

Rev. David A. Allen, D. D., a Congregationalist, and a missionary of the American Board of Commissioners for foreign missions, after a professional residence of twenty-five years in Hindoostan, published a work in 1856, entitled, "India, Ancient and Modern," in which he says, pp. 551-3:

"Polygamy is practised in India among the Hindoos, the Mohammedans, the Zoroastrians and the Jews. It is allowed and recognized by the Institutes of Menu, by the Koran, by the Zendavesta, and the Jews believe, by their scriptures, the Old Testament. It is recognized by all the courts in India, native and English. The laws of the British Parliament recognize polygamy among all these classes, when the marriage connection has been formed according to the principles of their religion and to their established forms and usages. The marriage of a Hindoo or a Mohammedan with his second or third wife, is just as valid and as legally binding on all parties as his marriage with his first wife; just as valid as the marriage of any Christian in the Church of England. * * * This man cannot divorce any of his wives if he would, and it would be great injustice and cruelty to them and their children if he should. * * *

* * * His having become a Christian and embraced a purer faith will not release him from those obligations in view of the English government and courts, or of the native population. Should he put them away, or all but one, they will still be legally his wives, and cannot be married to another man. And further, they have done nothing to deserve such unkindness, cruelty and disgrace at his hands. * * * So far from viewing polygamy as morally wrong, they not unfrequently take a second or a third wife with much reluctance, and from a painful sense of duty to perpetuate their name, their family and their inheritance."

In an appendix to this work, Dr. Allen informs the world that the subject of polygamy had been brought before the Calcutta Missionary Conference, a body composed of the missionaries of the various missionary societies of Great Britain and America, and including Baptists, Congregationalists, Episcopalians, Methodists, Presbyterians and others, in consequence of the application of Christian converts, who, having several wives each, to whom they had been legally married, now desired admittance into the Christian Churches. After frequent consultations and much consideration, the conference, says Dr. Allen, came unanimously to the following conclusion:

"If a convert, before becoming a Christian, has married more wives than one, in accordance with the practice of the Jewish and primitive Christian Churches, he shall be permitted to keep them all, but such a person is not eligible to any office in the church."

These facts, as Dr. Allen asserts them, have a direct and an important bearing upon this bill and the accompanying report. They prove that one of its main charges, that polygamy is abhorrent to every Christian nation, is false, for the British Empire is a Christian nation, and Hindoostan is an integral part of that empire, as much so as its American provinces are, or as Ireland is. Hindoostan is a civilized country, with schools and colleges, and factories, and railroads, and telegraphs, and newspapers. Yet the great mass of the people, comprising more than eighty millions, are polygamists, and as such they are recognized and protected by the laws of the British Parliament and the courts of the Queen's Bench; and the English and American missionaries of the gospel who reside there, and have resided there many years, and who know the practical working of polygamy, have assembled together in solemn conference and unanimously pronounced it to be right, and in accordance with the practice of the primitive Christian churches; and the French, the Spanish, the Dutch, the Portuguese and other Christian nations are known to pursue a similar policy, and to allow the different peoples under their governments, the free and unmolested enjoyment of their own religious and their own marriage system, whether they are monogamous or polygamous.

I trust, Mr. Speaker, that I have not wearied your patience by this citation of learned authorities upon the antiquity and universality of the polygamic doctrines. My object in this part of my argument is not to prove that polygamy is right or wrong, but simply to illustrate that a doctrine, the practice of which has repeatedly been commanded by the Almighty; which was the rule of life with the Jews at the time they were the chosen people of God; and were, in all things, governed by His dictation; which has among its supporters many of the most eminent writers of the Christian Church of all ages, and which is now sanctioned by law and usage in many of the Christianized provinces of the British Empire, is not wrong in itself. It is a doctrine, the practice of which, from the precedents cited, is clearly not inconsistent with the highest purity of character, and the most exemplary Christian life. My opponents may argue that it is unsuited to the civilization of the age, or is the offspring of a religious delusion; but if so, its remedy is to be sought through persuasion, and not by the exercise of force, it is the field for the missionary and not for the jurist or soldier. It is a noble and a Christian work to purify and enlighten a benighted soul; to lift up those who are fallen and ready to perish; but from all the pulpits of the land comes up the cry that the fields are white

for the harvest, while the laborers are few. So soon, however, as the Lutherans, the Melancthons, the Whitfields of to-day, have wiped out the immorality, licentiousness and crime of the older communities, and have made their average morality equal to that of the city of Salt Lake, let them transfer their field of labor to the wilds of Utah, and may God forever prosper the right.

I trust, Mr. Speaker, that men abler and more learned in the law than I, will discuss the legal monstrosities of this bill, fraught with evil as it is, not only to the citizens of Utah, but to the nation at large; but must be pardoned for calling special attention to the seventh section, which gives to a single officer, the United States marshal, with the clerk of the court, the absolute right of selecting a jury; and further, to the 10th section, which provides that persons entertaining an objectionable religious theory—not those who have been guilty of the practice of polygamy, but who have simply a belief in the abstract theory of plural marriage—shall be disqualified as jurors.

To see what a fearful blow this is at the very foundation of our liberties; what a disastrous precedent for future tyranny, let us recall for a moment the history of the trial by jury; something with which all are as familiar as with the decalogue, but which, like the ten commandments, may occasionally be recalled with profit. Jury trial was first known as a trial *per pais*; by the country; and the theory was, that when a crime had been committed, the whole community came together and sat in judgment upon the offender. This process becoming cumbersome as population increased, twelve men were drawn by lot from the country, thus securing, as was supposed, a representation of the average public sentiment of the whole country, and which was further secured by requiring the finding of the jury to be unanimous.

A fair trial by jury, by our Anglo-Saxon ancestors, was regarded as so precious, that in Magna Charta it is more than once insisted on as the principle bulwark of English liberty.

Blackstone says of it: "It is the glory of the English law. It is the most transcendent privilege which any subject can enjoy or wish for, that he cannot be affected either in his property, his liberty or his person, but by the unanimous consent of twelve of his neighbors and equals; a provision which has, under Providence, secured the just liberties of this nation for a long succession of ages."

Our people have been no whit behind the English in their high appreciation of the trial by jury. In the original Federal Constitution, it was provided simply that the "trial of all crimes, except in cases of impeachment, shall be by jury." The framers of the Constitution considered that the meaning of "trial by jury" was sufficiently settled by long established usage and legal precedent, and that the provision just cited was sufficient. But such was not the view of the people. One of the most serious objections to the adoption of the Constitution by the States was its lack of clearness upon this most vital point, and Alexander Hamilton, in one of the ablest and most carefully considered numbers of *The Federalist*, endeavored to explain away this objection. The Constitution was adopted, but the nation was not satisfied; and one of the earliest amendments to that instrument further provided that "no person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury," and that "in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law."

Thus, Mr. Speaker, it will be observed with what scrupulous solicitude our ancestors watched over this great safeguard of the liberties of the people. Nothing was left to inference or established precedent, but to every citizen was guaranteed in this most solemn manner an impartial trial by a jury of his neighbors and his peers, residents of the district where the offence was charged.

Now, sir, is there any member of this House who will claim or pretend that the provisions of this bill are not in violation of this most sacred feature in our bill of rights? The trial by jury by this bill is worse than abolished, for its form—a sickening farce—remains while its spirit is utterly gone. A packed jury is worse than no jury at all. The merest tyro in the law, knows that the essence of a trial by jury consists in the fact that the accused is tried by a jury drawn by lot from among his neighbors; a jury drawn without previous knowledge, choice, or selection on the part of the Government; a jury which will be a fair epitome of the district where the offence is charged, and thus such a tribunal, as will agree to no verdict except such as, substantially, the whole community would agree to, if present and taking part in the trial. Any other system of jury is a mockery and a farce. The standard of public morality varies greatly in a country so vast as ours, and the principle of a jury trial recognizes this fact, and wisely provides, in effect, that no person shall be punished who, when brought to the bar of public opinion in the community where the alleged offence is committed, is not adjudged to have been guilty of a crime. This most unconstitutional and wicked bill be-

fore us, defies all these well-established principles, and strikes at the root of the dearest rights of the citizen. I have an earnest and abiding faith in the bright future of my native land; but if our national career as we may fondly hope, shall stretch out before us its unending glories, it will be because of the prompt and decisive rebuke, by the representatives of the people here, of all such legislation as that sought in the bill before us.

I have touched more fully, Mr. Speaker, upon the feature of the bill virtually abolishing jury trial, than upon any other, because of its more conspicuous disregard of constitutional right. But the whole bill, from first to last, is most damnable in its provisions, and most unworthy of consideration by the representatives of a free people. This is an age of great religious toleration. This bill recalls the fearful days of the Spanish inquisition, or the days when, in New England, Quakers were persecuted or banished, and witches burned at the stake. It is but a short time since the country hailed with satisfaction a treaty negotiated on the part of a pagan nation through the efforts of a former member of this body, and whose recent death has filled our hearts with sadness, whereby the polygamous Chinese emigrants to our shores are protected in the enjoyment of their idolatrous faith, and may erect their temples, stocked with idols, and perform their, to us, heathenish worship in every part of our land unquestioned. And while the civilized nations of Europe have combined to sustain and perpetuate a heathen nation practicing polygamy in its lowest form, and are hailing with acclamation the approach of its head, the American Congress is actually deliberating over a bill which contemplates the destruction of an industrious people, and the expulsion of the great organizer of border civilization. Can it be possible that the national Congress will even for a moment, seriously contemplate the persecution or annihilation of an integral portion of our citizens, whose industry and material development are the nation's pride, because of a slight difference in their religious faith? A difference, too, not upon the fundamental truths of our common Christianity, but because of their conscientious adherence to what was once no impropriety even, but a virtue? This toleration in matters of religion, which is perhaps the most conspicuous feature of our civilization, arises not from any indifference to the sacred truths of Christianity, but from an abiding faith in their impregnability—a national conviction that truth is mighty and will prevail. We have adopted as our motto the sentiment of Paul: "Try all things; prove all things, and hold fast to that which is good." The ancient Jewish rabbi, in his serene confidence that God would remember his own, was typical of the spirit of our age: "Refrain from these men and let them alone, for if this counsel or this work be of God, ye cannot overthrow it; but if it be of men, it will come to naught."

I have the honor of representing here a constituency probably the most vigorously lied about of any people in the nation. I should insult the good sense of this House and of the American people did I stoop to a refutation of the countless falsehoods which have been circulated for years in reference to the people of Utah. These falsehoods have a common origin—a desire to plunder the treasury of the nation. They are the children of a horde of bankrupt speculators, anxious to grow rich through the sacrifice even of human life. During the administration of Mr. Buchanan, a Mormon war was inaugurated, in great measure through the statements of Judge W. W. Drummond, a man of infamous character and life, and who is cited as authority in the report accompanying this bill. His statement, as there published, that the Mormons had destroyed all the records, papers, &c., of the supreme Federal court of the Territory, and grossly insulted the Federal officers for opposing such destruction, was, as I have been informed by unquestionable authority, one, if not the principal, cause of the so-called Mormon war. An army was sent to Utah; twenty or thirty millions of dollars were expended before the Government bethought itself to inquire whether such statements were true; then inquiry was made, and it was learned that the whole statement was entirely false; that the records were perfect and unimpaired. Whereupon the war ended, but not until colossal fortunes were accumulated by the hangers-on and contractors for the army, who had incited the whole affair. These men, and numerous would-be imitators, long for the return of that golden age. They fill the ears of the public with slanders and with falsehoods, that murders are rife; that life and property are unsafe in Utah without the presence of large armies. They have even sometimes induced Federal territorial officers, through ignorance or design, to become their tools to help forward their infamous work. But since the railroad was completed, many of the American people have looked for themselves. They see in Utah the most peaceful and persistently industrious people on the continent. They judge the tree by its fruits. They read that a community given up to lust does not build factories and fill the land with thrifty farms. That a nation of thieves and murderers do not live without intoxicating liquors, and become famous for the products of their dairies, orchards and gardens. A corrupt tree bringeth not forth the fruits of temperance, Christianity, industry and order.

Extract from Report of Governor Cumming:

EXECUTIVE OFFICE,
GREAT SALT LAKE CITY, U. T.,
May 2, 1888.

SIR:
Since my arrival, I have been employed in examining the records of the supreme and district courts, which I am now prepared to report upon as being perfect and unimpaired. This will doubtless be acceptable information to those who have entertained an impression to the contrary.

I have also examined the legislative records and other books belonging to the office of the Secretary of State, which are in perfect preservation.

Very respectfully,
Your obedient servant,
A. CUMMING,
Governor of Utah.

HON. LEWIS CASS,
Secretary of State,
Washington, D. C.

Mr. Speaker, those who have been so kind and indulgent as to follow me thus far will have observed that I have aimed, as best I might, to show—

1. That under our Constitution we are entitled to be protected in the full and free enjoyment of our religious faith.

2. That our views of the marriage relation are an essential portion of our religious faith.

3. That in considering the cognizance of the marriage relation as within the province of church regulations, we are practically in accord with all other Christian denominations.

4. That in our views of the marriage relation as a part of our religious belief, we are entitled to immunity from persecution under the Constitution, if such views are sincerely held; that if such views are erroneous, their eradication must be by argument and not by force.

5. That of our sincerity we have both by words, and works, and sufferings, given for nearly forty years, abundant proof.

6. That the bill, in practically abolishing trial by jury, as well as in many other respects, is unconstitutional, uncalled for, and in direct opposition to that toleration in religious belief which is characteristic of the nation and age.

It is not permitted, Mr. Speaker, that any one man should sit as the judge of any other as regards his religious belief. This is a matter which rests solely between each individual and his God. The responsibility cannot be shifted or divided. It is a matter outside the domain of legislative action. The world is full of religious error and delusion, but its eradication is the work of the moralist and not of the legislator. Our Constitution throws over all sincere worshippers at whatever shrine, its guarantee of absolute protection. The moment we assume to judge of the truthfulness or error of any creed, the constitutional guarantee is a mockery and a sham.

Three times have my people been dispersed by mob violence, and each time they have arisen stronger from the conflict; and now the doctrine of violence is proposed in Congress. It may be the will of the Lord that, to unite and purify us, it is necessary for further violence, suffering and blood. If so, we humbly and reverently submit to the will of Him in whose hands are all the issues of human life. Heretofore we have suffered from the violence of the mob; now, the mob are to be clothed in the authority of an unconstitutional and oppressive law. If this course be decided upon, I can only say that the hand that smites us smites the most sacred guarantees of the Constitution, and the blind Samson; breaking the pillars, pulls down upon friend and foe alike the ruins of the State.

17th QUORUM of SEVENTIES!

THE members of the Seventeenth Quorum of Seventies are requested to meet at the residence of President H. B. CLAWSON, immediately after the afternoon service in the Tabernacle, on Sunday, April 10th.

By order of the council

d109-2 w9 1

W. H. Hooper, H. S. Eldredge, L. S. Hills
HOOPER, ELDREDGE & Co.,
BANKERS,
SALT LAKE CITY, UTAH.
Gold Dust, Coin, Land Warrants and Exchange
bought and sold. w18-11

NOTICE!

No. 187.
TO WHOM IT MAY CONCERN: Cash entry No. 187, for the city of American Fork, embracing south half of section 14, south-west quarter of section 18, north-west quarter of section 24, north half of section 28, and the north-east quarter of section 22, township 5 south, range 1 east, has been suspended for further proof.

And this is to notify all claimants that on the 6th day of May, 1870, at 10 o'clock a.m., I will appear at the U. S. Land office, Salt Lake City, U. T., to make the proof required and show that I am entitled to have the entry of said land confirmed under the town site Act of March 2d, A.D. 1867, for the use and benefit of the inhabitants thereof, at which time and place any person or persons can appear and contest if they see proper.

L. E. HARRINGTON,
Mayor.

American Fork City, U.T., Mar. 30, 1870.

w9-1m