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CHARLES W. PENROSE, EDITOR.

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SPEECH OF HON. W. CALL.

Continued from Fourth Page.

Mr. Maxey. I would ask the Senator if the Congress of the United States had not a perfect right to pass a law prescribing the qualifications of voters in any Territory under the exclusive jurisdiction of the Government of the United States?

Mr. Call. I would like to see if the Congress of the United States had not a perfect right to pass a law prescribing the qualifications of voters in any Territory under the exclusive jurisdiction of the Government of the United States?

Mr. Maxey. The Senator does not comprehend what I ask. If Congress can pass a law declaring that all persons over 21 years of age are qualified voters, have they not that right, to the exclusion of all other persons?

Mr. Call. They have.

Mr. Maxey. Suppose the law should declare that?

Mr. Call. It is perfectly competent for Congress to say that none but persons over 21 years of age shall vote; but that would be impossible in practice. It would not be legitimate for Congress to say that boys of 21 years of age who believed that the Catholic Church was right should vote, or that the Protestant Church was right, or who believed that polygamy was right or that polygamy was wrong. Why? Because those are subjects which are committed by our form of government to the religious part to nobody but the domestic relations to the local government; and there is an absence of power in the Congress of the United States and in the Government of the United States to prescribe what shall be the domestic relations of the people; and therefore as that power is absent you cannot say it for the Territories.

By analogy it belongs to the people, upon the principle that this Government is founded on the capacity of the majority of the people of every locality, as the competent and controlling power, to govern their domestic relations and property and rights relative to each other. That is the principle of our Government. If it be true that the capacity of a majority of the people in the different localities is the life and principle of our Constitution, then Congress has no right to say that the majority of these people shall be disfranchised because of their opinions of this or that or of the other kind. The Senator from Vermont and the Senator from Texas say to me, "But how of state of war?" That upsets all theories. The strong hand of power knows no constitutional restraint; but that is not a case in point. The question here is whether Congress in establishing a Territorial government may say that none but persons of 21 years of age shall vote; therefore they may say that commissioners shall deny to a majority of the people the right to vote—because their opinion on a majority is guilty of criminal practices—to place the Government in the hands of a minority. Who will deny that the principle of Government is the capacity of the majority of the people in every locality to determine their own domestic relations toward each other, such as marriage, such as the criminality of this, that, or the other act, or the propriety of this, that, or the other act? Will my friend from Texas show me the part of the Constitution which gives a right to discredit the capacity of a majority of the people to govern themselves in their own affairs?

Mr. Maxey. I will state to the Senator from Florida that every State prescribes the qualifications of its voters. It has a right to say that a woman may not vote; it has a right to say that a man convicted of murder shall not vote; it has a right to say that the one who does not pay taxes shall not vote; it has a right to say that certain property qualifications shall exist, and some States do so. I am not speaking of the question of what may ought to be, but of the question of power. To-day there are States in the Union in which those who are 21 years of age, naturalized citizens of the United States, are not permitted to vote, and there are in other States men who because they can not read the Constitution are not permitted to vote. If the Government of the United States sees proper to say as a question of public policy that certain parties shall not vote in a Territory, have we not the power to do it?

Mr. Call. Undoubtedly so. But that is not the question; that does not reach the case beyond doubt. Every State can, and by a majority of the people in conformity with its State laws, has a right to say who shall vote and who shall not vote, and at what age shall vote, what qualifications there shall be on the suffrage, but it has not the power to say that shall not vote if they are Catholics or if they are Protestants, or if they entertain this, that, or the other religious belief.

Mr. Edmunds. This bill does not contain any such proposition.

Mr. Call. I beg my friend's pardon; that is all there is in this bill. Mr. Edmunds. Point out the clause.

Mr. Call. I will endeavor to do so before I get through. That is the reason that it is a flagrant attack upon our religion and our Christianity, and the influence of the Christian minister and the efficiency of the Christian gospel is a flagrant result. It is to be true that the hand of legislation and power is needed to supplement the majesty of argument of truth, of religion, and to crush out error, then our religion is a failure.

Mr. Logan. It depends on what we call Christianity; whether we call having two wives Christianity.

Mr. Call. The worship of Almighty God, according to the dictates of every man's conscience, is religion. Christianity is the worship of the vine and the fig, which refused to accept the aid of legions of angels with the sword, but confronted error with the persuasive argument of truth and this subtle and insidious attack upon the cross. That is Christianity and the Christian religion, and our form of government prohibits the exercise of any power by Congress respecting the establishment of religion or prohibiting the free exercise thereof. What does the Senator from Illinois understand to be the meaning of religion?

Mr. Logan. Allow me to call the Senator's attention to this: This bill does not propose to inquire into anybody's religion; it proposes to affect persons who are guilty of crime, and against what is considered a crime. It does not prohibit anybody from enjoying his religion. If he believes that Joseph Smith was a prophet, he is at liberty to believe it. It does not prohibit anybody from believing that we consider polygamy not religion, and not Christianity, but a crime.

Mr. Call. Can he do me who is in Judge?

Mr. Logan. We are to judge; we are the lawmakers, and we are the judges to-day as to whether polygamy is a crime or not when we undertake to legislate.

Mr. Call. If you will find anything in the Constitution of the United States directly or indirectly that sustains that statement, I will be glad to acknowledge my error.

Mr. Logan. I will say to the Senator that if the Catholic religion or any other religion taught murder, polygamy, arson, bribery, perjury, or any of the crimes that are known as felonies, we certainly should have power to legislate against the crime, and against that which tended to the crime, without affecting what persons might believe as to a God or a Christ. That does not affect their belief; it affects their conduct; it strikes at the effect of their belief, not the belief itself.

Mr. Call. Now let us see if the Senator from Illinois is right. If he is right I am wrong. What is that provision which was read to-day which says that a man shall not exercise the right of suffrage if he is guilty of—what? Of polygamy. Or that a woman shall be deprived of the right of suffrage if she is guilty of—what? Of polygamy. Is that legislation for the punishment of a crime without trial, without hearing, without conviction, without evidence, upon the opinion of the Senator from Illinois stated here as a Member of Congress?

Mr. Logan. Has the Senator heard any statement read that went as far as he says?

Mr. Call. Yes, the statute of last year, and this bill to-day.

Mr. Logan. I think the Senator is very much mistaken. Let him read it.

Mr. Call. There is no use for me to read it. If this bill does not deprive the men and women of the Territory of Utah of the right to vote because of their polygamous opinions, what is it?

Mr. Logan. That is a very different thing. Mr. Call. Without conviction, but on the determination of a certain commission without any judicial power, then I am wrong.

If the former act and this bill do not declare with the force of law the rights of Congress to deprive a majority of three-fourths or four-fifths of a great number of people—numerous enough to be a Territory or State—of political rights because of opinions and practices disapproved by Congress, and place the entire government of that people in a small minority of other opinions and practices, then I am mistaken.

Mr. Logan. That is a very different proposition. The Senator said that the statute of last year and this bill to-day deprive them of the right to vote on account of their belief. I say there is no such law. It deprives them of the right to vote because they practice polygamy and bigamy, and they are deprived of it on that account, but not on account of their belief.

Mr. Call. It deprives them of that without any kind of evidence that they have done it, without any trial, without any hearing, without any conviction, and leaves them without the constitutional process which guard and protect them from arbitrary deprivation of political or other rights to the opinion of the Senator from Illinois and the commissioners, to have or not to have political rights as they may choose. That is the reason why it does it, for the more matter of belief, because it is without evidence and conviction, and in some of its provisions makes opinion or belief evidence of the alleged criminal practices; because it makes the political power of the state attack what is called the Mormon Church, and constructs a government a political power on the basis of one religious belief, and in opposition to another because the other is injurious and violative of our social and religious ties.

Mr. Logan. I will say to the Senator, so as to settle the question between him and me, that if a Senator from the city of Washington with any who do not agree with me in my opinions, I am opposed to immorality everywhere, but I love the patient, genuine disciple of Christ who, with the lowly love, with intelligence and calm gentleness, attacks and extirpates error everywhere. I venerate and respect the priesthood and ministry of the Christian Church and good men everywhere; but I do not need to vaunt my morality. I can see the sinners of the Mormon live in this world, if the Almighty permits him, without wanting to put him to death, and I should never vote to put him out of the Senate of the United States because he was guilty of either a fault or a crime, without a calm judicial investigation in this tribunal, a judgment made with all the forms and the power of the judicial process, and the difference between him and me is that he would not punish the man nor deprive him of his rights from the known commission of a felony, but he would deprive him of his rights after he had gone to the penitentiary. After a man goes to the penitentiary he does not require any law to deprive him of his rights.

Mr. Logan. Will the Senator from Florida allow me to put a question to the Senator from Illinois?

Mr. Call. In the case the Senator from Illinois supposes of a Senator, it would be the judgment of a court. In that case the Senator is a judge for the purpose of rendering the judgment of expulsion from the body for good cause. On what ground does he base the exclusion in this bill of the women and men who are not to be bigamists or polygamists or to have contracted this criminal act?

Mr. Logan. Does the Senator ask me that question?

Mr. Call. Yes.

Mr. Logan. I will answer it, or I will try to. In the first place, the Senator from Florida and I were discussing the proposition as to whether or not the people had been convicted of crime, and I made the statement that I would, without a conviction of crime before a court—

Mr. Call. I call the Senator's attention to this. The Senator said that Joseph Smith was a prophet, and he believed in it. It does not prohibit anybody from believing that we consider polygamy not religion, and not Christianity, but a crime.

Mr. Call. Can he do me who is in Judge?

Mr. Logan. Let me interrupt the Senator for a moment. The Senator said that Joseph Smith was a prophet, and he believed in it. It does not prohibit anybody from believing that we consider polygamy not religion, and not Christianity, but a crime.

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fore a jury. It would be a different proposition. We expel him upon mere evidence that comes before a committee before he is tried by a jury. The same as the law of prohibition applicable to persons practicing polygamy in the Territories, where they are deprived of their rights by the same kind of evidence before the commission.

Mr. Hoar. I agree with the Senator.

Mr. Logan. That was the proposition between the Senator from Florida and myself. I say that under the power of Congress we have the right to do that, and the fact being demonstrated that men are guilty of crime, it does not require the judgment of a court. Then we agree on that point.

Then the Senator from Massachusetts asks me why this proposition to exclude women from voting. In the first place, Congress has the right to do it. The Senator will agree to that, I think. It has the power at least. Having the power to do it and believing it to be for the rest of good government, and in that direct on in opposition to polygamy and the practice of polygamy, it is for it for the reason that it would vote for anything that was going in the direction of extirpating or destroying this infamy and sin against the people of this country.

Mr. Hoar. Of course I understand, and perfectly well, the opinions of those persons who think that women should not vote, and I am sure that I have not said that.

Mr. Hoar. No I understand; but that is the opinion of probably a majority of this body, and of the American people to-day, at any rate a large proportion; but I do not understand that this is put on that ground.

Mr. Logan. Not at all.

Mr. Hoar. Nobody proposes in this way and at this time to exercise our constitutional privileges of determining that it is not expedient that any Territory should permit women to vote, because if we did we should extend it to Wyoming and that that Territory would therefore put it on the ground that the voting by women who not only have not been adjudged guilty of any criminal practice, but are not even supposed to entertain opinions which would lead them to exercise their votes in favor of any criminal practice, but by all women alike, is improper. The Senator from Vermont, like the rain of heaven, falls on the just and the unjust alike, with his penal statute.

Mr. Logan. If the Senator will allow me I will give you a reason why I vote for this although it excludes Gentile women.

Mr. Hoar. I want to know if that is not violating the principle which the Senator avowed in his colloquy with the Senator from Florida?

Mr. Logan. Not at all. I vote for this although it does apply to Gentile women, because there is no law in the Territory of Utah to-day, in my judgment, that has been opposed to polygamy and works against it. What would give me the right of suffrage to see that power destroyed, and the only way you can destroy it is to destroy the political power they exercise, either the men or the women.

Mr. Hoar. Then it seems to me that the Senator from Illinois does not violate the principle which is my objection to the bill, that he is not speaking now of the legal power, but speaking of the only principles on which we are bound to exercise that power, because it is supposed will govern their votes, of a public right without these persons having committed any act whatever which is a violation of law.

Mr. Logan. No, sir; no such thing is announced in this bill or in this section, but in the bill it is made into a law. It declares that the women shall not have the right of suffrage in the Territory. I may have one reason for voting for that, and the Senator may have another. When you come to destroy a principle you can not destroy it by what you or I might say, but it must be in the act of destroying it, openly and notoriously.

Mr. Hoar. So far as that is concerned we follow the right that belongs to Congress, and you may exercise it for any reason, and I for another. It is purely a question of motive.

Mr. Call. I must resume the floor. The President officer (Mr. Morgan) has called the Senator from Florida to the chair. The Senator from Florida is entitled to the floor.

Mr. Call. When I left the discussion I was endeavoring to point out to the Senator from Illinois that a great objection to this bill was that it declared that our form of government was an absolute failure, not only in saying that men should be prohibited from practicing polygamy, but that they should be taken away from them upon the opinion of certain legal consequences which the Constitution requires to be the result of criminal acts should attach to them, and that before trial and before conviction they should be disfranchised and deprived of the right to vote, and that a whole community should by this arbitrary power be turned over to the government of a minority.

The Senator from Illinois cited the instance of a Senator who might be expelled; but it is not necessary that I should stop to answer that, for that is a special power under the Constitution and for a special purpose, and in its nature a judicial power and to be exercised by those charged with it in judicial proceedings and under the checks and limitations of judicial procedure. But let us go on. I say the Government of the United States by the Constitution is the government of States with sole and exclusive power over the domestic relations of their people. Who denies that? The principle of this government is sole and exclusive power in the local governments known as States over this question, with power in the National Government over foreign relations and the relations of States with each other and their foreign and interstate commerce.

Admit that fact to be true, and that the whole superstructure and power of these great institutions of ours are contained within these definitions, national power for national objects, national power for local objects, where, then, in the Constitution of the United States will be found even the semblance of a power to exercise an arbitrary and exclusive power in the Territories? It has exclusive power in the Territories to prescribe the boundaries and exercise the authority over vast tracts of country with hundreds of thousands of people, in denial of the wishes of a majority of that people and the laws made by them for the government of their own institutions. Is it because of the technical idea that they have not been declared complete political communities in the sense of the law? Does that affect the spirit and the purpose of the division of power contained in the Constitution? Let us see if we are left to more arbitrary suggestions than that. There are modes of reasoning, and even the honorable and eminent Senator from Vermont, whose reputation extends throughout the country, is not emancipated from the laws of reason and the propensities of religion and truth. No man is.

Mr. Maxey. May I interrupt the Senator for a moment? The Senator said that Joseph Smith was a prophet, and he believed in it. It does not prohibit anybody from believing that we consider polygamy not religion, and not Christianity, but a crime.

Mr. Call. Can he do me who is in Judge?

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motion to strike out the section which says: That shall not be lawful for any female to marry another man in the Territory of Utah for any public purpose whatever, and no such woman shall be deemed or even voted in any manner whatever; and any and every act of the Governor and Legislature of the Territory of Utah, providing for or allowing the registration or voting of females is hereby annulled.

That is all there is of it. Now I state to the Senator from Florida that I would vote for that section with any view of public policy, and out the slightest regard to the special surrounding of Utah or any Territory whatsoever.

Mr. Call. My friend from Texas has no argument with me then on the subject of suffrage, for I am only considering how far it is proper for the Congress to say not that polygamy is not an outrage, not that it is not a foul blot upon the civilization of any country, not that it is not an indignity to our country, but to relations which constitute in their full felicity and fruition the glory and the power of the State, not that it is not inimical to our civilization and Christianity as now developed, but whether or not this Congress, under our limitations of power, has the right to say that the people of the Territory of Utah shall not exercise their religion as they may think it right and proper, and that they shall be deprived of all political power in the country because of their entertainment of opinions upon this subject different from their own. That is the question; a proposition which says in effect that the majority of the people of this country, and the principles which are the very foundation of them, made so by those eminent New England statesmen, who with the fathers of our country of old Virginia and the original thirteen colonies created our form of government, and the Constitution, and the principles on which it is based.

I say then, Mr. President, that no one will deny this principle of local authority, of State authority, of the capacity of the majority of the people within any designated political locality or State according to State boundaries or a Territory when sufficient population has gone there, the abstract principle of the capacity of the majority of the people in any given locality of sufficient extent to control and direct their domestic affairs, and that they alone are capable of regulating them, and that to the National Government power is given for different purposes and different objects. But the argument is that because it is so given, and because it is exclusive, it is therefore absolute, and may be exercised in any manner, and that the essential principle that a majority of the people in any locality shall govern there as to objects of government not included in the national power. This is the proposition, because it is exclusive it may take away the very life-blood and the essential principle of your form of government, the capacity of the people, a majority of the people, in any locality to control and govern that class of political subjects, those domestic relations which by the Constitution are vested in the National Government to control and govern, not a case of necessity, but a case of full and implied political power.

It results from this proposition that certain subjects are the subjects of national power and State authority; certain others the subjects of local authority; that the classification of power is to subjects or objects for its exercise is its essential feature, the withholding from the local affairs, the domestic relations, the religious belief of the people, or of power to punish them for crime as to these subjects.

The fact that the political divisions under this form of government were and are States and the National Government and Territories to become States, and that in the latter the temporary power of government must of necessity be in the national power, can not destroy or diminish the principle on which the distribution of power has been made. Does it not result that there is no power in the National Government as power to prescribe laws over subjects of control which is not given to them over the domestic relations of a people except in the District of Columbia and the places ceded in the Territories where it is expressly given, and even there it is merely a local power? Who will say that even in the District of Columbia this Congress can say that no Catholic shall be elected to exercise political power? And yet the argument of the Senator from Vermont imperatively demands that this Congress shall exercise the authority in the District of Columbia, and make it a disqualification for political power and franchises here in this district. That is the argument, the proposition affirmed here.

Mr. Edmunds. The Senator is totally mistaken, he will pardon me for saying I would not vote for anything that would disqualify a Catholic than I would an Episcopalian, which I happen to be myself, or a Presbyterian man or a black-headed man. The simple position is that for the general good order of the United States and of that Territory it is better that for a little while the ladies should get out of the slavery of voting and be left alone. That is all there is to it.

Mr. Call. I agree entirely with the Senator from Vermont on this proposition, but I beg his pardon when he says that is all. In order to maintain the proposition of this bill, the ladies shall get out of the right to vote at the present time, he proposes to attack all the essential principles of government and control of a State of political power, no doubt, would not say that a Catholic or a Protestant should or should not because of his opinion exercise political power in the District, his argument does affirm it, because the connection between conclusion and cause can not be separated by mental gymnastics.

If you can construct a state and mold and direct its political powers on the basis and for the object of excluding any religious or irreligious belief or practice, the power becomes one for the maintenance of certain forms of opinions or the suppression of others. It becomes one for an "establishment" of "free exercise thereof." Certainly no one will contend that the Government of the United States is for the maintenance or prohibition of any form of opinion or action respecting religious or irreligious belief, or that the Government may prescribe certain laws for each person and impose crime and disability to them without hearing, trial, or conviction.

The power in the Territories must be temporary, and its power must be exercised subject to the principles and theories of the Constitution, and the theory of the capacity of the majority of the people to control their domestic affairs.

Who will say that this Congress has the right to say that the people of the Territory of Utah, and

why not? Who will say that they may establish in perpetuity an aristocracy in the Territory of Utah, and why not? Where is the constitutional inhibition against putting the exercise of political power in the hands of one, two, three, four, or five persons? It is not to be found in the Constitution. It is to be found in the spirit and principle of the Constitution, which says the capacity of the majority of the people rendered eligible to the exercise of political power by themselves and the exercise of political power in the hands of one, two, three, four, or five persons. It is to be found in the spirit and principle of the Constitution, which says the capacity of the majority of the people rendered eligible to the exercise of political power by themselves and the exercise of political power in the hands of one, two, three, four, or five persons. It is to be found in the spirit and principle of the Constitution, which says the capacity of the majority of the people rendered eligible to the exercise of political power by themselves and the exercise of political power in the hands of one, two, three, four, or five persons.

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