

WOMAN AND MORMONISM.

THE HEARTY BELIEF IN POLYGAMY THAT IS HELD BY A FEMALE PHYSICIAN, THE WIDOW OF A MONGOLIAN.

Mrs. Dr. Ellen B. Ferguson, of Salt Lake City, who was for many years a practicing physician in Utah Territory, is at present living in Brooklyn for the purpose of attending surgical lectures. A *World* reporter yesterday afternoon had a long conversation with her in regard to her experiences among the Mormons, and her views and opinions in reference to them as a people, a Church and a community. Mrs. Ferguson is an enthusiastic believer in all the tenets and practices of the Mormons. In regard to her early history, Mrs. Ferguson said: "My husband and I became convinced of the truth of Mormonism by reading the books published by the Church and hearing their Elders preach. I became convinced that they had the truth more than any other body of Christians that I ever met. Shortly before the death of President Young, and at his request, we removed to Salt Lake City, where I practiced medicine and taught music. For two years I was Director of the Conservatory of Music. About a year and a half ago I lost one of my little children, and my husband died, and six months ago I came East. I shall return in about two weeks to Salt Lake City."

"Have your opinions in regard to Mormonism undergone any change?"

"Not in the least, unless it is that I am more than ever impressed with a belief in the truth of the doctrines of the Church, and that the revelations of the Gospel given by Joseph Smith, and continued by God, through those who have had the Presidency of the Church, are true. I believe these things with all my heart, and I have testimony of my own that they are true."

"What is the general condition of women in Utah?"

"I have found in Utah a society that is purer and more elevated than that I have ever met with in any other community. Our women are earnest and God-fearing, and desirous of promoting everything that will tend to elevate both men and woman. We are not slaves as Dr. Newman and others have represented us to be. We think for ourselves and form our own opinions independently of anything anybody may tell us. What we do and what we believe is from the conviction that it is right. We have the right of franchise, and we vote according to our own opinions and judgments, and I do not know of any instance where a woman has been coerced to vote contrary to her judgment."

"What about the domestic relations of your people?"

"I am not personally interested in that question, having never myself been a member of a polygamous family, but I know of it from intimate association, both professionally and socially, with those who are living in that relation. The proportion of those who at the present time practise plural marriage is only about one-tenth of the population. They all believe in it, but it is optional with them whether or not they practise it. No one is forced to practise polygamy. My experience with those who are living in that relationship is that it conduces to the physical, moral and spiritual elevation of the human family. In reference to domestic happiness, of course there is more or less of wrangling and disagreement in all families, owing to differences in temperament; but taking the same number of families, I find no more, but rather less, want of harmony among families living as polygamists than among those of monogamists. There is perfect mutual confidence between the husband and his wives, which is a state of affairs I hardly think exists in any community outside of Utah."

"Has there been, or is there now going on, any change in Utah in regard to this particular doctrine?"

"There has been no change in the opinions of the people. Of course, Congress may pass laws to prohibit us the practise of our principles, but I do not believe there will ever be any change in the opinions of our people. I do not believe God will change. He has given us this revelation for our good, and our people will stand by their principles to the end. It is really a matter that Congress has nothing to do with, as it is with us a peculiarly religious sacrament and ordinance."

"What have you to say about the dispatch from Salt Lake City announcing that in the closing speeches of the legislature, which adjourned on Friday evening, there was a tacit recognition of the fact that the day of polygamous legislation was forever passed?"

"The papers I get from Salt Lake City do not indicate any such feeling as that there. I have never read since I have been here a single true statement in the papers here of our position or of our practice. They seem unwilling to publish anything from our people. The clergy here seem to be united to manufacture a public opinion against us, so as to influence Congress to oppressive and unconstitutional legislation. But in my social and professional intercourse with all sorts of people in New York I have found that a truthful statement by me of our beliefs and position reveals to them the fact that they have been misled by constant misrepresentation and misstatements of facts by our opponents."

"What is going to be the result of all this agitation?"

"That is a question which will require a wiser head than mine to answer. Of one thing, however, I am quite certain, and that is that one result will be to more firmly unite us as a people and make us more determined to stand by our principles. We have always been loyal to the flag and the Constitution, and we take our stand on the constitutional guarantees of religious liberty."

"Will the Mormons leave Utah?"

"Leave? Where would they go?"

"Will they resist the enforcement of legislation against them?"

"Suppose the United States should send an army to drive the people of New York from their homes. Would they resist. We own our homes, and have bought and paid for them. They may drive us out or murder us in cold blood, but if they do they will only get a mass of ruins for their pains. I for one would burn everything I have before it should fall into the hands of the United States authorities. Resistance on our part is just what the United States authorities in Utah want. They are desirous of getting their hands on the funds of the Territory, which have thus far been administered honestly by the Mormon authorities. The men in business there—outsiders, I mean—do not desire this agitation. They deprecate it. They give on good terms with our people and are satisfied."

"What are the educational facilities of the Territory?"

"We have district schools in every ward in the cities and in every settlement. We have three high schools—the University of Deseret, the Brigham Young School at Provo and the Logan Academy in the northern part of the Territory. These are all excellent schools, in which pupils have been prepared to pass examinations at West Point, at the Polytechnic School in Troy, and at the School of Mines, where they have graduated with high honors."

"How in regard to the rights of property?"

"The rights of property in Utah are just as sacred and absolute as they are here. My house belongs to me, and I did not buy it from the church either. Property is bought and sold there just the same as anywhere else, and titles descend in the same way. I heard Dr. Newman lecture on Mormonism. He said that President Taylor was the richest man in the world because he owned all the property in the Territory. Now, he knew that was false when he said it. The real animus of Dr. Newman's hostility comes from his discussion with Elder Pratt, in Salt Lake City, in which he was terribly worsted, and ever since that he has thought it a religious duty to lie about us. But the key-note to his whole position is to be found in his prayer, in which he said: 'O Lord, we want to redeem those fertile valleys and rich mines.' Yes, that is just what they want."

"How do the women of Utah look upon this proposed legislation of Congress?"

"The women are the very last persons in the Territory to wish for any legislation in their behalf. It would not be for their benefit, but to their serious detriment. It would break up their family ties, separate them from their husbands, whom they love dearly, and leave them and their children unprotected and uncared for."

"But Congress proposes to legitimate the children born in polygamy down to a certain time."

"Yes, but what do they propose to

do with the wives? A gentleman said to me not long ago: 'I married three wives years ago before any legislation on the subject by Congress was ever thought of. I have sons and daughters grown up. Do you suppose they would stand quietly by and see me turn their mothers out of doors? I have treated all my wives uniformly well, lived happily with them, each in their own house, and have violated no law.' And that is the universal sentiment among our people."

"Is it customary for men with several wives to furnish each wife with a separate house?"

"If they are able they do so sometimes; but I have known three or four women living happily in one house. Speaking of women's rights in Utah, it has been asserted that women vote at any age and without naturalization, provided they are married. That is false. A woman must be 21 years of age and naturalized, unless she is native-born or the daughter of a naturalized citizen, no matter whether she is married or not, before she can vote. She must also gain a residence by living one year in the Territory, six months in the county and three months in the precinct before she is entitled to the franchise. The ballot is absolutely free from dictation of any sort, so far as the Church is concerned. The principle of our form of government is that the majority shall rule. The minority in Utah are not willing to concede this. They want to control the whole Territorial civil government. In conclusion let me say one thing more. Our women have been painted to the world as degraded creatures, fit subjects for the prayers and sympathies of all the virtuous women in Christendom. Now, I consider myself a fair specimen of the women of Utah, and if anybody can see anything degraded about me I should like to have him or her accuse me. When I came East I intended to lecture, but have been unable to do so because I could not get a place unless I hired a high-priced hall, which I was not able to do. I even asked Henry Ward Beecher for his lecture room, telling him the same was another side to Mormonism besides the one he had been in the habit of looking at. His reply was: 'Thank God, I never saw but one side, and I do not want to!' Permission to lecture in his pulpit was refused, as it was in every other Church I applied for. When Beecher visited Salt Lake City he was asked by Brigham Young to preach in the Temple. So was Dr. Newman. Talmage was not. Our people invited discussion and are not afraid of the truth. It is misrepresentation and falsehood and deceit that we object to and deplore."

SPEECH OF HON. JOHN R. TUCKER,

OF VIRGINIA, IN THE HOUSE OF REPRESENTATIVES, ON TUESDAY, MARCH, 14th, 1882.

I am as much opposed to polygamy and the kindred offenses enumerated in this bill as any gentleman in this House. The marriage sanctioned by the divine Author of Christianity is a civil status constituted by contrast between one man and one woman to live together for life, as the basis of the family, without which no society can be virtuous, prosperous, and happy. And I incline to think the decision in *Hyde vs. Hyde*, 1 L. R. Probate and Divorce Cases, is sound in holding that no "Mormon" marriage, though valid by the *lex loci* between a man and woman which implies the right of the man to marry another woman, is a Christian marriage. The contract of Christian wedlock must exclude the idea of marriage to another woman, the first wife living. It was so from the beginning, that "they twain shall be one flesh."

Great as is this evil of polygamy in Utah, and important as it is to extirpate it as an element in American polity, it must be cured by constitutional remedies. 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 creating a precedent whose influence must be injurious and may be fatal to the life of constitutional government.

I believed in the power of Congress to legislate directly for the Territories of the Union, subject to the Constitution of the United States. Congress holds them as property for sale and as a domain for colonization in trust for the common and equal benefit of the United States and the people of each and all of them. It is an *express* law contrary to this trust nor contrary to the terms of limitation on its power prescribed by the Constitution. That Constitution follows each colonist to his new home in the Territory and shields him from arbitrary power by whomsoever exercised, whether by the direct action of Congress or of the territorial government to which Congress may delegate the governing authority. The citizen in the territory, like the citizen in the State, is protected against all laws which are not "made in pursuance of the Constitution."

I believe that the fifth and eighth sections of this bill are violations of the Constitution, and I therefore cannot vote for it. They violate it in fundamental matters, which, if allowed in an effort to extirpate this enormous evil, will be a precedent for passion and prejudice to use the same evil where no real evil exists. Every provision of this bill, aimed at polygamy, and the other offenses named in it for their punishment, and to accomplish their extermination, meets my hearty concurrence; and I regret that some of its provisions are so arbitrary and unconstitutional that I cannot give my vote for the bill.

The haste with which under the previous question and a short hour for amendment and debate thereon and call of roll have prevented me from moving amendments which might, in my view, have made the bill constitutional. I can now only vote against its passage, with no hope of defeating this ill-considered, if not inconsiderate measure.

I will now present my constitutional objections to the bill.

It appears that the Governor and Legislative Assembly of Utah, by an act passed January 19th, 1855, adopted and re-enacted an ordinance passed by the provisional government of Deseret, Feb. 8, 1851, by which "Mormonism" with its polygamous rites was legalized in that Territory. That act was never repealed until Congress by a law passed July 1, 1862 (12 Statutes at Large, 501), annulled it and made polygamy unlawful. That act was codified in the Revised Statutes, sec. 5352. This section is re-enacted but enlarged in its scope by the first section of the present bill. In other words, this bill makes some acts criminal which have not been criminal to this date.

The third section of the bill creates a new offense, namely, cohabitation with more than one woman—impliedly making illicit cohabitation with one woman no offense at all and denounces it as a misdemeanor punishable by fine and imprisonment.

Now let us look at the fifth section. It provides that in all prosecutions for said offenses it shall be sufficient cause of challenge to a person summoned as a jurymen, "that he is or has been living in the practice of bigamy, polygamy, or unlawful cohabitation," etc.; "or that he is or has been guilty of an offense punishable by either of the foregoing sections or by section 5,352 of the Revised Statutes;" or "that he believes it right for a man to have more than one living and undivorced wife at the same time, or to live in the practice of cohabiting with more than one woman." The section provides for examination of the jurymen and other evidence, and to exclude him from the jury if he refuses to answer as to his guilt or innocence of said offenses.

I do not insist that every man has an equal right to be upon the jury, but I do insist that it is the right of the accused to be tried by an impartial jury of his district.

The fifth amendment to the Constitution declares that no person "shall be deprived of life, liberty, or property without due process of law."

What is due process of law? Judge Story, citing Lord Coke, (3 Story's Commentaries on the Constitution 1783), says this means "the right of trial according to the process and proceedings of the common law." This includes trial by jury of the accused, as shown in *Milligan's case*. (4 Wallace, 2.) But the sixth amendment of the Constitution is more explicit. It declares "the accused shall enjoy the right to a speedy and public trial by an impartial jury," etc.

In the late case of *Strander vs.*

West Virginia, (100 United States Reports, 383), the Supreme Court says, in speaking of jury trial.

"The constitution of Juries is a very essential part of the protection such a mode of trial is intended to secure. The very idea of a Jury is a body of men composed of the equals of the person whose rights it is to be selected or summoned to determine—that is, of his neighbors, fellows, associates, persons having the same legal status in society as that which he holds."

The Court say it must be guarded against the process known as "packing juries," and that the man should be tried by persons without prejudice against him.

Now I do not mean to say that persons *in pari delicto* with the accused should be put upon his jury. But I do mean to say that the fact that a man has been guilty of an offense at a time long past is no reason for his disfranchisement as Juror, nor to debar the accused from having him on a Jury. And this bill does this. It declares a Juror is or has been guilty of any of these offenses, or is or has been guilty of the offense newly made the first time made such by this bill, whether he has abandoned or not, whether he says he will just execute his duty as Juror or not, is absolutely disqualified to sit on the Jury. But it goes further, it dives into the heart of the Juror's belief. In both cases it proposes inquiry into the question, probe the Jurymen himself. It declines to answer he is *ipso facto* set aside.

I have shown that no law against polygamy existed prior to July 1, 1862, nor against unlawful cohabitation with more than one woman up to this time. Yet a man will never violate either law is, retroactive effect given to each, be disqualified as a Jurymen. This gives an *ex post facto* operation to these laws in order to disqualify Jurymen, and thus to debar the accused from an impartial Jury of his peers.

But more than all, this is done in an inquisitorial proceeding to disqualify men for jury service, brand them as criminals without trial, even perhaps without accusation, and thus to narrow and circumscribe the class of citizens in a community from which an impartial jury is to be selected. Is it fair? Is it not unconstitutional that it excludes large classes of men who may not only never have been indicted against any law, but who may have abandoned a practice which they once were guilty, who in many cases, might fairly administer the law without regard any higher law supposed to govern the "Mormon" people.

I come now to the eighth section of the bill. That provides that bigamist, polygamist, or any person cohabiting as before mentioned shall vote or be eligible to office, hold office in any Territory or place over which the United States has 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 partment appoints, or as to whether the Constitution itself establishes own pre-qualifications. I assert this section, without trial of kind, take from every person guilty of any of these offenses the pre-right of suffrage and the privilege eligibility to or the title to any office under the United States. This is done by act of Congress crime. It operates *ex instanti* approval of this law. If at moment he is guilty of the offense created by this act, this is the same moment inflicts this penalty.

It does more. The ninth section establishes a commission of five persons whose decisions 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 emasculated under law, without due process of law, by indictment and jury trial court of law. The commission five are the absolute arbiters of rights and immunities of the citizens of the United States.

Is such a law constitutional? The Supreme Court, in *Cumming vs. Missouri*, (4 Wallace, 277), has settled this question.

The Constitution of the United States, article 1, section 9, clause 5, declares "No bill of attainder or *ex post facto* law shall be passed. This is a limitation on the power