclaimed by the President of the United States, and if not so ratified and proclaimed said section shall remain perpetual.

SEC. 2. If at any time the legislature, by a vote of two-thirds of the members elected to each house, shall determine that it is necessary to cause a revision of this constitution, the electors shall vote at the next election for members of the legislature, for or against a convention for that purpose, and if it shall appear that a majority of the electors voting at such election shall have voted in favor of calling a convention, the legislature shall, at its next session, provide by law for calling a convention, to be held within six months after the passage
of such law; and such convention shall consist of a number of members not less than that of the two branches of the legislature.

Article XVII. - Schedule and election.

SECTION 1. That no inconvenience may arise by reason of a change from a Territorial to a State government, it is hereby declared that all rights, actions, prosecutions, judgments, claims, and contracts, as well of individuals as of bodies corporate, both public and private, shall continue as if no change had taken place, and all process which may issue under the authority of the Territory of Utah previous to its admission into the Union shall be as valid as if issued in the name of the State of Utah.

SEC. 2. All laws of the Territory of Utah, in force at the time of the admission of this State, not repugnant to this constitution, shall remain in force until they expire by their own limitations, or are altered or repealed by the legislature.

SEC. 3. All fines, penalties and forfeitures accruing to the Territory of Utah, or to the people of the United States in the Territory of Utah, shall inure to this State, and all debts, liabilities and obligations of said Territory shall be valid against the State, and enforced as may be provided by law.

SEC. 4. All recognizances heretofore taken, or which may be taken before the change from a Territorial to a State government, shall remain valid, and shall pass to and be prosecuted in the name of the State; and all bonds executed to the governor of the Territory, or to any other officer or court, in his or their official capacity, or to the people of the United States in the Territory of Utah, shall pass to the governor or other officer or court, and his or their successors in office, for the uses therein respectively expressed, and may be sued on and recovery had accordingly; and all revenue, property, real, personal, or mixed, and all judgments, bonds, specialties, choses in action, claims, and debts, of whatsoever description, and all records and public archives of the Territory of Utah, shall issue and vest in the State of Utah, and may be sued for and recovered in the same manner and to the same extent by the State of Utah as the same could have been by the Territory of Utah. All criminal prosecutions and penal actions which may have arisen, or which may arise before the change from a Territorial to a State government, and which shall then be pending, shall be prosecuted to judgment and execution in the name of the State. All offenses committed against the laws of the Territory of Utah before the change from a Territorial to a State government, and which shall not be prosecuted before such change, may be prosecuted in the name and by the authority of the State of Utah, with like effect as though such change had not taken place; and all penalties incurred shall remain the same as
if this constitution had not been adopted. All actions at law and suits in equity, and other legal proceedings which may be pending in any of the courts of the Territory of Utah at the time of the change from a Territorial to a State government, may be continued and transferred to and determined by any court of the State having jurisdiction; and all books, papers, and records relating to the same shall be transferred in like manner to such court.

SEC. 5. For the purpose of taking the vote of the electors of this Territory for the ratification or rejection of this constitution, the registration officers appointed by the Utah Commission in the several counties are hereby each requested to add to the notices which they are required by law to post in each precinct, designating the offices to be filled at the general election to be held on the first Monday in August, 1887, the further notice, as follows, to wit:

'At the same time and place, the question of the ratification or rejection of the State constitution adopted by the constitutional convention in Salt Lake City, July 7, 1887, will be submitted to the registered voters of the precinct; those who are in favor of ratification will write or cause to be written or printed on the bottom of their ballots the words "Constitution, yes," and those in favor of rejection, "Constitution, no."'

If the registration officers or either of them shall refuse or neglect to post the notice herein provided for, the county clerks of the respective counties are hereby requested to post a notice to the same effect in each precinct on the 16th day of July, 1887.

SEC. 6. The judges of election, or either of them, appointed by the Utah Commission in each precinct to canvass and count the votes are hereby requested, after the polls are closed, to canvass and count the ballots cast for and against this constitution and make returns of the same forthwith, by the most safe and expeditious conveyance, to Heber M. Wells, Salt Lake City, the secretary of this convention, marked 'Constitution election returns.' Upon the receipt of said returns, or within fourteen days after the election, if the returns are not sooner received, it shall be the duty of the president and secretary of this convention and the probate judge of Salt Lake County, or any two of the persons named in this section, to canvass the returns of said election in the presence of all who may choose to attend, and immediately publish an abstract of said returns in one or more of the newspapers published in the Territory of Utah, and forward a copy of said abstract, duly certified by them, to the President of the United States, the President of the Senate, the Speaker of the House of Representatives, and the Delegate in Congress from Utah Territory.

SEC. 8. A copy of this constitution, certified to be correct by the president and secretary of this convention, shall be published by them on or before the 15th day of July, 1887, in one or more of the
newspapers in Utah Territory. The president and secretary shall also, immediately after its ratification, forward copies of this constitution, duly certified, to the President of the United States, the President of the Senate, the Speaker of the House of Representatives, and the Delegate in Congress from Utah Territory, and shall deliver or forward a copy, certified as aforesaid, to each of the delegates who may hereafter be elected by this convention.

SEC. 9. The terms of all officers named in this constitution, except judicial and senatorial, elected at the first election, shall continue from the time of qualification until the expiration of two years from and including the first Monday in December next succeeding their election, and until the qualification of their successors.

SEC. 10. The State senators to be elected at the first election under this constitution shall draw lots, so that the term of one-half of the number, as nearly as may be, shall expire at the end of two years from the first Monday in December next succeeding their election, and the term of the other half shall expire in four years from the first Monday in December next succeeding their election, so that one-half, as nearly as may be, shall be elected biennially thereafter: Provided, That in drawing lots for all senatorial terms, the senatorial representation shall be allotted so that in the counties having two or more senators the terms thereof shall be divided as equally as may be between the long and short terms, and in case of increase in the number of senators they shall be so annexed by lot to one or the other of the two classes as to keep them as nearly equal as practicable.

SEC. 11. Unless otherwise provided by Congress, the first election for all officers named in this constitution shall be held on the first Monday in the second month next succeeding the passage of an enabling act or the approval of this constitution by Congress, and such election shall be conducted and returns thereof made in the manner provided by law. The first session of the legislature shall commence, and all officers herein provided for shall enter upon the duties of their respective offices, on the first Monday of the second month next succeeding said election.

SEC. 12. The justices of the supreme court, elected at the first election, shall hold office from and including the first Monday of the second month next succeeding their election, and continue in office thereafter two, four, and six years, respectively, from and including the first Monday in December next succeeding their election. They shall meet as soon as practicable after their election and qualification, and, at their first meeting, shall determine by lot the term of office each shall fill, and the justice drawing the shortest term shall be chief-justice, and after the expiration of his term the one having the next shortest term shall be chief-justice.
SEC. 13. All officers under the laws of the Territory of Utah, at the time this constitution shall take effect, shall continue in office until their successors are elected and qualified. The time of such election and qualification not herein otherwise provided for shall be as prescribed by law.

SEC. 14. After the admission of this State into the Union, and until the legislature shall otherwise provide, the several judges shall hold courts in their respective circuits at such times and places as they may respectively appoint; and until provisions shall be made by law for holding the terms of the supreme court, the governor shall fix the time and place of holding such court.

SEC. 15. This constitution shall be deemed ratified by the people of Utah if at any election to which it is submitted a majority of the votes cast on the question of its adoption be in the affirmative.

SEC. 16. Hons. Franklin S. Richards, Edwin G. Woolley, and William W. Ritter are hereby elected delegates from this convention to proceed to Washington, D. C., and with the Hon. John T. Caine, Delegate in Congress from Utah, present this constitution to the President of the United States and to the Senate and House of Representatives in Congress assembled and urge the passage of an act of Congress admitting the State of Utah into the Union.

Done in Convention and signed by the Delegates at Salt Lake City, Territory of Utah, this seventh day of July, in the year of our Lord one thousand eight hundred and eighty-seven, and of the Independence of the United States the one hundred and eleventh. ¹

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Personal interview with Charles A. Caine. August 6, 1959.
A HISTORICAL STUDY OF THE CONGRESSIONAL C A R E E R OF JOHN T. C A I N E

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A HISTORICAL STUDY OF THE CONGRESSIONAL
CAREER OF JOHN T. CAINE

The enforced retirement from the United States Congress of George Q. Cannon ushered in a new era in Utah's congressional history and brought to the front a man well qualified to assume the vacant congressional seat. John T. Caine, one of the best known and most highly respected political leaders in Utah, succeeded Cannon and served as the territorial delegate from 1882-1893. It has been the purpose of this historical study to present a factual account of the congressional career of Caine.

This period was a time of severe crisis for the inhabitants of Utah, particularly the Mormons. Congressmen in an effort to force the Mormons to abandon their practice of plural marriage seemed to be determined to deprive the Mormons of their basic political rights. By serving Utah in the dual role as delegate and principal public relations official, Caine was able to aid in blunting the force of the crusade. Despite numerous attempts to destroy the political rights of the Mormons during his terms of office, Congress was able to secure the passage of only one bill directed towards this purpose. This bill was the Edmunds-Tucker Act of 1887, which disfranchised polygamous Mormons.
At the same time that the federal government was attempting to deprive the Utahns of their political rights, the inhabitants of Utah were striving to achieve statehood. The 1887 statehood movement under the guidance of Caine, who served as president of the convention and as the principal drafter of the memorial requesting statehood, was of special significance because it foretold the future course of events in Utah. The constitutional convention formulated an organic act which provided severe penalties for the practice of bigamy and polygamy. Although Utah was not granted statehood at this time, Caine continued the fight for local government privileges with the introduction of a home rule bill in 1892. Caine should be recognised as one of the dominant forces in the eventual achievement of statehood.

Legislative activities pertaining to Indian policies held special interest for Caine due to the unique position held by the American Indian in Mormon theology. Two distinct issues of Indian policy received his attention. He fought a proposal of Colorado cattlemen to have the Southern Ute Indians removed from Colorado to Utah. In addition, Caine fought for the adjudication of Indian claims held by Utah residents.

Caine, a devotedly religious member of the Mormon faith, actively worked in his church throughout his lifetime. Respecting the opinions and desires of the church authorities, Caine sought and received counsel from these leaders on crucial issues. Such a situation
is understandable in light of the emotional undercurrents of the historical period. The general emotional climate of the age must be given consideration in any evaluation of the work performed by Caine.

In short, John T. Caine was instrumental in curtailing the anti-Mormon crusade and in advancing the attainment of statehood for Utah.