

THE QUAY CASE REPORTED

Majority is Against Seating the Pennsylvanian.

REASONS FOR THE ACTION

Precedents Are Cited That Go Almost as Far Back as This Government's Origin.

THE MINORITY MEMBERS

Hold That He Should be Allowed to Take His Seat—Vacancy is Defined and the Steps Necessary to Fill it Named.

Washington, Jan. 23.—The reports of the committee on privileges and elections in the case of M. S. Quay, who claims a seat in the United States senate on the strength of an appointment by the governor of Pennsylvania, were presented in the senate today.

The majority report, opposing the seating of Mr. Quay was signed by Senators Caffery, Pettus, Turley, Harris and Burrows, the last named the only republican signing it.

The minority report bears the signatures of Senators Hoar, Chandler, Pritchard and McComas, all republicans, and advocated giving the seat to Mr. Quay. The majority first reviews the circumstances under which Mr. Quay's appointment was made, including the failure of the Pennsylvania legislature to elect a senator. It then says: "After a vacancy in the office of the United States senator occurs, or comes to pass, if the next legislature does not fill it, it continues to exist. It is the same vacancy, not a new one. Now the state executive is given power to make a temporary appointment in case of a vacancy, not as long as it continues or exists, but only until the next meeting of the legislature, which is then required to fill the vacancy. This clearly means that the paramount intent to have the legislature choose the senators is to prevail and that, whenever the legislature has had the opportunity to fill the vacancy, either before or after it occurs, the executive has no power to appoint. And when we take the phrase 'if vacancies happen by resignation or otherwise during the recess of the legislature of any state, if we concede that the general word 'otherwise' is not qualified nor limited by the specific word 'resignation' and that it includes vacancies which are caused by the death of a senator, which are caused by a casualty or the happenings of an unexpected event and which cannot be foreseen, still it must be construed and defined with reference to the balance of the phrase so as to give effect to all its parts, and it thus results that the vacancy, no matter how it is produced, must happen, take place or begin during a recess of the legislature, and this of itself would be decisive against Mr. Quay's claim."

Continuing the report says: "Thus construed, this clause of the constitution affords every facility for always keeping the senate filled with senators who are real representatives of their respective states. A senator who is chosen by the legislature of his state is likely to be the choice of the majority of the citizens of his state. A senator who is appointed by an executive is frequently only the personal or political favorite of the executive."

"The legislature, as we construe the clause, chooses the senator from the first instance. If he declines to serve or dies before he is inducted into office, or if, after qualifying, he dies, resigns or is expelled, the executive may make a temporary appointment until the legislature meets again, or, if, owing to changes in state conditions, the legislature, which is authorized to fill the term at its commencement, cannot meet until after the term commenced, the executive can also make a temporary appointment."

"Every contingency is thus provided for except the sole contingency that the legislature will fail to perform its sworn duty. Against a contingency of this kind the framers of the constitution did not intend to provide."

After discussing at length the circumstances under which the constitution was framed, the majority announces its conclusion as follows: "We think that the framers of the constitution never contemplated nor intended to provide for a case where a state, by its own deliberate act, should deprive its legislature of the power to fill an entire term at its beginning. In our opinion they never intended to give the executive of a state the power to fill an entire term by original appointment unless perhaps, in a case where the legislature had chosen and the person elected had refused to accept or died before qualification. In other words, we conclude that the power of appointment was not to be exercised unless the vacancy occurred in the recess of the legislature and was occasioned by some casualties like death or resignation."

The report then quotes numerous precedents beginning with that of Kensy Johns of Delaware in 1791 and closing with the case of Henry W. Corbett of Oregon in 1898. It then ends as follows: "The statement of these cases, and precedents shows that from the beginning of the government to the present time the senate has never recognized the right of a state executive to make a temporary appointment where the vacancy happened or occurred during a session of the legislature. It shows further that for 75 years the senate has refused to recognize the

right of a state executive to make a temporary appointment, even where the vacancy happened or occurred during a recess of the legislature if the legislature either before or after it occurred if prior to the date of appointment had an opportunity to fill it. "The fundamental principle thus established is that if the legislature either before or after the happening of a vacancy has had no opportunity to fill it, then there is no power in the state executive to appoint. The result is fatal to the claims of Mr. Quay. No danger or evil has resulted to the government in the enforcement of this principle. We therefore submit that the senate for its own honor and dignity should stand by its previous solemn and deliberate decision."

The minority report takes the opposite view. It divides section three, article one of the constitution, the minority says that the failure of the governor to call the legislature together to elect a senator does not act to deprive the governor of the power of appointment. Referring to the constitutional provision, the question is asked: "Does the language of the constitution of the United States mean just what the constitution of the commonwealth of Pennsylvania says, 'in case of a vacancy in the office of United States senator in a recess between sessions,' or does it mean that the vacancy must be one which comes by chance, or that it does not apply at all to the case of a vacancy at the beginning of a term which does not come by chance, but is foreseen and inevitable?"

This question is answered as follows: "If the words have the former meaning, where a legislature has been in session and those where a legislature has not been in session between vacancies at the beginning of a term and vacancies beginning after the term itself has begun and the office for the term once filled, are without importance. We think that the former is the true meaning of the constitution. We think that it was the intent of the constitution to provide, as far as possible, that every state should have two senators."

"First—The constitutional convention hesitated between conferring the power of appointing senators upon the executive and the legislature in the state in the beginning. Like the legislature the representative of the state was supposed to represent the will of the people. Under the constitution then existing he appointed all state officers and appointed judges who had their offices for life. For there is no reason to show that they considered such appointment an instrument for the question by giving the power of permanent appointment to the legislature and of temporary appointment to the executive."

"Second—We can conceive no reason likely to have induced the framers of the constitution for making a distinction between cases of vacancy occurring in one way or at one time and vacancies occurring in any other way or at any other time. The office of the senator may at any time be of an infinite importance to the interests of a state. Upon a single vote may often depend and sometimes has depended the fate of measures which would bring prosperity or misery into every workshop and almost every family in Pennsylvania. We do not believe that when the constitution was enacted it would have occurred to the framers that if a senator died within a week of the adjournment of the legislature or in the legislature who could not agree, or in the legislature who had formerly made an election by concurrent vote were of ways of thinking in politics so different that they could not be reconciled, that the state must remain unrepresented until a new legislature should be chosen."

"They meant, as we believe, that for the interest of the whole country, the senate should always be full, so far as they could devise a constitutional mechanism to accomplish that purpose."

"They say further that 'the language of the very clause in question cannot be construed as the opponents of Mr. Quay would construe it, or in any other way than the undersigned construe it, without destroying its own purpose. If there be no power in the executive of Pennsylvania to appoint a successor to Mr. Quay under this clause of the constitution there is no power in the legislature to choose such successor until the end of the term, and in every case where a senator dies or resigns, where the legislature is not in session, or where the death of a senator, resignation, the legislature has met and adjourned without a choice, or wherever, from the beginning of the term, the vacancy remains unfilled, it must remain unfilled until the end of the six years, according to the logic of the majority of the committee."

deprive states in the union for long periods of time of their rightful representation and the constitution will not be permitted long to stand, and that settlement of the question in derogation of the rights of the states, and, as we conceive, in violation of the intent of the framers of the constitution should be acquiesced in."

HOUSE PROCEEDINGS.

Washington, Jan. 23.—Enormous crowds were present in the house today to witness the opening of debate in the Roberts' case. Fully three-fourths of the spectators were women. Roberts occupied a seat on the extreme right of the hall. Nearly every member was in his seat when immediately after the invocation, Taylor, chairman of the Roberts investigating committee, called up the case. He asked that an agreement between the majority and minority of the committee for a vote on the case at 4:30 Thursday be ratified by the house.

Objection was made and without any agreement as to the time for a vote, Taylor commenced his argument in support of the majority of the resolutions. He spoke clearly and with great earnestness. When he began Roberts changed his position to one nearer the center of the aisle on the democratic side where he could hear with more ease. In concluding his address Taylor was emphatic in his assertions that exclusion was in harmony with precedent, exclusion in violation of it. He amplified three grounds for Roberts' expulsion. First, because of his violation of the Edmunds act; second, because he was living in open, flagrant and notorious violation of the statutes of the congress he seeks to enter; because his election was a violation of the compact by which Utah was admitted into the union.

There were no demonstrations throughout Taylor's speech but at the conclusion he was vigorously applauded. Littlefield, on behalf of the minority of the committee, then arose in support of the minority's plan of seating and then expelling Roberts.

It was Littlefield's first appearance in the house as a speaker, and the vigor of his remarks attracted close attention. He declared there was no division over keeping Roberts out of congress. The only question was as to keeping him out in an orderly and regular manner. If the laws and constitution were overridden then the way would be open to override them next year by excluding a member because he was an adulterer or representative of a trust.

Roberts followed with intense interest the points brought out by Littlefield. After reviewing the famous Wilkes case before the British house of commons, Littlefield declared that the majority in the Roberts case were resorting to "the same infamous instrument of outrage and oppression."

"It was a course then denounced as damnable and subversive of the rights of the people, and a majority of this committee has the honor, if such it could be called, of following such a precedent."

WORK OF THE SENATE.

Washington, Jan. 23.—At the opening of today's session Senator Turley (Tenn.), reported from the committee on privileges and elections the resolution on the case of Quay. The resolution followed: "That Hon. Matthew S. Quay is not entitled to take his seat in this body as senator from the state of Pennsylvania."

That resolution was a judgment of a majority of the committee. Turley called attention to the resolution of the minority of the committee, which was to the effect that Quay was entitled to a seat in the senate. Both resolutions were accompanied by a report of the committee. Pettigrew offered a resolution calling on the president to send the senate a report of General Bate, relating to the treaty with the sultan of Sulu. Among other things the resolution asks whether the sultan and his officials are under civil service.

Is a Total Wreck.

Seattle, Wash., Jan. 23.—A special to the Times from Port Townsend says: The steamer Cottage City arrived today from Alaskan ports and reports the total loss of the steamer Townsend near Haines Mission on Tuesday night and also reports having found the overdue steamer City of Seattle anchored between Point Mary and Point Bridget, with her propeller missing on Sunday morning in a very dangerous position. She towed the City of Seattle to Juneau.

Charged With Insanity.

Kankakee, Ill., Jan. 23.—One of the most remarkable insanity trials ever held in Illinois was started this morning before Judge Gower upon the complaint of Julius Dube, a prominent resident of St. Anne, a station on the Big Four road, in this county. Three sisters, Mrs. Emily Arsenau, aged 60 years; Mrs. Cimire, aged 67, and Miss Sarah Dumont, aged 55, all residents of the French-Canadian village founded by Rev. Father Chimiry, were charged by their neighbors with being insane.

The women have been respected residents of the village for over 40 years, but recently, it is alleged, have shown signs of insanity. They resided in their own home, but became recluses and morose. They armed themselves with revolvers and refused admission to their neighbors and relatives. Very recently, it is said, they have been in the habit of parading around their yard and indulging in profanity. A brother from Cincinnati recently called to visit them and, it is asserted, was ordered from the premises under threats of death.

On several occasions recently they have fired their revolvers at friends who have been their neighbors for over 30 years. Mrs. Arsenau has been a widow 15 years and Mrs. Cimire for over 10 years. The case is attracting great attention in this district. Dr. W. E. Scobey, a brother-in-law of ex-Attorney General Hurmon, is the specialist in charge of the case for the court. A verdict is expected tomorrow.

LETTERS ARE IN WASHINGTON

That Ector Claims to Have Received From Clark.

ONLY TWO ARE MISSING

And It Is Promised That They Will Be There as Soon as the Trains Can Bring Them.

ABUSE OF THE DALY CROWD

Is Shown in All the Communications Sent by the Missoula Dentist—Several Witnesses Are Not Willing to Go on the Stand.

Washington, Jan. 23.—Today's session of the senate committee on privileges and elections investigating charges of bribery against Clark of Montana, was opened by the reading of a dispatch from Columbus, Ohio, saying that Murphy, the absent witness, had been in that city last week.

Most of the Ector letters arrived from Butte today and were presented to the committee. Faulkner stated that two of the letters had failed to arrive in the package first received from Butte, but he had wired Roote to search for them, and if found to forward them. Faulkner stated that all the Ector letters bearing on the investigation were in the package. The letters were then read. Five or six were addressed to Bleckford and four to Clark. All were identified by Ector, who was again placed on the stand.

Only two letters were dated prior to the election, and related to the contest. These stated that the opposition were "working like fury," and the Clark men "need some encouragement."

The later letters related almost entirely to Ector's efforts to collect what he thought due him for his efforts in Clark's behalf. In a letter written last March he expressed his continued loyalty to Clark and his determined opposition to the Dalysites.

"If you strike while the iron is hot," he wrote, "you can stampede the Irish king."

He also said in this letter that two of Daly's men had promised him \$5,000 during the contest for information regarding Clark's movements.

Ector's Letters.

Special to the Inter Mountain. Washington, Jan. 23.—The cross examination of Ector was resumed. He was forced to acknowledge letters he had sent to Clark asking for money to handle Woods of Missoula county. In them he spoke abusively of the Anaconda people and said he had been offered \$5,000 to abandon the Clark side. The letters created a considerable amount of amusement. Later, when asked who had offered him the \$5,000 in behalf of the Daly side he replied nobody, that it was all "a bluff."

Two of Ector's letters are still missing and Edmunds intimated that they would continue missing. Ector was excused temporarily.

Harry Collins of Missoula refused to testify and was excused. "Swede" Murphy is being sought after and it is hoped will be brought back. Governor Smith and ex-Governor Toole are here.

Comb Exploded.

Dayton, Ohio, Jan. 23.—The other night while Miss Maud Smith was sitting near a red-hot stove a celluloid comb in her hair caught fire and snapped like a pistol. In a moment's time a flame shot up and Miss Smith's head was enveloped in flames. The scalp was badly burned and a severe nervous shock was suffered. Since the accident Miss Smith has been in a critical condition and has been under the constant care of a physician. Miss Smith's mother died last week. Several months ago the young lady's fiancé became seriously ill and preparations were made for a wedding on his death bed, but the patient became too weak to repeat the vows.

Married Another.

Bowling Green, O., Jan. 23.—John F. Miller, a business man of Bradner, was sued today by Miss Martha Stoltz for \$5,000 for alleged breach of promise. The plaintiff alleges that she and Mr. Miller became engaged to marry over two years ago and that they were to have been married last August. She says that on the day set for their nuptials Mr. Miller coolly jilted her and married a rival for his affections, Miss Jennie Shepler.

Hennessy's



Now it looks as if winter was coming with a vengeance. Heavier wraps will be in demand and fur collarettes, capes and jackets will no longer pass unnoticed. A few items here interesting to women.

Jackets

STYLISHLY CUT JACKETS, made of chevots, kerseys and covert cloths, well made and nicely lined with satin and taffeta silk, with and without velvet collars... Values \$12.50 to \$15.00 Only \$8.75 each Values \$17.50 and \$18.50 Only \$11.50 each

Plush Capes

Well made with high storm collars, lining of good serge and trimmed with Thibet fur, lengths 23 and 27 inches... Values \$6.50 and \$7.50 Only \$4.75 each PLUSH CAPES, 30 inches long, made and trimmed similar to the above and of a much richer quality... Values \$10.00 and \$12.00 Only \$8.75 each

PLUSH CAPES of very fine quality, handsomely trimmed down front and on storm collar with good marten fur... Values \$15.00 and \$16.50 Only \$9.75 each

Shirt Waists

Of fine French flannel, fancy stripes and checks in the newest tints. All well made, some handsomely trimmed... Values \$6.50 and \$7.50 Only \$3.95 each

Dress Skirts

All wool, in plain colorings and fancy checks, lined with percaline and bound with velvet... Values \$5.00 and \$6.00 Only \$3.95 each

Petticoats

Of striped taffeta silk in several colorings \$6.50 values for \$4.00 Black Sateen Petticoats, fleece lined... Only \$1.25 each

Star Curtain Stretchers

Flat and square, the only perfect Curtain Stretcher made. Sizes 6 by 12 feet. Only \$3.00 each



Washing Lace Curtains is comparatively easy, but the drying of them so as to keep them in proper shape is much harder. If you hang them on the clothes line and then iron them it is apt to tear the fabric. If sent to the laundry they will not last long, and the price you have to pay to have them laundered once will buy our Curtain Stretcher. The pins are nickel plated, so will not rust; adjustable, to fit any size of scallops. The frames are easily adjusted to any length or width of goods, and will fold into compact form when not in use. Every housekeeper wants one.

Diaries for 1900.

Quite a big lot of the best styles for the new year at 25c off the dollar.

HENNESSY'S

Butte, Mont

J.H. LEYSON WISHES to announce for the benefit of those who have been so patiently awaiting his services for the Fitting of Glasses that he is now in a position to meet his engagements and will be pleased to render such service to all who make personal application at the store.

J. H. LEYSON JEWELER AND OPTICIAN 221 N. Main St., Butte.

OUR MOTTO "The Best Goods--The Lowest Prices." RANCH EGGS per dozen 25c CASE EGGS per dozen 20c GREEN PEAS per pound 10c STANDARD CORN per can 10c EXTRA FANCY TOMATOES per can 12c UTAH TOMATOES per can 10c SWEET TENDER CORN per can 12c EARLY JUNE PEAS per can 12c STRING BEANS per can 12c FINNAN HADDIE 2 pounds 25c A. M. TURNER. Tel. 333. 349 S. Main St. Orders Promptly Delivered

DENTISTRY! FOR THE Next 30 Days Beginning the New Year We will put our prices of Dentistry on an Eastern basis. 50c For Extracting Teeth Without Pain Silver Filling .50c up Bone Filling .50c up Aluminum Filling .50c up Hard Rubber Filling .50c up Gold Filling \$1.00 up Gold Crowns \$5.00 up Porcelain Crown \$5.00 up Gold Crown and Bridge \$5.00 up Plate Work, beautiful and perfect-fitting \$5.00 up E. E. GERMAN 114 N. Main St.