

HON. JOHN T. CAINE'S

Speech in the House of Representatives on the Question of Polygamy.

On the 23th of August, the House of Representatives had under consideration a resolution introduced by Hon. Fred. T. Dubois, viz:

Resolved, That the Attorney-General be requested to furnish to the House of Representatives a list of pardons granted by the President of the United States to persons convicted of the crime of unlawful cohabitation in Utah Territory and in Idaho Territory since March 4, 1848, giving the name, date of sentence, length of sentence, and date of pardon in each case.

And the substitute reported by the committee on judiciary, as follows:

Resolved, That the Attorney-General be requested to furnish to the House of Representatives the number of convictions for polygamy, adultery, and unlawful cohabitation had in the Territories of Utah and Idaho under the provisions of the act of 1862, and the act of 1882 amendatory thereof, and the act of March 3, 1887, and the dates thereof as shown by the records of the Department of Justice, together with the amount of fines, forfeitures, and costs collected from said prosecutions, with the date of judgments under which said sums were collected; a list of pardons granted by the President of the United States to persons convicted of such crimes of polygamy, adultery, and unlawful cohabitation, respectively, in the said Territories of Utah and Idaho, giving the name, date of sentence, time of imprisonment, amount of fine, date of pardon, and the reason for granting the same in each case.

Hon. John T. Caine, Delegate from Utah, made a speech on the occasion. In support of the substitute reported by the judiciary committee, and showed that the purpose of those, who originated the Dubois resolution, was plainly political. After speaking of the rigidity with which the laws in question had been enforced in the two territories named and the class of individuals convicted to whom elective clemency had been extended—a few aged and infirm persons—and paying a high and deserved tribute to the people represented by him, he proceeded to deal with the question of polygamy. The following is the full text of his remarks in that connection:

Mr. Speaker, there is no longer a possibility of objecting to Mormons on account of polygamy. That is a dead issue. It can not be vitalized. But undoubtedly our opponents will be most reluctant to abandon the old cry which has served them so long and so well. They will, however, have to abandon the cry against polygamy, because it has ceased to exist. It has been suppressed by act of Congress, and the great bulk of the Mormon people have accepted the situation.

What does the record show? It shows that recently in regular judicial proceedings in Salt Lake City, the fact was proven by a high church official that the Mormon Church no longer gave permission for plural marriages. The late Chief Justice Zane of the Supreme Court of Utah, in answer to an inquiry from General McClelland, one of the Utah commissioners, says no case of polygamy occurring since the passage of the Edmunds-Tucker law has come under his judicial notice. Moreover, the Territorial Assembly adopted a resolution in regard to the laws enacted by Congress known as the Edmunds, and Edmunds-Tucker acts, respectively, of March 22, 1882, and March 3, 1887, which is as follows:

Resolved, That said Assembly are in favor of a just, humane, and impartial enforcement of said laws of the United States, in the same manner as other criminal laws are enforced under the Constitution and laws of our country, to the end that said offenses may be effectually prohibited.

And further, the Legislative Assembly have enacted, and the governor has approved, a marriage law for the Territory, prohibiting and declaring void a marriage "when there is a husband or wife living from whom the person marrying has not been divorced;" providing also that no marriage shall be solemnized without a license, for the issuing of which the most stringent regulations, under pains and penalties, are provided, and prescribing who shall solemnize marriages, and making it a penal offense, punishable by imprisonment in the penitentiary not exceeding three years or fine not exceeding \$1000, or by both fine and imprisonment, for any person knowingly, with or without such license, to solemnize a prohibited marriage. No state in the Union has a more complete and perfect marriage law, and few if any states have one in all respects so good.

I assert, moreover, and the official evidence supports my assertion, that since the constitutionality of the act of Congress of July 1, 1862, was affirmed by the Supreme Court of the United States plural marriages were exceptional and not general among the Mormons.

The act of Congress of March 22, 1882, as construed by the courts and the Utah commission, disfranchised every person who was or had been living in polygamy. Retrospective as this law was in its effects, it was enforced, and the Supreme Court of the United States strained a point to sustain its constitutionality by holding that it merely prescribed a status, and did not inflict disfranchisement as a punishment. We had woman suffrage in Utah. Every man and every woman who had lived in polygamy, as well as those who were then in polygamous relations, were disfranchised. The total number thus disfranchised, according to the report of the Utah commission, was about 12,000; so that, allowing for those who had ceased to live in polygamy, old men whose wives were dead, widows whose

husbands were dead, and plural wives, the male polygamists could not, and did not then, exceed 2,500. I honestly believe there are today in Utah less than 2,000 males who can be termed polygamists, and of this number there are very few if any who are violating the law against unlawful cohabitation.

Mr. Speaker, intelligent and philosophical students of the danger threatening our social life have no fears of Mormonism or of the continuance of polygamy in Utah. Hear what Bishop Spaulding, of Illinois, a thoughtful and earnest man, has to say in the Forum for March, in considering the question, "Is our social life threatened?" He says:

Of Mormonism, too, as a social danger, much that is superficial and idle is spoken and written. The Mormons are sober, industrious, and thrifty, and their acceptance of polygamy is our only grievance against them. But polygamy, beyond all question, we need not fear at all. Even among the Mormons it exists in comparatively few instances.

This is sober truth. Less than one per cent. of the population of Utah today have been polygamists. The great majority of the Mormon voters have voted to make polygamy a crime punishable by fine and imprisonment. A Mormon Territorial assembly demands the enforcement of the laws of the United States against bigamy, polygamy, unlawful cohabitation, incest, adultery, and fornication. It provides a marriage law which imposes heavy penalties in the event of plural marriages being solemnized. This ought to satisfy reasonable men.

Among the 105,000 Mormons of Utah, as I have heretofore stated, there are not more than 2,000 men who have ever had a plurality of wives. Not one of these 2,000 men can, under the law, exercise any political rights. They can not vote, and they can not hold office. Before a citizen of Utah can register and be qualified to vote he must take the following oath:

I, _____, being duly sworn (or affirmed), depose and say that I am over twenty-one years of age, that I have resided in the Territory of Utah for six months last past, and in this precinct for one month immediately preceding the date hereof; and that I am a native born (or naturalized, as the case may be) citizen of the United States; that my full name is _____; that I am _____ years of age; that my place of business is _____; that I am a (single or married man; that the name of my lawful wife is _____, and that I will support the Constitution of the United States, and will faithfully obey the laws thereof, and especially will obey the act of Congress approved March 22, 1882, entitled "An act to amend section 5352 of the Revised Statutes of the United States in reference to bigamy and for other purposes," and that I will also obey the act of Congress of March 3, 1887, entitled "An act to amend an act entitled 'An act to amend section 5352 of the Revised Statutes of the United States in reference to bigamy, and for other purposes,' approved March 22, 1882," in respect of the crimes in said act defined and forbidden, and that I will not, directly or indirectly, aid or abet, counsel or advise any other person to commit any of said crimes defined by acts of Congress as polygamy, bigamy, unlawful cohabitation, incest, adultery, and fornication.

Subscribed and sworn to before me this _____ day of _____, 188____.

If the registrars choose they can require the applicant to take this additional oath:

I, _____, further swear (or affirm) that I am not a bigamist, polygamist, or living in unlawful cohabitation, or associating or cohabiting polygamously with persons of the other sex, and that I have not been convicted of the crime of bigamy, polygamy, unlawful cohabitation, incest, adultery, or fornication.

The only male citizens who can participate in political affairs in Utah are those who can pass the ordeal of the above oaths. They are the great majority, because only a small fraction of the Mormon men have ever practiced polygamy.

Mr. Speaker, the monogamous Mormons, those who not only have never practiced polygamy, but have solemnly sworn that they will obey the law of March 22, 1882, and that of March 3, 1887, and, further, that they will not directly or indirectly aid or abet, counsel or advise any other person to commit any of said crimes defined by acts of Congress as "polygamy, bigamy, unlawful cohabitation, incest, adultery, and fornication," have made and accepted a constitution under which they ask the admission of Utah as a state in the Union. That constitution provides, section 12 of Article XV:

Bigamy and polygamy being considered incompatible with "a republican form of government," each of them is hereby forbidden and declared a misdemeanor.

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

This section of the constitution can not be altered or amended without the consent of Congress and proclamation by the President of the United States.

Section 1 of Article XVI provides:

That section 12 of Article XV shall not be amended, revised, or in any way changed until any amendment, revision, or change as proposed therein shall, in addition to the requirements of the provisions of this article, be reported to the Congress of the United States, and shall be by Congress approved and ratified, and such approval and ratification be proclaimed by the President of the United States, and if not so ratified and proclaimed said section shall remain perpetual.

Mr. Speaker, as a member of the convention which framed this constitution under which the people of Utah are asking admission to the Union, I repudiate with scorn the accusation which, in effect, is made against the men who framed that constitution and the thirteen thousand and odd hundred people who voted to ratify their work, that it was the result of a conspiracy hatched for the purpose of deceiving the people of the United States. I denounce as an infamous slander the insinuation that it was an attempt to gain admission to the Union under false colors and upon false pretenses.

For several times the people of Utah have presented, in regular form, their application for admission to the Union. In numbers it was not questioned that they were sufficient, nor was it denied that the importance and extent of their territorial interests entitled them to statehood. The one obstacle which stood in their way, the one objection which was raised, was the practice of plural marriage or polygamy in the Territory. They were told that until this obstacle was removed, until this objection ceased to exist, they could not hope to secure admission to the Union.

When the Mormons insisted that plural marriages were sanctioned by their church, and that according to their religious belief, such marriages were not sinful, the reply was that the practice was deemed detrimental to public morals, and hence came within the legitimate legislative domain. The state, while it could not prescribe or proscribe religious beliefs, could forbid practices which, although sanctioned by the Old Testament, and permitted by a new revelation, were deemed immoral. They were told, time and time again, that it was not a question of their religious belief, of their creed, of their church polity, of their ecclesiastical organization, but simply and solely the practice of polygamy. Indeed, they could have been told only this. The religious belief of a people, the creed of a church, its ecclesiastical organization, are subjects with which Congress could not and can not deal. The Constitution of the United States expressly and emphatically declares that all such questions are and must remain without the domain of legislative enactment.

Therefore the people of Utah had the right to believe that if they came with a constitution which prohibited polygamy, and made it an offense, and inflicted punishment therefor, and gave reasonable guarantees that in this respect they would not alter and amend it, they would be conceded the boon of statehood. I declare it to be my honest belief that the people of Utah, in perfect sincerity, adopted section 12 of the fifteenth article, prohibiting polygamy and making it punishable by fine and imprisonment, with the full knowledge of all that the language of that section implies and imports; that they did deliberately and unreservedly accept that section as part of the organic law under which they desire to live; and further, that it was and is their intention to enforce, without fear or favor, the infliction of the penalties therein prescribed against bigamy and polygamy.

And I declare that it is utterly false, without one element of truth, that the Mormons attach a meaning to the words "bigamy and polygamy" different from their common acceptation. The constitutional convention dealt with "bigamy and polygamy" as you and the people of the United States understand the words. It accepted them in the sense in which they are employed in the laws which Congress has enacted in reference to the offenses they describe. It accepted them as describing an offense which is constituted by a male person who, having one lawful undivorced wife, marries another woman.

It is the merest balderdash to insist that the Mormon Church has maintained, does maintain, or may hereafter maintain that plural marriage is one thing and bigamy and polygamy are other and entirely different things. The members of the constitutional convention who, as a committee, drafted section 12 of article 15, who voted to incorporate it in the constitution, and the people who voted to ratify the work of the convention did so without any mental reservation whatsoever. They knew perfectly well what they were doing. They intended that bigamy and polygamy should be made offenses in the future State, punishable by heavy fine and imprisonment, and they not only fixed the offense in the organic law and provided the penalty for the infraction thereof, but they provided that in this particular the constitution should not be "amended, revised, or in any way changed" without the approval of the Congress and the President of the United States.

Why should we be accused of insincerity? Why should we be suspected of bad faith? The whole history of the Mormon people gives the lie to the assertion that they are hypocrites. Even the majority of the Utah commissioners, men who have no love for us, are compelled to declare that "the Mormon people cannot be called hypocrites." Of the 16,640 voters cast at the last election in Utah, 13,195 were for the ratification of the constitution with section 12 of article XV, prohibiting polygamy and prescribing penalties for its infraction, and only 302 against it. Of the 16,640 voters who went to the polls, only 2,943 refrained from voting for or against the constitution. The 13,195 voters, I insist, were honest and conscientious men. They never had been polygamists. They never had violated the law against polygamy or against unlawful cohabitation.

They had not accepted the revelation concerning plural marriages as mandatory and obligatory upon them. They had taken the stringent oath I have read; had solemnly sworn that they intended to obey the laws, and that they would not:

Directly or indirectly aid or abet, counsel or advise any other person to commit any of said crimes defined by acts of Congress as polygamy, bigamy, unlawful cohabitation, incest, adultery, and fornication.

It is a preposterous proposition to insist that a whole people have deliberately sworn themselves. You must bear in mind that every man who sat in that constitutional convention, every man who recorded his vote in favor of that constitution, had, with uplifted hand, in the presence of his God, solemnly sworn that he was not a bigamist or polygamist, that he would obey the law known as the Edmunds and the Edmunds-Tucker laws in respect to the crimes in said acts defined and forbidden, and that he would not, directly or indirectly, aid, abet, counsel, or advise any other person to commit any of said crimes defined by acts of Congress as polygamy, bigamy, unlawful cohabitation, incest, adultery, and fornication.

There has been no act in the lives of the men who took this oath which justifies the monstrous calumny that they swore to a lie. Pardon me for saying that the man who will proclaim in print, or verbally, such an accusation against over thirteen thousand men, who individually and collectively, are worthy members of a community that has a high standard of general morality, deserves to be branded the monumental slanderer of his time!

Why should these men be suspected of such crimes as perjury, of a purpose to gain the admission of Utah by wholesale fraud and deceit? They have never broken the law against bigamy or polygamy. Some of them, indeed many of them, had the opportunity to take more than one wife when there was no law forbidding them so to do. All but the youngest of them might have married repeatedly had they so desired, when the anti-polygamy law of 1862 was practically a dead letter upon the statute books, no attempt being made to enforce it, they abstained from so doing. Why should they be suspected of a secret purpose to do so now or at some future time?

Mr. Speaker, the faction responsible for the misrepresentation and misconception of the facts in regard to the sincerity and good faith of the great majority of the Mormon people have abandoned their insistence that the danger of the revival of polygamy is the ground of their opposition to Utah's admission to the Union. Their opposition is upon altogether different ground. In answer to an invitation to take part in the formation of a constitution for Utah, the Republican Territorial committee said:

We are free to say (and we oppose the State organization and admission on that basis) that in so far as the institution of polygamy has been an obstacle in the way of the success of the scheme of statehood, we suppose that your organization is prepared to surrender to the public sentiment of the country and abandon it.

As the basis of their proposition they insisted that—

The masses of the people of Utah are adherents of an ecclesiastical system which forbids all harmonious relations with any system of civil government founded on the right of man to govern himself. The central idea of your system is that all lawful government emanates by revelation from God to His priesthood, and that it is the duty of all its followers to be advised by that priesthood on all subjects of a governmental as well as spiritual character.

The so-called Democratic organization in Utah, speaking by the chairman of its Territorial committee in response to a like invitation, declared:

Your party is the dominant church, and that church, as a political organization, constitutes your party. Nothing contained in one is wanting in the other, and neither contains what is not tolerated in the other. They are one and the same in their membership, so that independent political action by an individual can never occur except with apostasy from the creed.

Thus, Mr. Speaker, it will be seen that our local obstructionists who want Utah kept in Territorial bondage while admitting our "surrender to the public sentiment of the country" on the subject of polygamy, nevertheless insist that so long as Mormons "shall in numbers be superior to the non-Mormon population, Utah ought to be kept in bondage and Mormons deprived of all civil rights." They insist that the Mormon Church must be reorganized, that its present ecclesiastical system is incompatible with their notions of church government.

This objection, reduced to a simple proposition, is "the Mormon people are united, and, being in the majority, will control the State government; hence we oppose the admission of Utah into the Union as a State. For a time polygamy served our purpose, but that being removed we raise the howl about the union of Church and State."

Mr. Speaker, the men who insist, for a purpose, that the Mormon people are in favor of a union of church and state know better. They know that when the Mormon people, in 1846, formulated a constitution for the state of Deseret, they declared in their bill of rights, among other things, that:

All men shall have a natural and inalienable right to worship God according to the dictates of their own consciences; and the general assembly shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or disturbing any person in his religious worship or

sentiments; provided he does not disturb the public peace nor obstruct others in their religious worship; and all persons demeaning themselves peaceably, as good members of the state, shall be equally under the protection of the laws; and no abdication or preference of any one sect or denomination to another shall ever be established by law, nor shall any religious test be ever required for any office of trust under this state.

The constitution which has been presented to Congress, the work of the convention of 1887, declares in its bill of rights, Article I:

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

Sec. 3. There shall be no union of church and state, nor shall any church dominate the state.

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

It is not true that the Mormon Church is an "ecclesiastical system which forbids all harmonious relations with any system of civil government founded on the right of man to govern himself." The book of Doctrine and Covenants, which, with the Bible and the Book of Mormon, form that church's standard of faith and practice, prescribes the following rule as to the relations of the church to the State:

We believe that governments were instituted of God for the benefit of man, and that he holds men accountable for their acts in relation to them, either in making laws or administering them for the good and safety of society. We believe that no government can exist in peace except such laws are framed and held inviolate as will secure to each individual the free exercise of conscience, the right and control of property, and the protection of life.

We believe that religion is instituted of God, and that men are amenable to Him, and to Him only, for the exercise of it, unless their religious opinions prompt them to infringe upon the rights and liberties of others. We do not believe that human law has a right to interfere in prescribing rules of worship to bind the consciences of men, nor dictate forms for public or private devotion; that the civil magistrate should restrain crime, but never control conscience; should punish guilt, but never suppress the freedom of the soul.

We do not believe it just to mingle religious influence with civil government, whereby one religious society is fostered and another proscribed in its spiritual privileges and the individual rights of its members as citizens denied. We believe that all religious societies have a right to deal with their members for disorderly conduct according to the rules and regulations of such societies, provided that such dealings be for fellowship and good standing, but we do not believe that any religious society has authority to try men on the right of property or life; to take from them this world's goods, or put them in jeopardy either of life or limb; neither to inflict any physical punishment upon them. They can only communicate them from their society and withdraw from them their fellowship.

Is there one declaration in this promulgation by that church of its relations to civil government which any man can object to? Does it not conform in every particular to that famous embodiment of principles wherein Thomas Jefferson defined the respective limitations of civil and religious authority?

Mr. Speaker, I admit that the Mormon people are united, but I deny that their unity is due to ecclesiastical authority. Irishmen are united. Is their unity due to the fact that they are Roman Catholics? No, sir. It is due to the fact that they are determined to regain the right of community self-government, which they were wrongly deprived of, and which is unjustly denied them. The Mormon people are united because there has been, and there is, a settled purpose on the part of a small but persistent minority to deprive them of the right of local community self-government.

Mr. Speaker, I have endeavored thus briefly to show what the monogamic Mormons of Utah have done to place themselves and the Territory in accord with public sentiment and to solve a troublesome problem. Entertaining as it is to the highest veneration for the institutions of their country, as well as a due respect for the opinions of the majority, they deliberately determined on the course they ought to pursue. They put their hands to the plow. They drew the furrow broad and deep. They will not look back.

Humanity is an afflicted race with the errors and casualties of a material civilization. In the United States there are 33,878 deaf mutes, 48,928 blind, 70,595 prisoners, 76,836 idiots, 88,665 paupers, 91,997 insane.

The origin of the name "America" has been discussed recently in several pamphlet and magazine publications. It appears now from these investigations that the name was not taken from the Christian name of the Italian navigator, Amerigo Vesputti, but was found in this country when Europeans arrived. A range of mountains in Central America is named "Amerique" and a tribe of Indians near by are known as the "Ameriques." Besides this, the root is widely scattered over Central and South America in various forms, as Amara, Caxamaraca, Andamarca, and many others. M. Marcov, a writer on the subject, claims that Vesputti's name was Alberico or Albert until after he had returned from his American voyage.

Mr. Speaker, the men who insist, for a purpose, that the Mormon people are in favor of a union of church and state know better. They know that when the Mormon people, in 1846, formulated a constitution for the state of Deseret, they declared in their bill of rights, among other things, that:

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