

## **TRANSCRIPT OF SPEECH ON GEORGE SUTHERLAND GIVEN BY THE HONORABLE DEE BENSON**

I, too, am honored to be here tonight and join in this celebration of Justice Sutherland. About three years ago, I had hired a new law clerk and I was taking him through the United States Courthouse. We were in the first floor where there are paintings and photographs and portraits of federal judges past and present. We were beneath this large portrait and the law clerk said, "who's that?" I said, "oh, that's some guy named Sutherland and he was on the Supreme Court." The clerk seemed surprised and he said, "the Utah Supreme Court?" I said, "no, the U.S. Supreme Court." And he said, "I didn't know Utah had ever had a justice on the U.S. Supreme Court." To which I said, "I don't really think he was from Utah. I know he practiced law in Utah for a short time and I think he was kind of an interloper. I think we just tried to latch onto him. And, I think I don't know what I'm talking about, but I'm pretty sure he wasn't on the Supreme Court very long." Now, the only thing accurate in that parade of slander was that I didn't know what I was talking about.

A few weeks ago, Heather White and Andrew Morse came to my office to talk to me about arranging a speaker for tonight's event. They didn't want me to speak. They wanted me to see if I could get Orrin Hatch to speak. Obviously that didn't happen. They claim that during that conversation that I allegedly agreed that if Senator Hatch couldn't make it that I would be an appropriate alternate. I remember that I politely demurred but still, here I am and you are stuck with listening to the guy who thought George Sutherland was a carpetbagger. I've never been so wrong about anything in my life. Actually, that's not true. I've been equally wrong about a lot of other things in my life, but I was really wrong about that one. I would like to say in my defense that as soon as I found out I would be speaking here tonight, I undertook a rather intensive investigation of the man about whom I was supposed to speak on his character. I quickly learned that I had been completely wrong about him in the past. I don't know quite where that came from but it bordered on fraud and I thought also what a man of many accomplishments. Every time I would read about one thing and then another one would come in to take its place that was even a bigger deal. So I started to become quite a true believer in George Sutherland. I admit given my previous misconceptions and my own stubbornness, I was trying to find a flaw. The closest thing I came to is that he was a classic overachiever and it may say something about my character that I'm not very fond of classic overachievers but even I couldn't make that to be a defect in this man's life.

For one thing, what struck me, not only all the accomplishments, but through them all, he managed to keep friends. This was a guy who seemed to choose unpopular causes. He not only was not a Utahn in the late 1800..., he was a Utahn. Let's get that straight. Well, not technically, he came from England. But, he was not only not a mormon in Utah, but he headed up a party called the Liberal Party of Utah which name has been totally discarded and it won't get you anywhere today, but it was the liberal party whose sole objective in Utah, mormon Utah, was to stamp out polygamy. And, as you saw mention of that in the film, not a particularly popular cause. But eventually, as I understand it, mostly, that cause won and we don't have polygamy anymore and as a result Utah became a state. I think the most remarkable thing is that

in the second election to send a congressman to Washington after Utah became a state they elected, by popular vote, all these mormons sent George Sutherland to congress.

To take another example, when he was in the U.S. Supreme Court, as Tad in the film mentioned, he was not President Roosevelt's favorite guy. And to be against so many liberal democrats, and he was becoming a classic conservative, and yet still remain popular and to not lose his friends over it I think was remarkable. He remained a man who people liked even though they disagreed with him. His politics were often opposed. It seemed to me in what study I did of him that his personal principles never were. I think the main reason for that was because underlying all of it, it struck me that George Sutherland was a very good man. Simple as that. A good, decent man from Utah.

Mention has been made here tonight in the film and at other times of this 1941 speech he gave at Brigham Young University, his alma mater. I would like to refer to it now with reference to his character because it is true, as he pointed out in his interview tonight, that character was the only theme of that speech. Here was a man that was approached by the University at age 79 only one year before he would die. The last public address of his life and he chose to speak on one theme only. He could have chosen from any number of important things to talk about. He could have spoken about the Constitution of which he was considered to be a leading scholar. He could have bragged about his championing the cause of women's suffrage. He could have talked to that mostly mormon crowd about how he defended the mormon apostle Reed Smoot who was having a very difficult time convincing the U.S. Senate to allow him to be seated in that body and it was widely regarded that the speech that Senator George Sutherland gave on the Senate floor was the reason for the vote going in that mormon apostle's favor and led to Reed Smoot's senate career. He could have spent the whole speech on his term on the U.S. Supreme Court, what I thought was roughly 16 years. He wrote, as we saw, 300 majority opinions; some famous ones. If I had been there and had a vote, I would have liked to have heard about his defiance of FDR and the court packing plan and this switch in time that saved nine. But he chose to speak on one theme and that was character.

It was often said of Sutherland that he mastered the English language. Karl Maeser said that about him when he was at the Brigham Young Academy. In that speech he talked about his earliest years in Springville, Utah, and I think it is worth repeating. He said (that was in 1863):

My age was still reckoned in months and my powers of observation, if any, were at very low tide. I knew nothing, of course, except that I was somewhere and in possession of a small body with an ambitious but more or less weak and wobbly pair of legs at one end in which I took a mild interest and a head at the other end in which I should have taken no interest at all had it not included an ample inlet for the admission of food.

I like that.

Of his days at the Brigham Young Academy, his admiration and love for his mentor and teacher, Karl Maeser, is clear and strong. He said:

Fortunately, the building was not the school but only the house in which the school lived and the discovery of the school itself was as though I had opened a

rough shell and found a pearl. The soul of this school was Karl G. Maeser. Dr. Maeser's ability to teach covered the entire field of learning including that of teaching others to teach. But far more important than anything else, he was a teacher of goodness and a builder of character.

The vast majority of the speech was devoted to the importance of good character. Illustrative of that is his final advice he gave to the roughly 3,000 graduates of Brigham Young University. He said:

The inquiry which God will make in passing judgment upon you, I imagine, will not be how far have you gone in higher mathematics. (Thank goodness.) How many languages have you mastered, but what is your character. All of us properly set a high value upon education, but we infinitely prefer an ignorant man of good character to a learned one steeped in vice. The obligation to achieve your aim if it be worthy, that is to say to be a good lawyer, or a good doctor, or a good banker, is a serious one to be sure. But it sinks into nothingness compared with the obligation to be a good man.

So, I admit, I am a recent convert to the George Sutherland fan club. I want to close with first an apology to him and his family and, where there are ghosts of him in the room, for my previous defamation and ignorance of the man.

I also want to say a word or two about his contribution in the founding of two enduring and prominent law firms in Utah history. Van Cott, Bagley, Cornwall & McCarthy and the firm that is sponsoring this event tonight, Snow, Christensen & Martineau. I was a member of the Snow Christensen firm for the first eight years of my practice right out of Brigham Young University Law School. Hal Christensen was my mentor there and he remains the only credible evidence of any positive qualities I possess as a lawyer. I know Hal well, and I know he is a great admirer of George Sutherland. I also know he admires greatly Sam Thurman as perhaps the more influential of the two partners that founded the firm that has become this firm. But, in studying the life of George Sutherland, I couldn't help but notice a number of remarkable similarities between the lives of George Sutherland and Hal Christensen.

They were both raised in Springville, Utah. They both had fathers who ran a business in Springville; Hal's a drugstore, Sutherland's a mercantile. They were both born into mormon families yet neither became a practicing mormon, yet neither was in any way anti-mormon. In fact, both were equally popular among mormon and non-mormon communities in Utah. Each of them attended college in Utah. Hal at the University of Utah. Sutherland exercising better judgment went to Brigham Young Academy. After graduating from college in Utah, both went to Ann Arbor, Michigan, to attend the University of Michigan Law School. After they completed their legal education there both of them returned to Utah to enter into the private practice of law in Utah. Both of them married women from central Utah. Both of them had three children. Both of them served in high ranking positions in Republican administrations in Washington, D.C.; Sutherland in Warren Harding's, and Hal in Reagan's and George H.W. Bush's. They both were members of the same law firm and they both had a partner named Sam Thurman: Sutherland, Sam Thurman I; and Hal, Sam Thurman, I think, his grandson -- not

Hal's, but Thurman's. They both were in the firm name. It was Thurman and Sutherland then and it is Snow, Christensen & Martineau now.

Most importantly to me, they are both good men of impeccable character. George Sutherland had Karl Maeser to get him started and I had Hal Christensen. I see a thread there. I was the beneficiary of it, and it all started with George Sutherland. Of all his other accomplishments, George Sutherland in the nineteenth century forming a legal partnership with Sam Thurman. I join with you in honoring Justice Sutherland this evening and hope that that legacy continues for a long time to come. Thank you.