

REMARKS

BY

PRESIDENT JOHN TAYLOR.

BEFORE THE

High Council of Salt Lake Stake of Zion, February 20th, 1884.

REPORTED BY JOHN IRVINE.

The case of the officers of the Deseret Hospital versus Dr. Ellen B. Ferguson was heard before the High Council of the Salt Lake Stake of Zion, on the 20th of February, 1884, and a decision was rendered therein by President Angus M. Cannon. President John Taylor on that occasion, made lengthy remarks which were applicable to the case in question, and upon the general principles of justice. The request has been made that they should be published, as they would be of benefit for the guidance of other High Councils. For this reason, his remarks and the proceedings in the case are now published.

Mr. President, and Members of the High Council:

I listened with a good deal of interest to a trial that you had before you, yesterday and the day before, in which there were certain principles developed that I thought it might be necessary and advantageous to reflect upon, and to give you some of my views thereon.

I should have been pleased to have done this had there been time when the High Council was before in session; but I thought as I had not then an opportunity, I would take the opportunity to-night, this meeting having been convened for that purpose.

There are a great many principles underlying the subject that was presented before you, and acting as you are in the capacity of a High Council, and having many cases to adjust, I thought it might be proper to touch upon some of the leading principles pertaining to government, rule, authority, dominion, the conflict of opinion, the necessity of being prepared to act wisely, prudently and intelligently and to discriminate between right and wrong;—so that upon general principles we might be able to comprehend things that would be calculated, in many instances, to help us to avoid a great deal of difficulty. I have been very much hurried for time to-day, or I would have liked to have had some of my views prepared. As it is, I have had a few items put down very hastily, and I will get Bro. George Reynolds to read what I have stated on this subject.

I made a few remarks at the conclusion of the investigation you have had here. I call it an investigation; for I think it was more an investigation than a trial.

The investigation was instituted to find out the true status of certain things whereby injury had been received by certain parties, and, on reflecting further upon the subject, I have had some leading items put down, which, as I have said, Brother Reynolds will read, after which I will make some remarks.

I speak of these things before Brother Reynolds reads my views, otherwise the attitude that I take might seem strange to you.

In the few remarks I made before the High Council, at the conclusion of the investigation, I stated that I was pleased to see the harmony and unity, the kindly feelings, care and anxiety that you manifested to all parties, both for and against, with a view to arriving at a just conclusion in relation to this matter. I also spoke of the Board of Directors of the Hospital, stating that they also had done as near right as they knew how. Then I spoke of the accusers of the party in question—Sister Ferguson—and I thought that although there were some errors associated with the action taken, that they were quite sincere in their intention to correct a supposed evil, and I would not except Sister Ferguson from the same rule, and the question is, with such a diversity of opinion, with so much commotion in existence, with so many severe charges being made, how it is possible for all to be right, and yet all acted upon principles that they conceived to be right; but which were in many respects incorrect. This I may explain more fully hereafter; and it is for this purpose that I wish to talk a little to lay my views more fully before you.

Brother George Reynolds then read as follows:

I. The care, justice, equity and proper deference to all manifested by the High Council.

II. The care and zeal manifested by the Directors, the President and associates in the interests of the Institution—the Deseret Hospital.

III. The zeal, energy and competency of the resident surgeon, as vouched for by the testimony of other eminent physicians.

IV. The diligence and zeal manifested by the matron, and the assistants.

Whence then originates this difficulty; these hard feelings, sayings and doings, this bitterness, acrimony and ostracism?

These arise partly from misunderstanding, partly from ignorance, and partly from a misconception of law, order, precedence and jurisdiction, with probably the best possible motives. It will be found on a careful examination of this subject that there is a great principle involved that affects in some respects all institutions, associations and nations.

Among the nations of the earth there

are various forms of government. There are what are called absolute monarchies—such as Russia, Turkey, China, Persia, Morocco and others; then there are limited monarchies, such as England, Denmark, Sweden, Italy, Greece, Portugal and others; these are governments which are called representative, having a monarchy, but that monarchy partially under the power of the representatives of the people. There is another species of government which is called oligarchical, which is under the direction of notables, who manipulate the affairs of the country for the benefit of the people. Then there is what is called the republican form of government, such as the United States, France, Switzerland, Mexico and the South American Republics and others. These are supposed to be governed by the people and are said to be "governments of the people, for the people and by the people," their general motto being *Vox populi vox Dei*, or the voice of the people is the voice of God. These governments assume different phases, according to the nature of the government, varying from absolute despotism, wherein the will of one man governs the whole, to that of the freest and fullest and most unrestricted will of the people; and to prevent usurpations in the republican forms of government, as well as in some of the limited monarchies, constitutions are introduced and subscribed to, which are an agreement or compact between the rulers and the people, or the governors and the governed, and such governments whether monarchical or republican are called constitutional governments. These constitutions prescribe the powers and authority of the various officers in the government, and how and in what manner the several officers of the government shall be selected, elected and qualified. In our government, whether in a National, State, or Territorial form, all officers, of every grade, are requested to take a solemn oath to sustain and maintain the constitution of the United States, and of the State, or if a Territory, the organic act of the Territory as the case may be. If these things are not a fiction all these officers and authorities throughout the land in every department of National, State or Territorial government, are as much bound by their obligations and oaths as the people are bound to be subject to all constitutional laws, and the people are not one whit more bound to the observance of the law than these men are bound to the observance of the sacred and solemn covenants which they have entered into. And if the people have given up to governors, legislators, the judiciary and to the officers of the law certain powers, rights and privileges, this authority coming of or from the people, it is expected that they shall act for and in the interests of the people; and furthermore, that while they possess those rights ceded to them by the people, whatever is not thus ceded and placed in the hands of their rulers is emphatically stated to be reserved to the several States or to the people.

There are again other branches of government among the several nations, or States in the nations, as well as in this nation; there is martial law and civil law; also the governments of cities acting under the directions of the authorities or legislatures of the nations or of this nation; to whom certain rights, immunities, and privileges are given in the shape of municipal regulations or of charters. But it must be understood here in matters pertaining to our government, that no charters or grants of any kind can be given by any parties, in excess of the rights which they themselves possess, and that the same obligations which vest in regard to constitutional rights and guarantees must be observed in all those municipal regulations by the recipients as of the grantees of those charters.

These rights and privileges in our government are formulated upon the idea that our government is "of the people, by the people and for the people." There are other institutions which receive more or less the patronage and sustenance of the general, the State, and Territorial governments, such as educational institutions, hospitals, infirmaries, asylums, railroads, canals, steam boat lines, etc., all of which are more or less sanctioned by law, and are more or less of a quasi public character. These institutions generally have usages of their own, and operate under certain stipulations specified in charters granted to them, each having their own regulations and by-laws, as their directors, boards of management, or other officers may dictate. These are all subject to the common laws of nations and the usages of the people. Then there are other laws, there are laws that pertain to the physical world in which we live, and those that govern the sun, the moon, and the countless stars that shine in the dome of heaven. With all these man has nothing to do. He never has been and in the nature of things never can be able to change what are called the laws of nature. If any congress, parliament or convocation was to pass a law changing the period of the earth's revolution, or the phases of the moon, or the rising or setting of the sun, or if all the congresses, parliaments, or legislative bodies in the world were to unite to pass such a law, it would be of no effect, or utterly useless, for the simple reason that these laws are entirely independent of man's action and outside of his control. So with the laws governing man's physical being or that of the brute, or those natural to the animal, vegetable and mineral kingdoms, all these are irrevocably fixed and un-

changeable so far as man is concerned. All beings, all things, from the Great Creator to the minutest form of life are governed by the law of their existence. The laws by which all created things fill the measure of their existence, were placed there by a superior power to that of man, and he is impotent to change or annul them. All these are called natural laws. Then there are celestial laws, adapted and suited to celestial beings; terrestrial laws adapted to things of the earth, and other lower laws called terrestrial. As we are taught in the Doctrine and Covenants; in all the universe there is no space where there is no kingdom, and where there is no kingdom there is no law; and all things that are governed by law are preserved by law, and sanctified by law; also even the law or laws of the state of existence to which they belong, be it higher or lower, much or less.

There are again celestial laws as before referred to, and terrestrial laws; and the question arises, what is the meaning of a celestial law; and what again is the meaning of a terrestrial law? A celestial law pertains to the law of heaven; and is a principle by which the intelligences in the celestial world are governed. The Gospel in its fullness places those who obey it, under its influences, while at the same time it does not relieve them from other obligations of a terrestrial nature. It is said in the Doctrine and Covenants, that he that keepeth the laws of God, hath no need to break the laws of the land. It is further explained in Sec. 98 what is meant in relation to this. That all laws which are constitutional must be obeyed, as follows:

And now, verily I say unto you concerning the laws of the land, it is my will that my people should observe to do all things whatsoever I command them.

And that the law of the land which is constitutional, supporting that principle of freedom in maintaining rights and privileges, belongs to all mankind, and is justifiable before me;

Therefore I the Lord justify you and your brethren of the Church in befriending that law which is the constitutional law of the land. And as pertaining to laws of man, whatsoever is more or less than these cometh of evil.

That is, taking this nation as an example, all laws that are proper and correct, and all obligations entered into which are not violative of the constitution should be kept inviolate. But if they are violative of the constitution, then the compact between the rulers and the ruled is broken and the obligation ceases to be binding. Just as a person agreeing to purchase anything and to pay a certain amount for it, if he receives the article bargained for, and does not pay its price, he violates his contract; but if he does not receive the article he is not required to pay for it. Again we ask, what is this celestial law? The celestial law above referred to, is absolute submission and obedience to the law of God. It is exemplified in the words of Jesus, who, when He came to introduce the Gospel said, "I came not to do my will but the will of the Father that sent me;" and His mission was to do the will of the Father who sent him, or to fulfill a celestial law. And when His disciples asked Him to teach them how to pray, He said, "When ye pray, say: Our Father who art in heaven, hallowed be thy name, thy kingdom come, thy will be done on earth as it is done in heaven." This it would seem was the celestial law, or the law of the Gospel.

Thy kingdom come. What kingdom? The kingdom of God, or the government of God, or the rule and dominion of God, the will of God—thy will be done on earth as it is in heaven. This seems to be the grand leading feature of that celestial law. Connected with this are all the blessings, rights, privileges, immunities, promises of exaltations, promises of blessings in this world, and of exaltations, thrones and powers in the eternal worlds; being heirs of God and joint heirs with Jesus Christ. While such persons do not neglect the lesser duties associated with the responsibilities of life, and do not violate any correct principle or law they still feel a responsibility resting upon them to yield obedience to the mandates of Jehovah; and thus as good citizens, loyal and patriotic to the country and its institutions, fulfilling all just and equitable requirements, whether civil or political. They have at the same time the same inalienable right as men, to worship their Creator, and yield an obedience to His laws without infringing in any wise on the rights and privileges of others, and that right is guaranteed to them also by the constitution of the United States.

I have before spoken of certain associations, such as educational establishments, co-operative institutions, hospitals, and other organizations, which legislatures, private bodies of men, or individuals may establish. These institutions must be governed by their constitutions and by-laws as shall be agreed upon among themselves. And any parties entering into those compacts, take upon themselves the responsibilities of the conditions associated therewith. But as in National or State affairs, these duties and responsibilities are often very imperfectly understood; and hence in consequence of the weakness and imperfections of men, many misunderstandings and difficulties are liable to occur.

The case that you have had here before the High Council is one of those cases.

The question is, how far shall rule, dominion, authority and power be used, and how far shall moral suasion, individual and special rights, and a judicious and intelligent policy obtain.

It is rather a peculiar case and requires an understanding of the position occupied by the various parties. It will be observed that there are two usages or laws in existence—one of these would be the general law, regulating an institution of that kind, which would be applicable to a university, a co-operative institution, a shoe establishment, such as we have, or any other well regulated institution. In our Co-operative Institution here in the city, there is a President and a Board of Directors; they appoint the Superintendent. He has the charge of the buying, selling, engaging or dismissing men, making contracts, and generally supervising and manipulating all the affairs of the Institution. The Directors would be empowered to remove him, if thought advisable. In the University the Board of Regents stands in the place of the Directors, and they appoint Dr. Park as Principal, and he has general control of the studies and the internal management of its affairs. In like manner, Mrs. Ferguson held the position of resident surgeon, and is supposed to manipulate the affairs of her department in the hospital subject to the hospital physicians and the directory. Of course Sisters Van Schoonhoven and Beck would be under her direction as they belong to the medical department; while Sister McLean, being matron, would have charge and control of the domestic arrangements. It does not appear that any one of them was direct in her several duties; but that a misunderstanding had arisen between Dr. Ferguson and these officers of the hospital, she being charged with being austere and dictatorial in her intercourse with them, and she on the other hand charges them with insubordination and plotting against her. Bitter feelings and acrimonious remarks passed between them, crimination and recrimination, until it culminated in those three ladies drawing up specific charges of a most serious character against the resident surgeon. These charges, it would seem, were credited by the directory and she was requested to resign. It is evident that the directors did this sincerely for the benefit of the institution; and to prevent a person whom they considered incompetent, as an opium eater, a drunkard and a thief, (for these were the charges made according to their ideas) to officiate any longer in that institution.

But here arises another phase of the matter which is this; that while they had authority to dismiss her from the institution on these alleged charges, they had no right to malign her private character and reputation which it does not appear that they desired to do, but to avoid, as far as possible. Yet these things having taken place, and these allegations having been made on paper, and she having been dismissed from the hospital, they leaked out without her having any opportunity to defend herself against these statements, and her reputation has been seriously injured; hence comes in another law—the law of the Gospel, above referred to, or under other circumstances, the celestial law, or what is sometimes substituted for it here,—the law of equity.

President Taylor resumed: There are very many nice points of discrimination associated with a subject of this kind. When we talk of law it is a very comprehensive subject and enters into all the ramifications of human life, and, as has been remarked, through all nations. Generally among the governments of the world—and also among many of the institutions referred to—there is a kind of neutral ground, a sort of neutral zone, something similar to that which sometimes exists between one State and another in order to prevent collision and difficulty, and it is upon this ground that a great many troubles and difficulties frequently exist on various matters. The people on their part occasionally claim things that they have no right to claim, and those who govern sometimes go beyond the bounds allotted to them. And hence arises difficulty and trouble. Courts are appointed generally for adjudication of these matters, and sometimes it is very difficult for these courts to decide correctly, justly and equitably the cases that come before them. Among the nations they are very frequently submitted to what is termed the "arbitrament of the sword." That, however, is a very poor thing when put into the scales of justice. I have heard it said, for instance, when certain questions have arisen in the United States—that is, in regard to States rights and in regard to the rights of the people, and in regard to how far they should be sustained in their privileges, rights etc. I have heard some people very flippantly say, "Oh, that has been decided by the sword." A very singular piece of justice is a sword with which to administer one's social, political, or national affairs. When we come to put it in the balance of the goddess of justice—who is supposed to be blind and to hold the scales evenly—it will not stand the test. Hence when people make this remark it shows that they are very ignorant of the principles of jurisprudence, of the rights of man, of the obligations that the nation sustains to its people, or the people to the nation.

But what I wanted particularly to arrive at are the principles associated with this case that has come up before you, and I will try and show you why and how these difficulties have occurred between these parties.

Sister Ferguson—who according to the evidence we have had, and from questions presented, and remarks made—evidently is a lady of intelligence and very well acquainted with medical affairs, and as such she was appointed House Surgeon of the

Deseret Hospital. From this position she was removed. And here comes in a principle that I wish to speak upon.

In this city we have a co-operative institution. I refer to it because it is an institution with which we are all familiar. I have already referred, in what has been read, to the nature of its organization, and the kind of government by which it is carried on. There are quite a number of employees in the institution—some 150 or 200. There is a Board of Directors, and there is a president and a superintendent. The superintendent seems to be the man upon whom rests the greatest responsibility, and he is responsible to the directors for all his acts. As stated already, he makes the purchases or orders them made; he disposes of the goods, or orders them disposed of. He makes arrangements for all its business transactions, and he reports to the directors, monthly, the status of the institution. In his hands is placed the power to manipulate and regulate the affairs thereof. If some person in that institution—he may be a good man—is incompetent, he uses his discretion in removing that man. He requires men that are acquainted with the business that he is associated with; and although this may be a very good man, the superintendent may think it proper, in the interests of the institution, to have him removed. He uses his authority and has him removed because of his incompetency. The man who is dismissed may feel aggrieved. He may think he is competent; and it is difficult in all such circumstances to meet the wishes and views of all these people. Hence the necessity of a wise discretion. "But," says the man, "I am a good Latter-day Saint." "Very well, that may be; but, then, because you are a good Latter-day Saint, you may not be a good blacksmith, a good carpenter, or a good shoemaker, or you may not be—come to their terms—a good salesman. One who comprehends the value of goods and the wants and interests of the business."

Now, a great many questions arise out of these things, and how far they shall go and how far they shall not. On the other hand, there may be a man who is very competent. I could refer to some of these and yet they are not good men. "Well," says one, "we don't want such persons as these in our institution. Although they are competent men and well acquainted with the business, I am afraid their example and influence would be pernicious, and we don't want them; and we think we would have a right to act in such a case." So they would think anywhere. The same thing would apply to the institution I have mentioned.

Then another question arises associated with these matters, and it has come up before you here. We have a hospital. There is an Executive Board, which amounts to the same thing as the Board of Directors in the other institution. Then there is a resident surgeon or physician and it becomes her duty to attend to certain rules and principles that are laid down, to use medical talent and ability for the benefit of the patients and the hospital, and to manipulate certain things committed to her charge. I suppose they have some rules associated with these matters, although I cannot state them definitely. Sister Ferguson, it would seem, got up a set of rules. They might be very good; I do not know, but it would seem they were not adopted by the Board, and it would also seem that the Board held the power in its own hands to manipulate these affairs. So that, although the rules drawn up by Sister Ferguson might have been very good and very advantageous if adopted, it appears they were not.

Let me refer to another thing. Sister Ferguson received her medical education in some medical college in the east. All such institutions, it was stated yesterday, both in England and this country, are governed by certain rules and the general usage is that the resident physician takes charge of, and manipulates the general affairs of the institution; and what are termed by some the inferior officers—I merely make use of that term for want of a better one—are under the direction of the resident physician or surgeon as the case may be. This was Sister Ferguson's experience. Those acting in one department had no right to interfere with the privileges belonging to others. If these things had been specifically defined by the Board in this Hospital, and each had known her proper duties, and each fulfilled them, difficulty might have been averted; although according to the evidence we had, all were very diligent and sincere in carrying out their several duties. If a set of rules had been adopted and lived up to, a great amount of difficulty arising out of this subject would have been avoided between the parties, and which has more or less involved you and I and others and caused us to look into these matters. Well, was there anything wrong in that? No. At the college in which Sister Ferguson obtained her medical knowledge—and a diploma as a mark of that knowledge or education—she also obtained a knowledge of the rules and usages of that kind of an institution; consequently it became almost part of her system. Is not that so, Doctor? That is the way I understand it. Well, now, Sister Ferguson comes here and she gets among a lot of us novices. At least I should call myself a novice; for I have never been in any of these establishments; I have never attended medical lectures, etc., consequently I should consider myself a novice in these things. At the same time, independent of this,