

INJUSTICE AND INFAMY.

Confronted and Cowed, But Not Crushed.

OUR DELEGATE IN THE HOUSE OF REPRESENTATIVES

Exposes the Monstrosity Called the Edmunds-Tucker Bill.

POINTS OUT ITS FALSEHOODS AND FALLACIES.

And Appeals to the Statesman's Sense of Fairness.

FULL TEXT OF THE SPEECH.

Mr. CAINE. 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 untrained 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 fellowmen? 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 wretchedly 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 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 arts of peace and war. Strike from your galaxy of statesmen and warriors, from your role 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 upon this continent, it is possible that to-day all English-speaking people would be granted under one government—the grandest and greatest upon earth. The condition of Ireland to-day attests most eloquently the inconceivable 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 whether 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. They 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 unclaimable 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 the 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 aftertaste of the pangs of hunger gnawing at their vitals through the long and dreary winter of 1847-48. 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 irre-

claimable before their advent; they have not only subdued nature and made the desert blossom as a garden of flowers; they have not only built cities and towns, railroad and telegraph lines, but they have dotted the land they won from sterility everywhere with schoolhouses and places of worship. It is our proud boast that but few of the oldest States in the 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 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 5,055. 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, 44,648; California, 51,217; Minnesota, 52,108; Dakota, 62,117; Arizona, 65,708; Nevada, 70,665; 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 no 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 ecclesiastical and political institutions says:

The wisdom of their leading men is 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 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 one per cent. less than that of Massachusetts, and one-tenth of one 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 askant. 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 cañons 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 cannot 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 cañons where the mountain streams debouched. They did just what every forward 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 prohibition, 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 premissing 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 elo-

quently and pitifully announced. But hear him on the question of the test oath prescribed by this 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 or 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 privileges 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 as instant 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 emanated 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 no often said to a man to give evidence against himself in a penal case that, independent of the constitutional interdiction, 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 dueling. But are not the results the same whether punishment follows from the admission or is imposed as a consequence of silence? Can ignorance 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, as 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 whosever 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 regulations 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 freholder; 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 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 sus-