

Address to the Legislature of New York, 1854

Address to the Legislature of New-York, adopted by the State Woman's Rights Convention, held at Albany, Tuesday and Wednesday, February 14 and 15, 1854

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Legislature of New-York,

ADOPTED BY THE

STATE WOMAN'S RIGHTS CONVENTION,

HELD AT ALBANY,

Tuesday and Wednesday, February 14 and 15, 1854.

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ADDRESS.

To the Legislature of the State of New York:

"The thinking minds of all nations call for change. There is a deep-lying struggle in the whole fabric of society; a boundless, grinding collision of the New with the Old."

The tyrant, Custom, has been summoned before the bar of Common Sense. His Majesty no longer awes the multitude--his sceptre is broken--his crown is trampled in the dust--the sentence of death is pronounced upon him. All nations, ranks and classes have, in turn, questioned and repudiated his authority; and now, that the monster is chained and caged, timid woman, on tiptoe, comes to look him in the face, and to demand of her brave sires and sons, who have struck stout blows for liberty, if, in this change of dynasty, she, too, shall find relief.

Yes, gentlemen, in republican America, in the 19th century, we, the daughters of

the revolutionary heroes of '76, demand at your hands the redress of our grievances--a revision of your state constitution--a new code of laws. Permit us then, as briefly as possible, to call your attention to the legal disabilities under which we labor.

1st, Look at the position of woman as woman. It is not enough for us that by your laws we are permitted to live and breathe, to claim the necessaries of life from our legal protectors--to pay the penalty of our crimes; we demand the full recognition of all our rights as citizens of the Empire State. We are persons; native, free-born citizens; property-holders, tax-payers; yet are we denied the exercise of our right to the elective franchise. We support ourselves, and, in part, your schools, colleges, churches, your poor-houses, jails, prisons, the army, the navy, the whole machinery of government, and yet we have no voice in your councils. We have every qualification required by the constitution, necessary to the legal voter, but the one of sex. We are moral, virtuous and intelligent, and in all respects quite equal to the proud white man himself, and yet by your laws we are classed with idiots, lunatics and negroes; and though we do not feel honored by the place assigned us, yet, in fact, our legal position is lower than that of either; for the negro can be raised to the dignity of a voter if he possess himself of \$250; the lunatic can vote in his moments of sanity, and the idiot, too, if he be a male one, and not more than nine-tenths a fool; but we, who have guided great movements of charity, established missions, edited journals, published works on history, economy and statistics; who have governed nations, led armies, filled the professor's chair, taught philosophy and mathematics to the *savans* of our age, discovered planets, piloted ships across the sea, are denied the most sacred rights of citizens, because, forsooth, we came not into this republic crowned with the dignity of manhood! Woman is theoretically absolved from all allegiance to the laws of the state. Sec. 1, Bill of Rights, 2 R.S., 301, says that no authority can, on any pretence whatever, be exercised over the citizens of this state but such as is or shall be derived from, and *granted by, the people of this state*.

Now, gentlemen, we would fain know by what authority you have disfranchised one-half the people of this state? You who have so boldly taken possession of the bulwarks of this republic, show us your credentials, and thus prove your exclusive right to govern, not only yourselves, but us. Judge Hurlburt, who has long occupied a high place at the bar in this state, and who recently retired with honor from the bench of the Supreme Court, in his profound work on human rights, has pronounced your present position rank usurpation. Can it be that here, where are acknowledged no royal blood, no apostolic descent, that you, who have declared that all men were created equal--that governments derive their just powers from the consent of the governed, would willingly build up an aristocracy that places the ignorant and vulgar above the educated and refine--the alien and the ditch-digger above the authors and poets of the day--an aristocracy that would raise sons above the mothers that bore them? Would that

the men who can sanction a constitution so opposed to the genius of this government, who can enact and execute laws so degrading to womankind, had sprung, Minerva-like, from the brains of their fathers, that the matrons of this republic need not blush to own their sons! Woman's position, under our free institutions, is much lower than under the monarchy of England.

"In England the idea of woman holding official station is not so strange as in the United States. The Countess of Pembroke, Dorset and Montgomery held the office of hereditary sheriff of Westmoreland, and exercised it in person. At the assizes at Appleby, she sat with the judges on the bench. In a reported case, it is stated by counsel, and substantially assented to by the court, that a woman is capable of serving in almost all the offices of the kingdom, such as those of queen, marshal, great chamberlain and constable of England, the champion of England, commissioner of sewers, governor of work house, sexton, keeper of the prison, of the gate house of the dean and chapter of Westminster, returning officer for members of parliament, and constable, the latter of which is in some respects judicial. The office of jailor is frequently exercised by a woman. In the United States a woman may administer on the effects of her deceased husband, and she has occasionally held a subordinate place in the post office department. She has therefore a sort of post mortem, post mistress notoriety; but with the exception of handling letters of administration and letters mailed, she is the submissive creature of the old common law."

True, the unmarried woman has a right to the property she inherits and the money she earns, but she is taxed without representation. And here again you place the negro, so unjustly degraded by you, in a superior position to your own wives and mothers; for colored males, if possessed of a certain amount of property and certain other qualifications, can vote, but if they do not have these qualifications *they are not subject to direct taxation*; wherein they have the advantage of woman, she being subject to taxation for whatever amount she may possess. (Constitution of N.Y. article 2, sec. 2.) But, say you, are not all women sufficiently represented by their fathers, husbands and brothers? Let your statute books answer the question.

Again we demand, in criminal cases, that most sacred of all rights, trial by a jury of our own peers. The establishment of trial by jury is of so early a date that its beginning is lost in antiquity; but the right of trial by a jury of one's own peers is a great, progressive step of advanced civilization. No rank of men have ever been satisfied with being tried by jurors higher or lower in the civil or political scale than themselves; for jealousy on the one hand, and contempt on the other, has ever effectually blinded the eyes of justice. Hence, all along the pages of history, we find the king, the noble, the peasant, the cardinal, the priest, the layman, each in turn protesting against the authority of the tribunal before which they were summoned to appear. Charles the First refused to recognize the

competency of the tribunal which condemned him: For how, said he, can subjects judge a king? The stern descendants of our Pilgrim Fathers refused to answer for their crimes before an English Parliament. For how, said they, can a king judge rebels? And shall woman here consent to be tried by her liege lord, who has dubbed himself law-maker, judge, juror, and sheriff, too?--whose power, though sanctioned by Church and State, has no foundation in justice and equity, and is a bold assumption of our inalienable rights. In England a parliament-lord could challenge a jury where a knight was not empannelled. An alien could demand a jury composed half of his own countrymen; or, in some special cases, juries were even constituted entirely of women. Having seen that man fails to do justice to woman in her best estate, to the virtuous, the noble, the true of our sex, should we trust to his tender mercies, the weak, the ignorant, the morally insane? It is not to be denied that the interests of man and woman in the present undeveloped state of the race, and under the existing social arrangements, are and must be antagonistic. The nobleman cannot make just laws for the peasant; the slaveholder for the slave; neither can man make and execute just laws for woman, because in each case, the one in power fails to apply the immutable principles of right to any grade but his own. Shall an erring woman be dragged before a bar of grimvisaged judges, lawyers and jurors, there to be grossly questioned in public on subjects which women scarce breathe in secret to one another? Shall the most sacred relations of life be called up and rudely scanned by men who, by their own admission, are so coarse that women could not meet them even at the polls without contamination? and yet shall she find there no woman's face or voice to pity and defend? Shall the frenzied mother who, to save herself and child from exposure and disgrace, ended the life that had but just begun, be dragged before such a tribunal to answer for her crime? How can man enter into the feelings of that mother? How can he judge of the mighty agonies of soul that impelled her to such an outrage of maternal instincts? How can he weigh the mountain of sorrow that crushed that mother's heart when she wildly tossed her helpless babe into the cold waters of the midnight sea? Where is he who by false vows thus blasted this trusting woman? Had that helpless child no claims on his protection? Ah, he is freely abroad in the dignity of manhood, in the pulpit, in the bench, in the professor's chair. The imprisonment of his victim and the death of his child, detract not a tithe from his standing and complacency. His peers made the law, and shall law-makers lay nets for those of their own rank? Shall laws which come from the logical brain of man take cognizance of violence done to the moral and affectional nature which predominates, as is said, in woman? Statesmen of New-York, whose daughters, guarded by your affection, and lapped amidst luxuries which your indulgence spreads, care more for their nodding plumes and velvet trains than for the statute laws by which their persons and properties are held--who, blinded by custom and prejudice to the degraded position which they and their sisters occupy in the civil scale, haughtily claim that they already have all rights they

want, how, think ye, you would feel to see a daughter summoned for such a crime--and remember these daughters are but human--before such a tribunal? Would it not, in that hour, be some consolation to see that she was surrounded by the wise and virtuous of her own sex; by those who had known the depth of a mother's love and the misery of a lover's falsehood; to know that to these she could make her confession, and from them receive her sentence? If so, then listen to our just demands and make such a change in your laws as will secure to every woman tried in your courts, an impartial jury. At this moment among the hundreds of women who are shut up in prisons in this state, not one has enjoyed that most sacred of all rights--that right which you would die to defend for yourselves--trial by a jury of one's peers.

2d. Look at the position of woman as wife. Your laws relating to marriage--founded as they are on the old common law of England, a compound of barbarous usages, but partially modified by progressive civilization--are in open violation of our enlightened ideas of justice, and of the holiest feelings of our nature. If you take the highest view of marriage, as a Divine relation, which love alone can constitute and sanctify, then of course human legislation can only recognize it. Man can neither bind or loose its ties, for that prerogative belongs to God alone, who makes man and woman, and the laws of attraction by which they are united. But if you regard marriage as a civil contract, then let it be subject to the same laws which control all other contracts. Do not make it a kind of half-human, half-divine institution, which you may build up but cannot regulate. Do not, by your special legislation for this one kind of contract, involve yourselves in the greatest absurdities and contradictions.

So long as by your laws no man can make a contract for a horse or piece of land until he is twenty-one years of age, and by which contract he is not bound if any deception has been practiced, or if the party contracting has not fulfilled his part of the agreement--so long as the parties in all mere civil contracts retain their identity and all the power and independence they had before contracting, with the full right to dissolve all partnerships and contracts for any reason, at the will and option of the parties themselves, upon what principle of civil jurisprudence do you permit the boy of fourteen and the girl of twelve, in violation of every natural law, to make a contract more momentous in importance than any other, and then hold them to it, come what may, the whole of their natural lives, in spite of disappointment, deception and misery? Then, too, the signing of this contract is instant civil death to one of the parties. The woman who but yesterday was sued on bended knee, who stood so high in the scale of being as to make an agreement on equal terms with a proud Saxon man, to-day has no civil existence, no social freedom. The wife who inherits no property holds about the same legal position that does the slave on the southern plantation. She can own nothing, sell nothing. She has no right even to the wages she earns; her person, her time, her services are the property of another. She cannot testify, in many

cases, against her husband. She can get no redress for wrongs in her own name in any court of justice. She can neither sue nor be sued. She is not held morally responsible for any crime committed in the presence of her husband, so completely is her very existence supposed by the law to be merged in that of another. Think of it; your wives may be thieves, libellers, burglars, incendiaries, and for crimes like these they are not held amenable to the laws of the land, if they but commit them in your dread presence. For them, alas! there is no higher law than the will of man. Herein behold the bloated conceit of these Petruchios of the law, who seem to say:

"Nay, look not big, nor stamp, nor stare, nor fret, I will be master of what is mine own; She is my goods, my chattels; she is my house, My household stuff, my field, my barn, My horse, my ox, my ass, my anything; And here she stands, touch her whoever dare; I'll bring my action on the proudest be, That stops my way, in Padua."

How could man ever look thus on woman?--She, at whose feet Socrates learned wisdom--she, who gave to the world a Saviour, and witnessed alike the adoration of the Magi and the agonies of the Cross. How could such a being, so blessed and honored, ever become the ignoble, servile, cringing slave, with whom the fear of man could be paramount to the sacred dictates of conscience and the holy love of Heaven? By the common law of England, the spirit of which has been but too faithfully incorporated into our statute law, a husband has a right to whip his wife with a rod not larger than his thumb, to shut her up in a room, and administer whatever moderate chastisement he may deem necessary to insure obedience to his wishes, and for her healthful moral development! He can forbid all persons harboring or trusting her on his account. He can deprive her of all social intercourse with her nearest and dearest friends. If by great economy she accumulates a small sum, which for future need she deposit, little by little, in a savings bank, the husband has a right to draw it out, at his option, to use it as he may see fit.

"Husband is entitled to wife's credit or business talents (whenever their intermarriage may have occurred); and goods purchased by her on her own credit, with his consent, while cohabiting with him, can be seized and sold in execution against him for his own debts, and this, though she carry on business in her own name."--7 *Howard's Practice, Reports, 105, Levett agt. Robinson and Witbeck, sheriff, &c.*

"No letters of administration shall be granted to a person convicted of infamous crime; nor to any one incapable by law of making a contract; nor to a person not a citizen of the United States, unless such person reside within the state; nor to any one who is under twenty-one years of age; nor to any person who shall be adjudged incompetent by the surrogate to execute duties of such trust, by reason

of drunkenness, improvidence, or want of understanding, nor any married woman; but where a married woman is entitled to administration, the same may be granted to her husband in her right and behalf."

There is nothing that an unruly wife might do against which the husband has not sufficient protection in the law. But not so with the wife. If she have a worthless husband, a confirmed drunkard, a villain or a vagrant, he has still all the rights of a man, a husband and a father. Though the whole support of the family be thrown upon the wife, if the wages she earns be paid to her by her employer, the husband can receive them again. If, by unwearied industry and perseverance, she can earn for herself and children a patch of ground and shed to cover them, the husband can strip her of all her hard earnings turn her and her little ones out in the cold northern blast, take the clothes from their backs, the bread from their mouths; all this by your laws may he do, and has he done, oft and again, to satisfy the rapacity of that monster in human form, the rum-seller.

But the wife who is so fortunate as to have inherited property, has, by the new law in this state, been redeemed from her lost condition. She is no longer a legal nonentity. This property law, if fairly construed, will overturn the whole code relating to woman and property. The right to property implies the right to buy and sell, to will and bequeath, and herein is the dawning of a civil existence for woman, for now the "femme covert" must have the right to make contracts. So, get ready, gentlemen; the "little justice" will be coming to you one day, deed in hand, for your acknowledgment. When he asks you "if you sign without fear or compulsion," say yes, boldly, as we do. Then, too, the right to will is ours. Now what becomes of the "tenant for life?" Shall he, the happy husband of a millionaire, who has lived in yonder princely mansion in the midst of plenty and elegance, be cut down in a day to the use of one-third of this estate and a few hundred a year, as long as he remains her widower? And should he, in spite of this bounty on celibacy, impelled by his affections, marry again, choosing for a wife a woman as poor as himself, shall he be thrown penniless on the cold world--this child of fortune, enervated by ease and luxury, henceforth to be dependent wholly on his own resources? Poor man! He would be rich, though, in the *sympathies* of many women who have passed through just such an ordeal. But what is property without the right to protect that property by law? It is mockery to say a certain estate is mine, if, without my consent, you have the right to tax me when and how you please, while I have no voice in making the tax-gatherer, the legislator or the law. The right to property will, of necessity, compel us in due time to the exercise of our right to the elective franchise, and then naturally follows the right to hold office.

3d. Look at the position of woman as widow. Whenever we attempt to point out the wrongs of the wife, those who would have us believe that the laws cannot be

improved, point us to the privileges, powers and claims of the widow. Let us look into these a little. Behold in yonder humble house a married pair, who, for long years, have lived together, childless and alone. Those few acres of well-tilled land, with the small white house that looks so cheerful through its vines and flowers, attest the honest thrift and simple taste of its owners. This man and woman, by their hard days' labor, have made this home their own. Here they live in peace and plenty, happy in the hope that they may dwell together securely under their own vine and fig tree for the few years that remain to them, and that under the shadow of these trees, planted by their own hands, and in the midst of their household gods, so loved and familiar, here may take their last farewell of earth. But, alas for human hopes! the husband dies, and without will, and the stricken widow, at one fell blow, loses the companion of her youth, her house and home, and half the little sum she had in bank. For the law, which takes no cognizance of widows left with twelve children and not one cent, instantly spies out this widow, takes account of her effects, and announces to her the startling intelligence that but one-third of the house and lot, and one-half the personal property, are hers. The law has other favorites with whom she must share the hard-earned savings of years. In this dark hour of grief, the coarse minions of the law gather round the widow's hearthstone, and, in the name of justice, outrage all natural sense of right; mock at the sacredness of human love, and with cold familiarity proceed to place a monied value on the old arm chair, in which, but a few brief hours since, she closed the eyes that had ever beamed on her with kindness and affection; on the solemn clock in the corner, that told the hour he passed away; on every garment with which his form and presence were associated, and on every article of comfort and convenience that the house contained, even down to the knives and forks and spoons--and the widow saw it all--and when the work was done, she gathered up what the law allowed her and went forth to seek her another home! This is the much talked of widow's dower. Behold the maguanimity of the law in allowing the widow to retain a life interest in one-third the landed estate, and one-half the personal property of her husband, and taking the lion's share to itself! Had she died first, the house and land would all have been the husband's still. No one would have dared to intrude upon the privacy of his home or to molest him in his sacred retreat of sorrow.

How, I ask you, can that be called justice, which makes such a distinction as this between man and woman?

By management, economy and industry, our widow is able, in a few years, to redeem her house and home. But the law never loses sight of the purse, no matter how low in the scale of being its owner may be. It sends its officers round every year to gather in the harvest for the public crib, and no widow who owns a piece of land two feet square ever escapes this reckoning. Our widow, too, who has now twice earned her home, has her annual tax to pay also--a tribute of gratitude that she is permitted to breathe the free air of this republic, where