

THE NEW EDMUNDS BILL.

SPEECH OF SENATOR CALL.

AN ABLE AND FEARLESS ARGUMENT.

In the Senate of the United States, Mr. Call, of Florida, made the following pointed and forcible speech on the principles of religious liberty.

Mr. CALL. Mr. President, section 12 of the proposed statute which is now brought to be amended provides that fourteen trustees shall be appointed who shall take possession of the property of this corporation. The Constitution of the United States provides that private property shall not be taken for public use without compensation. Is this private property or not? Is the property of this corporation private or public property? It seems to me there can be no question in regard to that. This property was acquired by this corporation under the protection of the law. It belongs to it and to those who are its *testis que truit*. There can be no question about that.

What, then, is the taking prohibited by the Constitution? Does it allow Congress to take possession for either a longer or a shorter time? Does it vest power to dispossess persons of their property and substitute others in the control and management of it? There can be no question that a taking, a dispossession, for a moment is as much as a dispossession for an age or a conversion in perpetuity.

The Constitution is imperative. It says, "nor shall private property be taken for public use without just compensation." This provision of the proposed statute not only takes it but converts it to public use, to the education of the children of Utah, without reference to the wishes of its owners. To my mind there can be no question whatever that this is clearly within the inhibition of the Constitution.

But in regard to another point, the Constitution says that "Congress shall make no law respecting an establishment of religion." Senators here say that although you may make no law respecting an establishment of religion you may legislate to destroy the chartered rights of an establishment of religion; that you may impose disabilities upon those who practice it, and you may indirectly deprive them of political rights and privileges and of all rights for the purpose of suppressing and destroying it. That is manifestly the object of this section and of this bill and is avowed in the argument and the discussion of the legislation proposed in the section under consideration.

Whatever may be the evils of this association, whatever may be the calamities that it may or may not produce, the question which we are bound to consider is whether it is or is not an establishment of religion. By all our traditions and by all the history of the English race and by all our legislation previous to the commencement of this crusade upon these people, the Mormon Church must be regarded as an establishment of religion. Senators say it is not the true religion. Does the Constitution say you shall not legislate respecting the establishment of the true religion or the false religion? The act of toleration of King William and Queen Mary, which was the outcome of all the prosecution which the people of England and this country as well as the people of Europe suffered for many years, the tortures of the Inquisition, the burnings, the hangings which every church and every creed have practiced upon the others—the act of toleration which is the foundation of our principle of religious freedom, says in express terms what is and what is not an establishment of religion and leaves no ground of doubt as to the meaning of the terms used in the Constitution. Congress shall make no law respecting an establishment of religion.

Before we embark in this system of religious persecution, before we abandon the principles of our Government, of our civilization, and of the religion of Christ, it is well for us to consider something of the past history of this and other countries. That great society of Christian people, the followers of John Wesley, who in every period of the history of this country have been its loyal and faithful citizens, who have sustained the Christian religion in heathen lands and in civilized lands, those apostles of the poor and humble, have defined what they consider as religious freedom. Let us see whether it is the right of any Congress or any set of men to say what is religion or what is not. In the days when the English Parliament undertook so to declare, a committee of the followers of John Wesley put forth this declaration:

That it is the unquestionable right of every man to worship God agreeably to the dictates of his own conscience, and that he has a right to hear and to teach those truths which he conscientiously believes, without any restraint or judicial interference from the civil magistrate, provided he do not thereby disturb the peace of the community, and that on no account whatever will this committee ever concede this fundamental principle.

The society which proclaims this as the meaning of religious establishments as defined in our civilization and our Constitution constitutes an immense portion of the Protestants of this country. If a man have the right to worship God according to the dictates of his conscience, if he believes, as many do believe in foreign lands, the bequeathed doctrine and the unholy practice, as we conceive it, of polygamy, while we have the right to punish the practice and if

possible to suppress it, have we the right to establish a system of religious persecution to destroy the religious establishment because it professes and believes a falsehood? Shall we disregard the very proposition upon which our own religious liberty stands? Shall we overthrow free speech and free thought, and the Bible and religion of Christ, and substitute for them the secular power, the sword of civil power for the sword of the spirit? This is but to repeat the history of the Dark Ages; this is to re-enact the inquisition of Spain with all its horrors; to light anew the fires of religious persecution, and by fire and torture and suffering to force the human mind to accept as true our opinions and our creeds.

This bill and this section of the bill undertakes to do this? It declares that the chartered rights of succession and ownership of property granted to the religious establishment of the Mormon Church shall not only be taken away from them, but that their property shall be confiscated, taken from them, and used according to the will and discretion of Congress; and to what end? To the avowed end declared in the bill that this form of heretical belief, that this false religious establishment, shall be suppressed and destroyed, to the end that true religion, as we conceive it to be, may be maintained.

Mr. President, this is not the punishment of polygamy; this is not the suppression of the practice of polygamy; it is the destruction of a religious establishment, a false religious establishment; it is the persecution of its votaries to the end that by that means it may be extirpated.

Sir, we can not indirectly legislate for the purpose of destroying any religion, whether false or true. We can not take away its chartered rights which have been given to it by law, selecting it as one out of many to the end that it may be destroyed, without violating not only the principles of the Constitution, but the essential principles of the religion of Christ.

This provision of the bill, as well as the whole bill, is an assault on the Christian religion, which undertakes by permission, by conviction, by teaching the doctrines of Christ, to convert and convince them, and not to compel them to believe by the sword. It is a revival of the dark ages. When the religious persecutions which consigned so many hundred thousand people to the stake in the medieval ages commenced, they began with comparative mildness, and they proceeded from mild forms of restraint to punishments so horrible that they make the blood run cold. These cruelties were practiced by every sect and every church in turn upon those who dissented from it.

Motley, in the History of the Dutch Republic, says:

Tyranny, ever young and ever old, constantly reproducing herself with the same strong features, with the same imposing mark which she has worn through all the ages, can never be too minutely examined. The history of Alva's administration in the Netherlands strikes us almost dumb with wonder. Why has the Almighty suffered such crimes in His sacred name?

Mr. President, what can we say of a proposition here in this day of religious liberty, in the face of a provision of the Constitution of the United States that property shall not be taken for public use without compensation, which requires that the property of a corporation, a private corporation, a corporation for purposes either religious or benevolent, so avowed upon its face, so stated in its charter, may be taken by law and appropriated by the Congress of the United States to purposes not contemplated by, and against the will of its owners, and to the avowed end that certain people who believe, and falsely believe, that the interpretation of the Bible and the religion of Christ justifies and requires them to establish a marital relation which we forbid and regard with horror—to the end that by religious persuasion it may be exterminated and done away with. It is true that this section of the bill describes this confiscation as an escheat to the Government, but the learned men who prepared this bill knew that there could be such thing as an escheat of the property of a corporation which within the limits of its chartered term of life was performing the acts required by its charter, the life of which was terminated by the arbitrary act of the government as a measure of public and religious policy.

I cannot see what possible ground there is for any opinion that the Congress of the United States has a right, in order to suppress polygamy, to confiscate the property of persons, of corporations, and apply it to any use they see fit. I do not believe that there can be any argument made in support of it. The Senator from Vermont, with very great ability and very great ingenuity, proposed to discriminate between what he called the political or the temporal and the ecclesiastical features of this organization. Suppose we were to attack the great Catholic Church with its hundreds of millions of property in its corporate institutions, using them as it does for benevolent purposes, and to declare that we saw fit to the end that the Catholic Church and her form of belief might be extirpated, to withdraw her charters, confiscate her property and apply it to other uses—who would for a moment entertain the idea? Who would regard it as within the power of this body? Who would dare to propose this of any of the great churches into which Christians are divided. This demonstrates that

we have no right and no power to proscribe and punish any form of belief, religious or political—to legislate men into other beliefs and other opinions. It is with practices, with acts alone, that we can deal.

When the time comes I shall move to strike out from the first section of the bill the words "and may be compelled to testify." The bill requires that the wife shall be compelled to testify against her husband—not permitted, but compelled—with the privilege of reserving from such testimony any confidential statement or communication made by either during the existence of the marriage relation. What knowledge is there on the part of husband or wife that is not confidential? How can you compel one to testify against the other without violating the relation? What is the object of that provision? Is it to the end that in criminal cases generally this testimony may be made available? It is to the suppression, as avowed by the bill, of this form of religious belief. It is legislation respecting a false establishment of religion. No one denies that this is false religion; that it is a form of religious belief; that it is an establishment of religion; that the 180,000 people who profess it believe and profess to believe that it is religion, and a true religion. We say it is no religion, and that it is hurtful; but all churches and creeds have said that of those who differ from them, and they have used the power of the State to burn, torture and kill all who differed from them. This bill proposes to punish and exterminate this false belief by the secular power.

The Senator from Alabama testifies that these people, with a fanaticism and a superstition which he regards as wonderful, bring the tenth part of all their labor, day after day and year after year, as a voluntary contribution. Why do they do it? Because they believe, falsely, if you please, that it is a duty to their God to do so. We say that this fanaticism encourages them in the practice of polygamy and is hurtful to the same. And we make laws to prevent them from spreading their belief, from bringing in recruits to their faith, and impose on them some penal laws and processes unknown elsewhere to our laws. I am opposed to Mormonism, and because I am opposed to it I oppose this law and these methods, which can only result in increasing it by dignifying those who are persecuted as martyrs in the eyes of their deluded followers.

But the second section of the bill, in face of the provision of the Constitution that "the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated," provides that at the hour of midnight, at any hour of the day or night, without previous charge or accusation, without notice, without a subpoena, the officers of the law may drag from their bed any man or woman and hold them in confinement because there is an opinion on the part of some officer that they will not obey a legal process; not that they had done wrong, not that they had refused to obey the law, but because there is an opinion that they will. It is a discretion committed to the marshal or a judge, a commissioner or a grand jury, or a justice of the peace, that attachment for a witness may be issued, without a previous subpoena, compelling the immediate attendance of such witness when it shall appear "that there is reasonable ground to believe that such witness will unlawfully fail to obey a subpoena issued and served." Is that an unreasonable seizure or is it a reasonable one? What is the object of this provision? It is because it is apprehended that, under the influence of superstition these people will be reluctant to obey the process of the court.

In all ages these things run together. The difference between persecution and the religion of Jesus Christ with its pure method as defined by Wesley and his followers, that religion which goes with the power of conviction and not with the stake and the fagot and the secular arm to enforce it, and that superstition, that religious persecution which seeks to advance the opinions of sectaries by the secular arm of the stake, by power, as they did in the days of the Inquisition, finds in its methods always from that time to this precisely the same characteristics. I read from a history of religious persecutions by a distinguished divine of the Protestant Church, which is impartial in its reference to all creeds and all churches and all people, and is designed simply to establish the proposition that heresies in religion, false opinions and false practices proceeding from superstitious beliefs, are not to be eradicated by the secular arm of power but only by the milder methods of the gospel by the principles of the Christian religion. In the year 1656 a law was passed in the colony of Massachusetts, the methods of which are precisely those adopted in this bill—the law of arbitrary imprisonment, the law of arrest without hearing, without previous charge, without evidence. I will read the law as it was established in one of our then colonies:

That whosoever of the inhabitants should, directly or indirectly, cause any of the Quakers to come into that jurisdiction, he "should forfeit one hundred pounds to the country, and be committed to prison, there to remain till the penalty should be satisfied.

Whereas there is a pernicious sect, commonly called Quakers, lately risen, who by word and writing have published and maintained many dangerous and horrid tenets,

and do take on them to change and alter the received laudable customs of our nation, in giving evil respect to equals, or reverence to superiors, whose actions tend to undermine the civil government, and also to destroy the order of the churches by denying all established forms of worship, and by withdrawing from orderly church fellowship allowed and approved by all orthodox professors of truth, whereby divers of our inhabitants have been infected;—for prevention thereof this court doth order and enact, that every person or persons of "the cursed sect" of the "Quakers," who is not an inhabitant of, but is found within this jurisdiction shall be apprehended without warrant where no magistrate is at hand, by any constable, commissioner, or selectman, who shall commit the said person to close prison there to remain without bail until the next court of assistants, where they shall have a legal trial, and "being convicted to be of the sect of the Quakers, shall be sentenced to be banished, upon pain of death." And that every inhabitant of this jurisdiction, being convicted to be of the aforesaid sect, either by taking up, publishing, or defending the horrid opinions of the Quakers, or the stirring up mutiny, sedition and rebellion against the government, or by taking up their absurd and destructive practices, namely, denying civil respect to equals and superiors, and withdrawing from our church assemblies, and instead thereof frequent meetings of their own, in opposition to our church order, or by adhering to or approving of any known Quaker, and the tenets and practices of the Quakers, that are opposite to the orthodox received opinions of the godly, and endeavoring to disaffect others to civil government and church orders, or condemning the practice and proceedings of this court against the Quakers, manifesting hereby their complying with those whose design is to overthrow the order established in church and State; every such person, upon conviction before the said court of assistants, in manner as aforesaid, shall be committed to close prison for one month." And then, unless they choose voluntarily to depart this jurisdiction, shall give bond for their good behavior and appear at the next court; where, continuing obstinate, and "refusing to retract or reform the aforesaid opinions," they shall "be sentenced to banishment, upon pain of death."

Here we have the same method of arbitrary arrest, of arbitrary punishment without notice, the same proposition that a particular sect of people with a particular religious belief are unfriendly to the State and to the cause of good order. That is what this bill is. The author of this work, himself a Christian and a representative of the Christian sentiment of New England, proceeding to speak of this law, says:

Here endeth this sanguinary act, being more like to the decree of the Spanish Inquisition than the laws of a reformed Christian magistracy; consisting of such who themselves, to such persecution (which was but a small fine for not frequenting the public worship) had left Old England.

I say, therefore, that this proposed measure, and its whole theory is in violation of the spirit of our institutions and all the provisions of our Constitution; that it is in violation of the whole theory of Christian liberty and Christian civilization; that it ignores and distrusts and disparages the power and influence of the religion of Christ, the Divine Teacher; that it denies and distrusts the power of free speech and free thought, the great agencies of our civilization.

I am as much in favor of the suppression of the practice of polygamy as any man, but I am not in favor of religious persecution to the end that it may be suppressed. I do not believe that we can violate the laws which secure a fair and impartial trial in the spirit of our Constitution to all men accused of crime. I do not believe that we can violate the laws that give personal security except upon a charge of crime and probable cause. I do not believe that we can lawfully engage in a crusade against the Mormon Church, this false establishment of religion, by the secular arm of the State to suppress polygamy. The Christian sentiment of this country, the criminal laws administered, the temperance laws, not extreme but punishing this offense as others are punished, are amply sufficient and far more efficient than this iron-clad bill, which in every letter and in every word of it is designed and avows itself to have the purpose of suppressing this form of false religious belief by the power of the stake as the means of destroying polygamy. I prefer the influences of the Christian religion with the criminal laws fairly and impartially enforced. If our institutions are not strong enough and our Christian religion is not strong enough to overcome it, then no secular power can do so.

For these reasons, Mr. President, I am opposed to the bill, and I hope the amendment of the Senator from Alabama, which will improve it in some respects, will be adopted. But I do not believe that we have any right to destroy an establishment of religion, false or true, to the end that we may suppress a crime.

I believe that the provisions of this bill, while they violate the Constitution and are the beginning of religious persecution of other churches and other sects, will have no effect on the Mormons except to increase their numbers and give them dignity and respect in their own eyes. I believe the preaching of the true religion by its faithful ministers, the upholding of the national authority in the Territory by an armed force adequate to give protection to all who may wish to leave the Mormon Church, will do what this bill will fail to do.

A TRIBUTE.

HONOR TO THE MAN OF MORAL COURAGE IN THE HOUR OF TRIAL.

At a surprise party tendered Brother

Jas. H. Nelson, of Ogden, prior to his departure for the penitentiary, the following was unanimously adopted:

Brother James H. Nelson:

Moral courage is better than wealth; and loyalty to one's religion and people is better than worldly fame. The course which you are taking in these trying hours wins for you the admiration and love of your brethren and sisters.

You and the other heroic men who suffer with you are making history. For the day will come—and that, too, within the life of many who are present, when people shall look back with glorious proud thoughts for the Saints who now stand firmly and steadfastly.

And in that hour, there will be nothing but contempt or pity felt for the persecutors of God's cause, and for the cowards who prefer to desert their wives and children rather than suffer the paltry vengeance of man.

We have assembled here at this time to express our confidence in you, to offer you encouragement and affection. When you stand before the judge, we do not doubt what your course will be; and when you are cast into prison, remember that hundreds of those who know and esteem you are offering prayers in your behalf.

There is no disgrace in the fate to which you are voluntarily going. The ignominy with which our oppressors would like to write your name and history shall turn to words of golden praise, the insults which they would heap upon your head shall become a crown of glory.

We pray that you may be protected and preserved in the truth. Though the stony way shall be enshrouded at times in cold darkness, may your feet never falter, but may you be able to walk erect to that shining gate which stands open at the end of life's toilsome journey.

A better day will sometime dawn for the pure in heart, a day when corruption will be cast from high places and righteousness be exalted in the earth. Then will your reward come. May it be a blessing and triumph, and may we be sharers with you of our Savior's glory is the prayer of your

BRETHREN AND SISTERS.

—Ogden Herald.

TYRANNICAL POTENTIALITY.

The following article on the Edmunds monstrosity is taken from the Chicago Current which is a very pronounced opponent of polygamy and "Mormonism."

The Supplementary Mormon bill passed the Senate St. Jackson's Day. It is beyond contention anywhere, that the United States is a sovereign at least in its Territories. It has before exercised its despotic power—a famous example, in time of profound peace, being the reign of Boss Shepard, in Washington. Now the same tyrannical potentiality is to be let loose on the polygamists. It is the civil way of accomplishing the work of an army of man killers. We hope the polygamists may so accept it. Professor Ropes, in his book, says, philosophically of the Jacobin Club, that it was necessary for that esteemed society to take away the dearest right of men (to live) in many thousand cases, for the purpose of impressing on mankind the doctrine of the somewhat lesser right of men to be free and equal before their country.

Inasmuch as the inhibition (against polygamy) has already been put on them, they should exhibit no great wonder at the second project, of Mr. Edmunds and now of the Senate, which establishes as Mormon pastors fourteen horrible Gentiles, who will take tithes, revise accounts, and cut off trade in Europe. Nothing further from the spirit of our institutions than this is has ever been attempted in legislation. The abolition of slavery, however repugnant to our Constitution, was still in perfect harmony with the opening sentence of the Declaration of Independence. But this Federal assumption of the benefices of the Saints—this turning of a baker's dozen of office seekers into the largess of a rich ecclesiastical corporation—exhibits in all its gravity the problem to which Mr. Edmunds (one of the greatest students of government who ever lived) has given his almost undivided attention as a public servant. Mr. Edmunds says the Church of Latter-day Saints can be reduced to a law abiding religious corporation by the workings of his project when made law. That assertion of belief is our best reason for taking extraordinary action.

This terrible bill which excites the wonder of even the Salt Lake City patriots and gentiles, was passed by a vote of 38 to 7, and probably several of the seven would have voted for it to save it. Thirty-two Senators with shaky nerves were absent. The House may not stop long on the passage of the bill and, as the President in December wrote a high-school essay on the delights of the anti-polygamous fireside, we advise the Mormons to go to Mexico at once. The polygamous bishops are too old to learn the tricks Mr. Edmunds has in store for them. The Current hopes the medicine we are about to give the Mormon may never be prescribed for our own body politic. Perhaps there would be an honest cruelty in sending an army to ruin Salt Lake, as Butler ran New Orleans, and the majesty of civil law and liberty might not get bedrabbled.