

F. S. RICHARDS' TALK

Conclusion of His Argument for Home Rule.

BEFORE CONGRESS COMMITTEES

He is Frequently Interrupted by Questions From Members Indicating Their Interest in the Matter.

Following is the conclusion of the speech delivered by Hon. Franklin S. Richards in Washington in his able advocacy of the Home Rule bill:

WASHINGTON, D. C., February 15, 1892.

The committee met at 10 o'clock a. m. pursuant to adjournment.

Present: Senators Stewart (acting chairman), Shoup, Jones, Carlisle, Faulkner, and Gordon.

STATEMENT OF FRANKLIN S. RICHARDS—CONTINUED.

Mr. Richards—Mr. Chairman and gentlemen of the committee before proceeding with my argument, in order that there may be no misapprehension as to our position because of what has been or may be said, I desire to say again that we are not here to reflect upon any of the individuals who have composed the Utah commission, nor are we here to assail or criticize them collectively, nor indeed any federal official. As has already been stated, it is the system that was created by Congress that we are criticizing. That system, no matter how high the character of the men, under the circumstances and surroundings is, as we think, vicious, because it is calculated to induce errors, just such as have occurred.

Other men would likely have fallen into the same errors. The system is wrong, and it is of that that we complain, and not of the men. This system deprives the people of all power in respect of these local affairs. The commission appoints officials who are to be held responsible to the people for their acts. The result has been most pernicious, as has already appeared and will further appear as we go along.

What we are here for is to point out the inherent vice of the system, by showing what has occurred under it, and not to criticize the men who have been discharged from their duties under it. It is not our business to say that the system is wrong, and we think that the only way to deal with it is to abolish the system and remit the solution of the local affairs to the people, and let them be subject to such responsibility as the people may impose.

When the committee adjourned on Saturday, I was showing by the testimony of the leaders of the Mormon people that polygamy had been permanently abandoned, in good faith, and that those leaders discriminated the right to dictate or control in political matters.

As you will remember, I had read the manifesto issued by the president of the church on the subject of plural marriages. I had recited the action of the conference of the church affirming and endorsing that manifesto; I had explained how the people's party came to be dissolved through a desire on the part of the people themselves, to affiliate with the national political parties. I had quoted extensively from an interview had with President Wilford Woodruff and George Q. Cannon, two of the first presidents of the church, in which they emphatically disclaimed any right or desire to dictate to the people in political matters, believing that each person should be left perfectly free to follow his own inclinations.

Pursuing the same line a little further, I will read the preamble and resolutions adopted by the Mormon church in general conference assembled on the 6th of October, 1890. These resolutions were prepared by a committee appointed by the conference for that purpose, the action having been taken because of instructions of the Utah commission, contained in their report to the secretary of the interior for the year 1890, which said that the members of the church were to be considered as citizens of the United States, and that certain persons "are believed" to have entered into polygamous marriages during the year.

Senator Faulkner—I do not understand that the report says they believe that "certain persons" have entered into this relation, but that some eighteen male persons, whose names they did not give, were believed to have entered into polygamous marriages during the year.

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ments of the presidency which I have read conclusively disprove the charges. They are in harmony with the law of the church. I read now from the doctrine and covenants, or "Book of Revelation," from the chapter on government:

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 equal protection of life, and the protection of property.

And again in the same "Book of Revelations" we find this:

Wherefore be subject to the powers that be, until he reign whose right it is to reign, and subdue all enemies under his feet. Behold, the laws which you have received are the laws of the church, and in this light shall you hold them forth. Important for redress and redemption by the hands of those who are placed as rulers and are in authority over you, according to the laws and constitution of the people which I have established, and should be maintained for the rights and protection of all flesh according to just and holy principles.

One more extract will close my remarks on this point. I read from an interview had with Judge Kane, chief justice of the supreme court of Utah. His views having been asked with regard to the enabling act that is now pending in the Senate, known as the Teller bill, he said:

My views as to the bill for an enabling act for Utah territory, introduced into the United States Senate yesterday by Senator Teller, are that I am for the passage of the bill, without any reservation. Further, I believe that it is in my opinion that the Republican party of Utah should declare in favor of its passage and its ratification by the people. The church of Jesus Christ of Latter-day Saints has taken a position in regard to the enabling act, and I have no doubt that its members desire to co-operate with non-Mormons politically for the common good. If Utah becomes a state the Mormons will understand that their material and political interests, their welfare and their rights are so related to and connected with those of the Gentiles, that law benefiting the one will benefit the other, and law harming the one will harm the other.

More than 20,000 people in Utah are building their cities, opening and working its mines of great wealth, improving and cultivating vast numbers of productive and valuable farms, and herding its flocks in its valleys and upon its hills. Comparatively speaking, these people are sufficient in numbers and possess the requisite wisdom and intelligence to be admitted to the status of statehood. The "Mormon" sect has blown its own trumpet to statehood, and is now making its own way to statehood, and is now making its own way to statehood, and is now making its own way to statehood.

During the contest that has gone on in Utah during the past eight years, no man has been more zealous in his endeavors to enforce the law than Chief Justice Kane. He was among the first to recognize the change of conditions in the territory. He speaks with no uncertain sound. He not only recommends all that is asked for in the enabling bill, but he advocates the granting of statehood, and I tell you he is right. Utah is entitled to it on every conceivable ground.

There are statements in the reports of the governor and Utah commission, to the secretary of the interior, for the year 1891, which go to sustain our position and show that the people can be trusted to govern themselves, but I must not detain you by reading them. The minority report of Senator McMillan is especially commendable for your perusal.

You were told on Saturday that there was a petition on file in the department of justice signed by the leaders of the Mormon people, in which they say polygamy has been abandoned, and they bow in submission to the laws of the land. The good faith of the petitioners, and the fact that satisfactory conditions exist, are vouched for by the endorsements of the governor, the secretary, two members of the Utah commission, and every federal judge in Utah, who ask for the restoration of political rights and privileges to the disfranchised people of that territory. Surely such evidence as that will move you to give favorable consideration to the request we make to be permitted to govern ourselves.

either of the legislation itself or of the administration of the law of any man who has taken part in executing it. I simply wish to state plain and unvarnished facts, not for the purpose of sentiment, but that you may draw from these facts conclusions that I think are irresistible to an impartial mind.

As you know, there was no statute against polygamy in Utah till 1862. In that year an act of Congress was passed, making it an offense. This law was not enforced. It was generally believed to be unconstitutional, and remained a dead letter for fifteen years. Then a test case was made—the Reynolds case—and the law was declared constitutional in 1878. Nothing further was done for three or four years till the Edmunds law was passed, in 1882. That act not only reenacted the law of 1862, but it disfranchised and disqualified polygamists from holding office. It also created the offense of unlawful cohabitation. This law was not enforced till 1884. In that year prosecutions were commenced under it. A number of indictments were found for unlawful cohabitation, and the first question to be determined, under the law, was what constituted the offense. The statute simply says that a man who "cohabits with more than one woman" is guilty of a misdemeanor. What was the meaning of the term cohabitation, as used in this law? It was believed by many attorneys of high standing and respectability at the bar in Utah, that the rule which has always prevailed in this country and in England, making sexual intercourse an essential element of a criminal cohabitation, should apply to this statute. Some of the persons arrested by the law had regulated their conduct to conform with that theory. That construction was contended for, but denied by the supreme court of the United States, though a dissenting opinion was filed by Justices Miller and Field.

When the law was so declared it became a very serious question what line of conduct was necessary on the part of this class of persons to enable them to avoid the penalties of the law and, at the same time, discharge the moral duties that devolve upon them by reason of their peculiar status, for they had wives and children that must be supported. The courts held that any association as husband and wife might constitute the offense. Many men were convicted and sent to the penitentiary for what is known in Utah as "constructive cohabitation," which did not involve any marital association whatever. You can imagine the anxiety and apprehension that would naturally prevail in a community where such conditions existed.

But that was not all. Soon another step was taken to make these prosecutions more severe. The famous segregation doctrine was announced. Unlawful cohabitation, which has always been a continuous offense, was taken out of that category by the act of 1887, and it was provided that a grand jury might investigate the conduct of an individual for the past three years, and carve out of his acts as many offenses as they saw fit to charge for every month, or every week, or for every day of that period. Numerous segregation indictments were found. A test case was taken to the supreme court of the United States,

where it was held to be a continuous offense until the indictment is found, and so that theory was exploded. But not until it had struck terror to the hearts of many people, some of whom had in their possession of prosecutions that might entail penalties so great as to require the fortune of a Croesus and the life of a Mathusalemah to cancel the fines and imprisonment imposed.

The next dog was segregation in another form. It was said that while the same grand jury could not indict a man twice for unlawful cohabitation, they might indict him for adultery and unlawful cohabitation with the same woman, during the same period of time. That was tried. The supreme court again said "No," and that scheme failed.

Senator Gordon—Were there convictions by the Utah courts on the double plea of cohabitation and adultery?

Mr. Richards—Yes, sir; but the supreme court reversed the verdicts. While these things were going on, it will be remembered that, in addition to the ordinary facilities for criminal prosecution, the Utah courts were invested with extraordinary powers conferred by acts of Congress, to exclude from the jury every person known to have any belief in polygamy or any sympathy with the same. Each witness without a previous subpoena and compel their immediate attendance; to permit the legal wife to testify against her husband; to compel the attendance and testimony of the alleged plural wife, the children and neighbors of the defendant; to employ a large force of police officers, to obtain evidence against, and arrest violators of the law, and who were spurred on to extraordinary lengths by liberal fees and pocketing a strong hostile public sentiment, which justified any extremes against a polygamist suspect.

I repeat that these things are not stated by way of complaint; I say them rather in sorrow than in anger, but they illustrate the point of my argument. The grand result of all this was judicial proscription of sums up about one thousand convictions for all offenses against the laws of Congress. Is that not contradictory, in the highest degree, of what I told you on Saturday about the small number of polygamists in Utah? That is my point.

There are gentlemen in this room who have had experience in the administration of these laws, one as judge, another as United States marshal, and they will tell you, if asked, that the law is not being enforced; that the men who have violated the law, even under these extreme constructions, have been convicted and punished by liberal fees and pocketing demands of justice have been fully satisfied and even vengeance a possessor!

Senator Faulkner—What percentage of that thousand convictions is distinguished from cohabitation or adultery?

Mr. Richards—I do not know how many. There were several such convictions, but most of the indictments were quashed after the decision of the supreme court. I say then, that we have shown the very small number of offenders against the law, and even these few old men are not now living, and their families are connected with them, even constructively. What possible menace can that be to society?

Senator Faulkner—I will ask you for information, whether or not the offenses of cohabitation, without the sanction of the church as to the solemnization of plural marriages, were not in violation of the laws of the territory at the time of the Reynolds case?

Mr. Richards—Yes, sir; it appears from the testimony of Presidents Woodruff, Cannon and Smith, which will be made an appendix to my remarks, that unlawful cohabitation is a violation of the law of the church as well as the law of the land.

Senator Jones—You have said that cohabitation as at present defined by the courts, Mr. Richards—Yes, sir.

Another point is clear from the facts stated. It bears upon the question of a remedy and seems to me conclusive. You have been told that there was not an hour during this period of eight or ten years of sorrow and suffering for our people, of heart-burnings and trying ordeals—the story of which will never be fully told—I say there never was an hour during our history of terror that these men could not have relieved themselves from all penalties by simply saying "Yes" when they were asked to promise obedience to the law.

If they had made the pledge then you might have questioned their sincerity; for there was much at stake and great inducement to them to do so. But with heroic fortitude they marched into the prison cell and satisfied the demands of the law to the uttermost farthing. Then they come forth during this period of eight or ten years of sorrow and suffering for our people, of heart-burnings and trying ordeals—the story of which will never be fully told—I say there never was an hour during our history of terror that these men could not have relieved themselves from all penalties by simply saying "Yes" when they were asked to promise obedience to the law.

It would seem that the suffering of those people had been severe enough to satisfy the most exacting demands, but the punishment did not fall upon the guilty alone, as is the rule among civilized nations. The innocent had been made to suffer for the misdeeds of the guilty. Their property that had been contributed by all classes of members of the church, which represented the gift of the banker and the millionaire of the world, the contributions of thousands of persons who had never violated any law of their country was seized by the government for confiscation; and what is a thousand times worse than that, nearly a quarter of a million American citizens are CONSIDERED TO POLITICAL SLAVERY.

You may think that a strong term, gentlemen, but it is absolutely true. If any man and woman who has ever lived in a polygamist relation was to leave Utah today, there would remain over a hundred law-abiding people who are now in a condition worse than that of colonial vassalage. And why? Not because they have ever violated the law, nor because anybody else is now violating the law, but because years ago a few men lived in polygamy, who are now law-abiding and exemplary citizens.

We ask you, as we have asked our political opponents, "What more can we do to establish our right to freedom?" If there is anything lacking, in the name of conscience and for the sake of humanity, do point it out and tell us what to do. Remember, our fathers, as well as yours, made the grandest declaration of human liberty that the world has ever known, and they maintained it with their lives, their fortunes, and their sacred honor. We have inherited a love for liberty that is not to be extinguished by any man in the land. We have been taught from childhood that the constitution of the United States is an inspired character of human freedom. We have listened to the story of a country's greatness, as it fell from our mothers' sacred lips. We have read the glorious achievements of our patriot fathers, and the fire of liberty burns in our breasts. The very air we breathe, the grand old mountains that surround our homes, the pure streams of living water that flows from the eternal snows, all make us long for liberty and the rights of freedom. We ask you for such measure of freedom as will enable us to feel that the great declaration of human equality is no longer a solemn mockery to us. And I promise you that every man who lifts his voice for the emancipation of the people of Utah will receive the grateful benedictions of thousands of patriotic and God-fearing people, which will ascend to the throne of grace like sweet incense. When Utah gets her desert, the rough diamond in the mountains will become a sparkling gem and the crowning jewel in Columbia's diadem.

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